

**Department of Community Planning and Economic Development – Planning Division**  
Conditional Use Permits, Variances, Minor Subdivision  
BZZ-2433 & MS-132

**Date:** August 1, 2005

**Applicant:** William & Joanna Stone

**Address of Property:** 1133 Xerxes Avenue South

**Project Name:** Stone Residence

**Contact Person and Phone:** William & Joanna Stone, (612) 374-1646

**Planning Staff and Phone:** Janelle Widmeier, (612) 673-3156

**Date Application Deemed Complete:** June 28, 2005

**End of 60-Day Decision Period:** August 27, 2005

**End of 120-Day Decision Period:** On July 28, 2005, staff sent the applicant a letter extending the decision period no later than October 26, 2005.

**Ward:** 7      **Neighborhood Organization:** Bryn Mawr Neighborhood Association

**Existing Zoning:** R1, Single-Family Residential District & SH, Shoreland Overlay District

**Proposed Zoning:** Not applicable for this application

**Zoning Plate Number:** 17

**Legal Description:** Not applicable for this application

**Proposed Uses:** New single-family dwelling with attached garage. New attached garage for an existing single-family dwelling.

**Concurrent Review:**

**Conditional Use Permit:** to increase the maximum allowed height of a single-family dwelling in the SH overlay district from 2 ½ stories to 3 stories.

**Conditional Use Permit:** to allow a new single-family dwelling to be constructed within 40 feet of the top of a steep slope in the SH overlay district.

**Conditional Use Permit:** to allow an attached garage for an existing single-family dwelling to be constructed on a steep slope in the SH overlay district.

**Variance:** to allow a new single-family dwelling to be constructed within 40 feet of the top of a steep slope in the SH overlay district.

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**Variance:** to allow an attached garage for an existing single-family dwelling to be constructed on a steep slope in the SH overlay district.

**Variance:** to reduce the minimum lot size requirement from 6,000 square feet to 4,887 square feet, or 18.6 percent, for an existing single-family dwelling.

**Variance:** to reduce the minimum lot size requirement from 6,000 square feet to 4,293 square feet, or 28.5 percent, for a new single-family dwelling.

**Variance:** to reduce the minimum front yard setback along Washburn Avenue South from 25 feet to 12 feet to allow a new single-family dwelling.

**Minor Subdivision.**

**Applicable zoning code provisions:** Chapter 525, Article VII, Conditional Use Permits; Chapter 525, Article IX Variances, Specifically Section 525.520(1) “to vary the yard requirements, including permitted obstructions into required yards not allowed by the applicable regulations.”, Section 525.520(2) “to vary the lot area or lot width requirements up to thirty percent...”, and Section 525.520(17) “to permit development in the SH overlay district on a steep slope or bluff, or within forty feet of the top of a steep slope or bluff.”; Chapter 551, Article VI Shoreland Overlay District; and Chapter 598, Land Subdivision.

**Background:** The applicants, William and Joanna Stone, are proposing to construct a new single-family dwelling at the property of 1133 Xerxes Avenue South. The site is located in a large residential area North of Cedar Lake. It fronts on two streets, Xerxes and Washburn Avenues South, because it is a through lot. A single-family dwelling exists on the West half of the site. The applicants are proposing to subdivide the lot to build a new single-family dwelling on the East half of the site, which the applicant will occupy. The existing house will remain, but will be sold. The applicants are proposing to build new to better accommodate the accessibility needs of their daughter. Additional information describing the family’s needs is in the applicant’s statement of purpose. The applicants are also proposing an attached garage for the existing house. The garage is located at the rear of the house and will be accessed from Washburn Avenue. A shared driveway is proposed across the property of the new single-family dwelling. Please note that the applicants originally proposed a detached garage and revised the proposal after submitting the application. Some of the attached information may reference a detached garage.

A single-family dwelling is a permitted use in the R1 District; however, no more than one principal residential structure is permitted on a zoning lot. Therefore, a subdivision is required to create two zoning lots. The R1 district requires a minimum lot area of 6,000 square feet for a single-family dwelling. Lot size variances are necessary because both proposed lots do not meet this requirement. The R1 district also requires a front yard setback of not less than 25 feet. The applicants are requesting a variance to reduce the front yard to 12 feet.

Further, due to the proximity of the site to Cedar and Brownie Lakes, the grades on site and its location within the SH Overlay District, the proposed single-family dwelling and the proposed attached garage to the existing single-family dwelling require a conditional use permit to allow development on a steep slope and within 40 feet of the top of a steep slope as well as a variance to permit development in the SH Overlay District on a steep slope and within 40 feet of the top of a steep slope. The SH Overlay District defines a steep slope as land having an average slope of 18 percent or greater measured over a horizontal distance of 50 feet or more.

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The proposed height of the new single-family dwelling does not comply with the R1 District or SH Overlay District maximum height requirements. The applicant is proposing a 3-story house with a total height of 31 feet. Both districts limit the height of a structure to 2 ½ stories or 35 feet, whichever is less. In the R1 District, a variance is required to increase the maximum height. In the SH Overlay District, a conditional use permit is required to increase the maximum height. Whenever an overlay district regulation differs from the primary district regulations, either more or less restrictive, the zoning code requires that the provisions of the overlay district govern.

Also, the new single-family dwelling requires administrative site plan review and is subject to Article VI of Chapter 530, Site Plan Review.

As of the writing of this report, staff has not received any correspondence from the neighborhood group, Bryn Mawr Neighborhood Association. Staff will forward comments, if any are received, at the City Planning Commission meeting.

**Findings as required by the Minneapolis Zoning Code:**

**CONDITIONAL USE PERMIT:** to increase the maximum allowed height of a single-family dwelling in the SH overlay district from 2 ½ stories to 3 stories.

The Community Planning and Economic Development Planning Division has analyzed the application and from the findings above concludes that the establishment, maintenance, or operation of the proposed conditional use:

1. **Will not be detrimental to or endanger the public health, safety, comfort or general welfare.**

Staff does not believe that the third-story of the applicant's home would be detrimental to or endanger the public health, safety, comfort or general welfare.

2. **Will be injurious to the use and enjoyment of other property in the vicinity and will impede the normal or orderly development and improvement of surrounding property for uses permitted in the district.**

Staff believes that the construction of the proposed home will be injurious to the use and enjoyment of other property in the vicinity and will affect development of the surrounding properties. The site is located in a fully developed, predominantly single-family residential area. Houses in the neighborhood do not exceed the maximum height of 2 ½ stories. There is a variety of housing styles in the neighborhood including modern architecture. However, the height of the modern homes does not exceed 2 stories. Allowing one property owner to increase the height of their house could set a precedent in the neighborhood.

The applicants have indicated that a 3-story structure is necessary to have an open floor plan that will include numerous handicap accessible features for their daughter. The floor plans show that

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the main living areas (kitchen, bedrooms, bathrooms, dining/living rooms) are located on the second and third floors. The first floor includes an 18 foot wide by 24 foot deep garage, a mudroom and a front entry. A basement is not proposed, and all floors are completely above grade. Staff is concerned about the atypical layout of the first floor, specifically that the only connection between the entry and the rest of the living areas of the house is through the garage and up a flight of stairs. This does not meet the intent of the zoning requirement of a principal entrance facing the street. Guests would have to go through the garage or back door to enter the home. Also, there are no eyes on the street from the first floor because no windows are proposed except in the patio door (the proposed principal entrance) that faces a blank wall of the garage. Furthermore, the South elevation shows an opening to the West of the garage door. The opening is not clearly identified as a window or a door. Because the entry space seems unaccounted for, staff is concerned that the entry, if not the entire first floor (960 square feet), will be converted to a garage. The first floor of a residence should have a connection to the street with windows and a door of habitable spaces to encourage “eyes on the street.” The proposed house could affect safety on the streets by not having habitable spaces facing the street on the first floor. Also, a different floor layout could be proposed that still meets the needs of the applicant and complies with the height requirement without compromising the style of architecture.

**3. Adequate utilities, access roads, drainage, necessary facilities or other measures, have been or will be provided.**

The additional height of the development will have no affect on area utilities, access roads, drainage or other facilities.

**4. Adequate measures have been or will be provided to minimize traffic congestion in the public streets.**

The construction of a new single-family dwelling should not have an impact on traffic congestion. The proposed house includes a two-car garage.

**5. Is consistent with the applicable policies of the comprehensive plan.**

According to Map9.9, as found in *The Minneapolis Plan*, the site is located in a single family area. In the City Form Chapter found in *The Minneapolis Plan*, Policy 9.5 states that “Minneapolis will support the development of residential dwellings of appropriate form and density.” There is a variety of housing styles in the neighborhood including modern architecture. However, houses in the neighborhood do not exceed the maximum height of 2 ½ stories. The houses on the same side of Washburn Avenue as the proposed house are between one and 1 ½ stories tall. Staff believes that the scale is out of character with other houses in the neighborhood.

**6. And, does in all other respects conform to the applicable regulations of the district in which it is located upon approval of this conditional use permit.**

Before applying for a building permit for the new single-family dwelling, the applicant will need to apply for the administrative site plan review application. The applicants have indicated that

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the new single-family dwelling and new attached garage to the existing single-family dwelling will comply with all applicable regulations of the zoning ordinance. With the approval of the conditional use permits, variances, minor subdivision, and administrative site plan review this development would meet the applicable requirements of the R1 and SH overlay zoning districts.

**ADDITIONAL STANDARDS TO INCREASE MAXIMUM HEIGHT**

**(1) Access to light and air of surrounding properties.**

The proposed height of the applicant's home, when measured to the highest point of the roof, is 31 feet. The building is almost a solid cube with the exception of the East façade of the third floor being set back 8 additional feet from the front property line. The house is set in line along Washburn Avenue with the adjacent residential structure to the North. The distance between this house and the proposed house is 17 feet. Also, the grade slopes down to the Southeast corner of the site. The house directly to the North will be most impacted by the height of the proposed structure. Because of the grade change the elevation of the first floor of the proposed house is 2 feet higher than the adjacent house. Staff believes that a solid 31 foot high by 40 foot wide wall on top of the existing grade changes will restrict light to the adjacent property.

**(2) Shadowing of residential properties or significant public spaces.**

The applicants did not submit a shadow study as part of this application. Shadowing would likely only affect the residence to the North of the site. This property will especially be affected by shadows during the winter months. The other adjacent residences surrounding the property are at higher grades and will most likely not be affected by any shadowing.

**(3) The scale and character of surrounding uses.**

The site is located in an established single-family residential neighborhood. The scale of the homes in the neighborhood is similar to one another even though there are a variety of architectural styles. There are a few homes with modern architectural characteristics, although they are not directly adjacent to the subject site. None of the homes within the neighborhood exceed 2 ½ stories. Staff believes that the scale of the proposed house is out of character with the rest of the neighborhood.

**(4) Preservation of views of landmark buildings, significant open spaces or water bodies.**

Staff does not believe that there are views of landmark buildings, significant open spaces or water bodies from the subject site and most likely will not affect views of any adjacent properties. Although the site is within the SH Overlay District, it lies on the periphery of the district. Furthermore, the site is located on the down-slope of a hill facing away from the lakes.

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**CONDITIONAL USE PERMIT:** (1) to allow a new single-family dwelling to be constructed within 40 feet of a steep slope in the SH overlay district, and (2) to allow an attached garage for an existing single-family dwelling to be constructed on a steep slope in the SH overlay district.

The Community Planning and Economic Development Planning Division has analyzed the application and from the findings above concludes that the establishment, maintenance, or operation of the proposed conditional use:

**1. Will not be detrimental to or endanger the public health, safety, comfort or general welfare.**

*New single-family dwelling to be constructed within 40 feet of the top of a steep slope:* Staff does not believe that the development of a new single-family dwelling within 40 feet of a steep slope will affect the surrounding area. The area is a fully-developed, single-family residential neighborhood. This half of the site is relatively flat with an overall grade change of less than 5 percent. Also, the site is on the periphery of the SH overlay district and slopes away from the adjacent lakes.

*Attached garage for an existing single-family dwelling to be constructed on a steep slope:* Staff does not believe that the development of an attached garage for an existing single-family dwelling on a steep slope will affect the surrounding area. Several other houses are built on the slope. Also, the site is on the periphery of the SH overlay district and the garage is proposed on the side of the property that slopes away from the adjacent lakes.

**2. Will be injurious to the use and enjoyment of other property in the vicinity and will impede the normal or orderly development and improvement of surrounding property for uses permitted in the district.**

*New single-family dwelling to be constructed within 40 feet of the top of a steep slope & Attached garage for an existing single-family dwelling to be constructed on a steep slope:* Staff does not believe that the proposed development even though located on the steep slope or within 40 feet of the top of the steep slope would be injurious to the use and enjoyment of surrounding property nor will it impede the normal development of the surrounding area.

**3. Adequate utilities, access roads, drainage, necessary facilities or other measures, have been or will be provided.**

*New single-family dwelling to be constructed within 40 feet of the top of a steep slope:* The applicants would be required to work closely with the Plan Review Section and Environmental Services Section of the Regulatory Services Department and the various utility companies during the duration of the development to ensure that all procedures are followed in order to comply with city and other applicable requirements. The site has direct access to Washburn Avenue by way of an existing curb cut. The applicants are also proposing a shared driveway between the new and existing single-family dwellings to provide vehicle access to the site.

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Attached garage for an existing single-family dwelling to be constructed on a steep slope: Utilities are existing and adequate. The applicants are proposing a shared driveway between the new and existing single-family dwellings to provide vehicle access to the site.

- 4. Adequate measures have been or will be provided to minimize traffic congestion in the public streets.**

New single-family dwelling to be constructed within 40 feet of the top of a steep slope: An attached garage large enough to fit one vehicle and possibly two is proposed to meet the minimum parking requirement for a single-family dwelling.

Attached garage for an existing single-family dwelling to be constructed on a steep slope: A minimum of one parking space per dwelling unit is required in the R1 district. Currently, a conforming parking area is not provided on the site. A 1-car garage will bring the use into compliance with the parking requirement.

- 5. Is consistent with the applicable policies of the comprehensive plan.**

New single-family dwelling to be constructed within 40 feet of the top of a steep slope & Attached garage for an existing single-family dwelling to be constructed on a steep slope: In the Natural Ecology Chapter found in The Minneapolis Plan, Policy 7.1 states that “Minneapolis will manage the use of the city’s environmental resources (including air, water and land) in order to meet present needs while considering future concerns.” The proposed development should have little effect on the nearby lakes, therefore the proposed development should be in conformance with the goals of *The Minneapolis Plan*.

- 6. And, does in all other respects conform to the applicable regulations of the district in which it is located upon approval of this conditional use permit.**

New single-family dwelling to be constructed within 40 feet of the top of a steep slope & Attached garage for an existing single-family dwelling to be constructed on a steep slope: See the above listed response to finding #6 in the conditional use permit application.

## **SHORELAND OVERLAY DISTRICT STANDARDS**

### **Evaluation Criteria as Required by the Minneapolis Zoning Code for Conditional Uses in the Shoreland Overlay District (Section 551.490(a))**

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

New single-family dwelling to be constructed within 40 feet of the top of a steep slope & Attached garage for an existing single-family dwelling to be constructed on a steep slope: The applicants must ensure that proper erosion control methods are in place during and after

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construction. However, erosion from the site would not impair public waters because the land slopes away from and is not near the protected waters.

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

New single-family dwelling to be constructed within 40 feet of the top of a steep slope: Staff does not believe that there are views of water bodies from the subject site, therefore the development most likely will not affect views of any adjacent properties. Furthermore, the site is located on the down-slope of a hill facing away from the protected waters, both Cedar Lake and Brownie Lake.

Attached garage for an existing single-family dwelling to be constructed on a steep slope: The 1-story garage is tucked into the side of a hill and will not limit the visibility of structures from protected waters.

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

New single-family dwelling to be constructed within 40 feet of the top of a steep slope & Attached garage for an existing single-family dwelling to be constructed on a steep slope: This standard is not applicable for the proposed development.

**Conditions as Required by the Minneapolis Zoning Code for Conditional Uses in the SH Overlay District (Section 551.490(b)(1))**

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

New single-family dwelling to be constructed within 40 feet of the top of a steep slope & Attached garage for an existing single-family dwelling to be constructed on a steep slope: The applicant would be required to work closely with the Plan Review Section and Environmental Services Section of the Regulatory Services Department during the duration of the development to ensure that all procedures are followed in order to comply with city and other applicable requirements to meet this condition.

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

New single-family dwelling to be constructed within 40 feet of the top of a steep slope & Attached garage for an existing single-family dwelling to be constructed on a steep slope: The applicant would be required to work closely with the Plan Review Section and Environmental Services Section of the Regulatory Services Department during the duration of the development to ensure that all procedures are followed in order to comply with city and other applicable requirements to meet this condition.

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- 3. 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 surrounding architectural features.**

*New single-family dwelling to be constructed within 40 feet of the top of a steep slope & Attached garage for an existing single-family dwelling to be constructed on a steep slope:* Because of the distance and the slope of the land away from the protected waters, this standard is not applicable for the proposed development.

**VARIANCE:** (1) to allow a new single-family dwelling to be constructed within 40 feet of a steep slope in the SH overlay district, and (2) to allow an attached garage for an existing single-family dwelling to be constructed on a steep slope in the SH overlay district.

- 1. The property cannot be put to a reasonable use under the conditions allowed and strict adherence to the regulations of this zoning ordinance would cause undue hardship.**

*New single-family dwelling to be constructed within 40 feet of the top of a steep slope:* It would be difficult to put the property to a reasonable use under the conditions allowed and with strict adherence to the regulations of the zoning code. On the proposed Parcel B, from where the applicant proposes to subdivide the property to approximately 25 feet from the front property line on Washburn Avenue, the property is either on the steep slope or within 40 feet of the top of a steep slope. The required minimum front yard setback for this district is 25 feet, leaving no buildable area.

*Attached garage for an existing single-family dwelling to be constructed on a steep slope:* It would be difficult to put the property to a reasonable use under the conditions allowed and with strict adherence to the regulations of the zoning code. All of proposed Parcel A is either on the steep slope or within 40 feet of the top of a steep slope, leaving no buildable area. The top of the steep slope is on the back half of the property. The applicant could propose to build the garage in the front half of the lot; however, a variance to reduce the front yard setback requirement in addition to the variance to allow development within 40 feet of the top of a steep slope would be required.

- 2. The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.**

*New single-family dwelling to be constructed within 40 feet of the top of a steep slope & Attached garage for an existing single-family dwelling to be constructed on a steep slope:* The steep slope is not a circumstance created by the applicants. There are other properties with residential structures in the neighborhood that are also located on the steep slope. However, a single-family dwelling is the only use allowed for the property under the terms of the ordinance.

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- 3. The granting of the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.**

*New single-family dwelling to be constructed within 40 feet of the top of a steep slope:* The site is located in a single-family residential neighborhood. The establishment of a single-family dwelling is a permitted use in the R1 district. The use should have little impact on surrounding properties. The development should not have negative impacts on the nearby protected waters.

*Attached garage for an existing single-family dwelling to be constructed on a steep slope:* The granting of the variance should be in keeping with the spirit and intent of the ordinance and should not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. A garage located on the property of the existing single-family dwelling will provide off-street parking. The location of the garage at the rear of the property is on a hill sloping away from the protected water. This is preferable to a garage on the front of the property, which slopes toward the protected waters.

- 4. The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.**

*New single-family dwelling to be constructed within 40 feet of the top of a steep slope & Attached garage for an existing single-family dwelling to be constructed on a steep slope:* Up to two parking spaces are proposed on-site for each single-family dwelling. The granting of the variances should have little impact on the surrounding properties.

**VARIANCE:** (1) to reduce the minimum lot size requirement from 6,000 square feet to 4,887 square feet, or 18.6 percent, for an existing single-family dwelling, and (2) to reduce the minimum lot size requirement from 6,000 square feet to 4,293 square feet, or 28.5 percent, for a new single-family dwelling.

- 1. The property cannot be put to a reasonable use under the conditions allowed and strict adherence to the regulations of this zoning ordinance would cause undue hardship.**

*Lot variance for the existing single-family dwelling & Lot variance for the new single-family dwelling:* A single-family dwelling with a conforming lot size exists on the property. However, there is excess lot area not required to meet the minimum requirement. If the lot was subdivided in a way that one parcel would be 6,000 square foot lot, the other lot would be a 3,180 square foot lot. The second parcel would require a 47 percent reduction in lot size. The code does not allow the minimum lot size requirement to be varied more than 30 percent. To make this site into two parcels, two lot size variances are necessary.

- 2. The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property.**

**Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.**

*Lot variance for the existing single-family dwelling & Lot variance for the new single-family dwelling:* The applicants currently occupy the site, but the existing home was not built by the applicant. The applicants has indicated that the existing single-family dwelling can not be converted to a handicap accessible home to meet needs of their daughter; therefore they would like to construct a new home in the same neighborhood. The site is a through-lot, which is also a condition not created by the applicants. Only one or two through-lots exist in the area. The through-lot configuration creates hardships on neighboring properties i.e. a larger than average established front yard requirement.

- 3. The granting of the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.**

*Lot variance for the existing single-family dwelling & Lot variance for the new single-family dwelling:* The granting of the variance should be in keeping with the intent of the ordinance. This site is not subject to the large lot provision that preserves large lot areas. Like the wide variety of architectural styles in the neighborhood, there are also a variety of lot sizes. Lots range in size from 4,500 square feet to over 10,000 square feet in area. Two of the adjacent properties to this site are less than 5,000 square feet in area. The character of the area most likely will not be altered, therefore a reduced lot size should have little impact on surrounding properties.

- 4. The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.**

*Lot variance for the existing single-family dwelling & Lot variance for the new single-family dwelling:* Granting the variances would likely have no impact on the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.

**VARIANCE:** to reduce the minimum front yard setback along Washburn Avenue South from 25 feet to 12 feet to allow a new single-family dwelling.

- 1. The property cannot be put to a reasonable use under the conditions allowed and strict adherence to the regulations of this zoning ordinance would cause undue hardship.**

Although the proposed dwelling could be set back 25 feet to meet the district requirement, this setback does not match the setback of the adjacent residential uses.

- 2. The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property.**

**Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.**

The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property. The grade changes of the area affect the street and lot layout in the area. As a result, Washburn Avenue is very curvilinear. The houses on the West side of Washburn are naturally pushed closer to the street where the street arcs.

- 3. The granting of the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.**

Although the district requirement for a front yard setback is 25 feet, half of the residences along the West side of Washburn Avenue are setback less than 25 feet. The adjacent residential structure to the North is setback only 12 feet from the front property line. The applicant is proposing to match this setback. Staff believes the granting of the variance will maintain the character of the area and should have little impact on the adjacent residences as long as the height of the new residence will comply with the district requirements.

- 4. The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.**

Granting the variance would likely have no impact on the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.

**MINOR SUBDIVISION.**

- (1) The subdivision is in conformance with these land subdivision regulations, the applicable regulations of the zoning ordinance and policies of the comprehensive plan.**

Both parcels will be in conformance with the requirements of the zoning ordinance and comprehensive plan with the approval of the conditional use permits, variances, minor subdivision, and administrative site plan review. Both lots are in conformance with the standards of the subdivision regulations, with the exception of required lot width. The R1 zoning district requires a lot width of 50 feet. In addition to this zoning code requirement, Section 598.240(2)[a] of the subdivision regulations require that lot width be increased by 10 feet when an alley is not provided. The two lots do not have access to an alley, so the lot width is required to be increased from 50 to 60 feet. Parcel A will have a width of 50 feet. Parcel B, the parcel on Washburn Avenue, will have a lot width of 54.68 feet. Both parcels will require a variance from the minimum lot width provision. To grant a variance from the lot width and lot size requirement of the subdivision ordinance the following findings are required:

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**598.310. Variances.** Where the planning commission finds that hardships or practical difficulties may result from strict compliance with these regulations, or that the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve variances to any or all of the provisions of this chapter. In approving variances, the planning commission may require such conditions as it deems reasonable and necessary to secure substantially the objectives of the standards or requirements of these regulations. No variance shall be granted unless the planning commission makes the following findings:

- (1) There are special circumstances or conditions affecting the specific property such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of land.
- (2) The granting of the variance will not be detrimental to the public welfare or injurious to other property in the area in which the property is located.

The purpose of the lot width requirement is to provide room for driveways on lots where there is no alley access. Lot widths are required to be increased to allow for a driveway on the side of the house. A curb cut exists on Washburn Avenue. The applicant is proposing to use that curb cut to access an attached, tuck-under garage for the new single-family dwelling. The applicant is also proposing to share this access and the proposed driveway with the existing single-family dwelling making vehicle access from Washburn Avenue unnecessary. Therefore, it is not necessary that both lots have 60 feet of frontage on Xerxes and Washburn Avenues and it would be a hardship to require strict adherence to this standard.

- (2) **The subdivision will not be injurious to the use and enjoyment of other property in the immediate vicinity, nor be detrimental to present and potential surrounding land uses, nor add substantially to congestion in the public streets.**

Staff believes that the proposed subdivision would have little impact on the surrounding area.

- (3) **All land intended for building sites can be used safely without endangering the residents or users of the subdivision or the surrounding area because of flooding, erosion, high water table, soil conditions, improper drainage, steep slopes, rock formations, utility easements or other hazard.**

The site is moderately sloped, but should not present any of the above hazards.

- (4) **The lot arrangement is such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing building permits and in providing driveway access to buildings on such lots from an approved street. Each lot created through subdivision is suitable in its natural state for the proposed use with minimal alteration.**

The proposed access is much like the existing access, which is not affected by the slope of the land. The applicants are also proposing a shared driveway to allow access to the existing single-family dwelling from Washburn Avenue. An access easement is therefore necessary. The applicants also indicate some regrading is required to provide a play area for their daughter.

- (5) **The subdivision makes adequate provision for stormwater runoff, and temporary and permanent erosion control in accordance with the rules, regulations and standards of the city engineer and the requirements of these land subdivision regulations. To the extent practicable, the amount of stormwater runoff from the site after development will not exceed the amount occurring prior to development.**

Existing utility and drainage provisions are adequate for the existing and proposed development.

## **RECOMMENDATIONS**

### **Recommendation of the Department of Community Planning and Economic Development – Planning Division for the conditional use permit:**

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **deny** the conditional use permit to increase the maximum allowed height of a single-family dwelling in the SH overlay district from 2 ½ stories to 3 stories for the property of 1133 Xerxes Avenue South.

### **Recommendation of the Department of Community Planning and Economic Development – Planning Division for the conditional use permit:**

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the conditional use permit to allow a new single-family dwelling to be constructed within 40 feet of the top of a steep slope in the SH overlay district for the property of 1133 Xerxes Avenue South.

- 1) Provide evidence of a driveway access easement from Washburn Avenue to the existing single-family dwelling.

### **Recommendation of the Department of Community Planning and Economic Development – Planning Division for the conditional use permit:**

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the conditional use permit to allow an attached garage for an existing single-family dwelling to be constructed on a steep slope in the SH overlay district for the property of 1133 Xerxes Avenue South.

### **Recommendation of the Department of Community Planning and Economic Development – Planning Division for the variance:**

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the variance to allow a new single-family dwelling to be constructed within 40 feet of the top of a steep slope in the SH overlay district for the property of 1133 Xerxes Avenue South.

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**Recommendation of the Department of Community Planning and Economic Development – Planning Division for the variance:**

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the variance to allow an attached garage for an existing single-family dwelling to be constructed on a steep slope in the SH overlay district for the property of 1133 Xerxes Avenue South.

**Recommendation of the Department of Community Planning and Economic Development – Planning Division for the variance:**

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the variance to reduce the minimum lot size requirement from 6,000 square feet to 4,887 square feet, or 18.6 percent, for an existing single-family dwelling for the property of 1133 Xerxes Avenue South.

**Recommendation of the Department of Community Planning and Economic Development – Planning Division for the variance:**

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the variance to reduce the minimum lot size requirement from 6,000 square feet to 4,293 square feet, or 28.5 percent, for a new single-family dwelling for the property of 1133 Xerxes Avenue South.

**Recommendation of the Department of Community Planning and Economic Development – Planning Division for the variance:**

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the variance to reduce the minimum front yard setback along Washburn Avenue South from 25 feet to 12 feet to allow a new single-family dwelling for the property of 1133 Xerxes Avenue South.

**Recommendation of the Department of Community Planning and Economic Development – Planning Division for the minor subdivision:**

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the minor subdivision for the property of 1133 Xerxes Avenue South.

**Attachments:**

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1. Zoning code information sheet
2. Statement of use
3. Findings
4. Correspondence
5. Zoning map
6. Plans
7. Photos