

Department of Community Planning and Economic Development
Variance
BZZ 6011

Date: May 2, 2013

Applicant: Andrew and Lisa Duff

Address of Property: 1616 Mount Curve Avenue

Contact Person and Phone: Andrew and Lisa Duff, (612) 303-6634

CPED Staff and Phone: Shanna Sether, (612) 673-2307

Date Application Deemed Complete: April 3, 2013

End of 60-Day Decision Period: June 2, 2013

Ward: 7 Neighborhood Organization: Lowry Hill Neighborhood Association

Existing Zoning: R2 Two-Family District

Existing Overlay District: SH Shoreland Overlay District

Zoning Plate Number: 18

Proposed Use: New in-ground swimming pool with apron, fence and repair and/or replacement of an existing retaining wall

Variance: for development on and within 40 feet of the top of a steep slope to allow for a new in-ground swimming pool with apron, fence and repair and/or replacement of an existing retaining wall accessory to an existing single-family dwelling in the SH Shoreland Overlay District.

Zoning code section authorizing the requested variance: Chapter 525, Article IX Variances, Specifically Section 525.520(17) “to permit development in the SH Shoreland Overlay District...within forty (40) feet of the top of a steep slope or bluff” and (1) “to vary the yard requirements, including permitted obstructions into required yards not allowed by the applicable regulations”.

Background: The subject property is an irregularly shaped parcel, approximately 16,786 square feet in area and is occupied by an existing single-family dwelling and detached garage. The dwelling was permitted for construction in 1905. Previous land use approvals include a variance to reduce the west interior side yard setback for a detached garage addition in 1998.

The subject property is located in the SH Shoreland Overlay District and the survey shows that there is a grade change exceeding 18 percent just beyond a retaining wall on the property. The applicant is proposing to construct a new in-ground swimming pool with an apron of either pervious or bluestone

paver, a new 6-foot high open, metal fence. In addition, the applicant is requesting to repair and replace portions of the existing retaining wall at the rear of the property, which is deteriorating in parts. Due to the proximity of the property to Spring Lake, the grades on site and the location within the SH Shoreland Overlay District, the proposal requires a variances to construct on and within 40 feet of the top of a steep slope to allow for a new in-ground swimming pool with apron, fence and repair and/or replacement of an existing retaining wall accessory to an existing single-family dwelling in the SH Shoreland Overlay District.

As of writing this staff report, staff has not received any correspondence from the Lowry Hill Neighborhood Association. Staff will forward comments, if any are received, at the Board of Adjustment meeting.

Findings Required by the Minneapolis Zoning Code:

VARIANCE: to permit development in the SH Shoreland Overlay District within 40 feet of the top of a steep slope or bluff.

To apply for a variance to allow for development on or within 40 feet of a steep slope or bluff the following four items must be met:

- 1. Development must currently exist on the steep slope or within 40 feet of the top of a steep slope within 500 feet of the proposed development.**

The existing single-family dwelling, detached garage, driveway, walkways and retaining wall are located within 40 feet of the top of the steep slope.

- 2. The foundation and underlying material shall be adequate for the slope condition and soil type.**

The project area is currently developed and the foundation and underlying material will be adequate for the slope condition and soil type. The proposed in-ground swimming pool, apron and fence will not be constructed on the slope. The repair and replacement of the retaining wall will allow for the continued maintenance of the slope. The applicant has provided an erosion control plan that shows the locations of existing vegetation which will remain, silt fences and the driveway will be the temporary stockpile area for removed soil. The proposed erosion control measures will be in place prior to and during construction and after determination that the site has been permanently stabilized. After construction, the project area will be fully landscaped.

- 3. The development shall present no danger of falling rock, mud, uprooted trees or other materials.**

There will be no disturbance of the existing slope and the applicant has provided an erosion control plan outlining measures before, during and after construction to ensure that there is no present danger of falling rock, mud, uprooted trees or other materials.

- 4. The view of the developed slope from the protected water shall be consistent with the natural appearance of the slope, with any historic areas, and with the surrounding physical contexts.**

The project area is located both on and within 40 feet of the top of a steep slope and is located in the SH Shoreland Overlay District. The proposed in-ground pool and apron will be within an existing landscaped area with hedges over 8 feet in height. The proposed fence will be 6 feet in height and will not be visible from the protected water. The existing retaining wall will be maintained in its present location. Spring Lake is located approximately 900 feet northeasterly of the property. Any views of the property from Spring Lake will be consistent with what has existed on this property for many years.

Findings Required by the Minneapolis Zoning Code:

- 1. Practical difficulties exist in complying with the ordinance because of circumstances unique to the property. The unique circumstances were not created by persons presently having an interest in the property and are not based on economic considerations alone.**

The circumstances upon which the variance is requested are unique to the parcel of land due to the existing steep slope and the proximity to Spring Lake. The project area is located both on and within 40 feet of the top of a steep slope and is located in the SH Shoreland Overlay District. The applicant is proposing to construct a new in-ground swimming pool with an apron of either pervious or bluestone paver, a new 6-foot high open, metal fence. In addition, the applicant is requesting to repair and replace portions of the existing retaining wall at the rear of the property, which is deteriorating in parts. The project area is currently developed and the foundation and underlying material will be adequate for the slope condition and soil type. The proposed in-ground swimming pool, apron and fence will not be constructed on the slope. The repair and replacement of the retaining wall will allow for the continued maintenance of the slope. The applicant has provided an erosion control plan that shows the locations of existing vegetation which will remain, silt fences and the driveway will be the temporary stockpile area for removed soil. The proposed erosion control measures will be in place prior to and during construction and after determination that the site has been permanently stabilized. After construction, the project area will be fully landscaped.

- 2. The property owner or authorized applicant proposes to use the property in a reasonable manner that will be in keeping with the spirit and intent of the ordinance and the comprehensive plan.**

The applicant is seeking a variance to allow for the construction of an in-ground swimming pool, apron and fence located within 40 feet of the top of a steep slope and to allow repair and/or replacement of an existing retaining wall located on a steep slope in the SH Shoreland Overlay District. There will be no disturbance of existing slope and the applicant has provided an erosion control plan outlining measures to ensure that there is no present danger of falling rock, mud, uprooted trees or other materials. Staff finds that the applicant is proposing to use the property in a reasonable manner.

- 3. The proposed variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. If granted, the proposed variance will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.**

Staff finds that the granting of this variance would be in keeping with the spirit and intent of the ordinance and would not negatively alter the essential character of the area. The project area is located on and within 40 feet of the top of a steep slope. The intent of the ordinance is to protect both the water body and other properties located below a steep slope from erosion and runoff and to protect views from the protected water. The applicant has demonstrated that the necessary precautions will be taken during construction and no significant changes to slope or soil will be made. Therefore, the subject site will not be significantly altered to adversely affect the water quality of Spring Lake. Further, granting of the variance will not increase the danger of fire safety or be detrimental to the public welfare or endanger the public safety.

Findings required by the Minneapolis Zoning Code for development in the Shoreland Overlay District:

- 1. The prevention of soil erosion or other possible pollution of public waters, both during and after construction.**

Staff finds that the proposed project will prevent soil erosion and other possible pollution during and after construction. The applicant has provided an erosion control plan that shows the locations of existing vegetation which will remain, silt fences and the driveway will be the temporary stockpile area for removed soil. The proposed erosion control measures will be in place prior to and during construction and after determination that the site has been permanently stabilized. After construction, the project area will be fully landscaped. Therefore, the subject site will not be significantly altered to adversely affect the water quality of Spring Lake.

- 2. Limiting the visibility of structures and other development from protected waters.**

The project area is located both on and within 40 feet of the top of a steep slope and is located in the SH Shoreland Overlay District. The proposed in-ground pool and apron will be within an existing landscaped area with hedges over 8 feet in height. The proposed fence will be 6 feet in height and will not be visible from the protected water. The existing retaining wall will be maintained in its present location. Spring Lake is located approximately 900 feet northeasterly of the property. Any views of the property from Spring Lake will be consistent with what has existed on this property for many years. Staff finds that the visibility of the new pool and fence will be limited due to the existing topography and natural vegetation and the retaining wall will appear as it has for many years.

- 3. The suitability of the protected water to safely accommodate types, uses and numbers of watercraft that the development may generate.**

Department of Community Planning and Economic Development Report
BZZ 6011

The subject property is located approximately 900 feet from Spring Lake and does not have access to the lake directly.

Recommendation of the Department of Community Planning and Economic Development:

The Department of Community Planning and Economic Development recommends that the Board of Adjustment adopt staff findings and **approve** the variance to allow for development on and within 40 feet of the top of a steep slope to allow for a new in-ground swimming pool with apron and fence and the repair and/or replacement of an existing retaining wall accessory to an existing single-family dwelling located at 1616 Mount Curve Avenue in the R2 Two-Family District and SH Shoreland Overlay District, subject to the following conditions of approval:

1. Approval of the final site plans by the Department of Community Planning and Economic Development.
2. All site improvements shall be completed by May 2, 2015, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.

Attachments:

1. Written descriptions and findings submitted by the applicant
2. Letters to Council Member Goodman and Lowry Hill Neighborhood Association
3. Zoning map
4. SH Shoreland Overlay map
5. Survey
6. Erosion control plan
7. Site plan
8. Building elevations
9. Floor plans
10. Photos