

Department of Community Planning and Economic Development – Planning Division
Conditional Use Permit and Variance
BZZ-3620

Date: July 16, 2007

Applicant: John Goetz

Address of Property: 5335 Washburn Avenue S.

Project Name: Goetz Residence

Contact Person and Phone: John Goetz, 612-805-6789

Planning Staff and Phone: Michael Wee, 612-673-5468

Date Application Deemed Complete: June 14, 2007

End of 60-Day Decision Period: August 13, 2007

End of 120-Day Decision Period: Not applicable in this application

Ward: 13 **Neighborhood Organization:** Fulton

Existing Zoning: R1 Single Family District

Proposed Zoning: N/A

Zoning Plate Number: 35

Legal Description: Not applicable for this application

Proposed Use: Single Family Residence

Concurrent Review: Conditional Use Permit to build on a steep slope in the SH Overlay District (Section 551.480); a variance to build within 40 feet of the top of a steep slope; and a variance to reduce the north side yard setback from the required 6 feet to 5 feet (Section 546.220).

Background: The property has an existing two-story dwelling and is located on the north side of Minnehaha Creek. It is within a designated Shoreland Overlay District and Flood Plain area. The surrounding properties are single-family residential uses in all directions. The applicant proposes to tear the existing dwelling in his property down, except the basement walls, and construct a new dwelling using the same foundations walls. A conditional use permit is required for building within 40 feet of the top of a steep slope. The southern tip of the parcel is in the Flood Plain area, but the structure is not.

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The new dwelling will have a total floor area of 4,570 square feet (including basement of 1,400 square feet). Given a lot area of 13,000 square feet, the proposed dwelling will meet the requirements of R1 District for lot area, lot coverage (10.8%), impervious coverage (16.7%), and FAR (0.35). These numbers are way under the maximum of 60%, 75%, and 0.5, respectively, stipulated in Chapter 546 of the zoning code.

The proposal includes using the existing driveway to an attached garage that will face Washburn Avenue, instead of accessing it from the alley. There is an alley on this block, however, the applicant plans on using the back yard for outdoor activities. The new dwelling will be designed to use zero net energy (selling excess energy back to the power company) as promoted by The Minneapolis Plan.

Existing retaining walls on site will not change. Additional retaining wall will be constructed on the eastern section of the property.

Notices were mailed out to include DNR, Minneapolis Park Board, and Minnehaha Creek Watershed District. No comments from the neighborhood group were received at the time of writing this report. Comments, if any received, will be forwarded to the Commission at the meeting.

CONDITIONAL USE PERMIT: To allow the construction of a dwelling unit within 40 feet of the top of a steep slope for property located at 5335 Washburn Avenue South.

Findings as required by the Minneapolis Zoning Code:

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.

The proposed new dwelling is essentially a reconstruction of the existing two-story dwelling. It meets all R1 District code requirements, except for the north side yard setback wherein a variance is requested. No grade change is expected. It will not be detrimental to or endanger the public health, safety, comfort or general welfare of the neighborhood.

2. Will not be injurious to the use and enjoyment of other property in the vicinity and will not impede the normal or orderly development and improvement of surrounding property for uses permitted in the district.

The proposed project doesn't have any impact to the use and enjoyment of other property in the vicinity. It will conform to the surrounding land uses and neighborhood character.

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

The site is served by existing infrastructure and deemed adequate. No additional requirements are anticipated with the new construction.

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

The proposal will have no impact on current traffic conditions in the surroundings.

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

Policy 9.8: Minneapolis will maintain and strengthen the character of the city's various residential areas.

Implementation Steps:

Ensure that city grants and programs are targeted to housing development or rehabilitation that reflects the traditional architectural character of residential area.

Policy 9.16: Minneapolis will encourage new development to use human scale design features and incorporate sunlight, privacy, and view elements into building and site designs.

Implementation Steps:

Encourage the design of all new buildings to fulfill lights, privacy and view requirements for the subject building as well as for adjacent buildings.

Policy 9.21: Minneapolis will preserve and enhance the quality of living in residential neighborhoods, regulate structures and uses which may affect the character or desirability of residential areas, encourage a variety of dwelling types and locations and a range of population densities, and ensure amenities, including light, air, privacy and open space.

Implementation Steps:

Apply the form and density approach within the context of a neighborhood or a site and within the framework of The Minneapolis Plan and NRP Plans when evaluating the appropriateness of development proposals for specific sites.

Staff Comment: The proposed development will not affect existing grade lines that will utilize the same foundation walls and build up. The dwelling design will conform to neighborhood character and provide sustainable and energy-sufficient features. The proposed development is consistent 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.

The proposed development is for a single-family dwelling and it will conform to all regulations of R1 District requirements, including maximum height, minimum lot area, maximum lot coverage, maximum impervious surface coverage, and FAR. Section 546.200 of the code clearly states the purpose of the district is to establish an environment of predominantly low density single-family dwellings which include requiring one full kitchen. The applicant understands that the kitchen in the basement has to be a "bar kitchen" where no cooking of food will be permitted. The applicant will comply with all requirements of Section 551.500 of the zoning code, including grading, filling, and preservation of vegetation.

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In addition to the conditional use standards contained in Chapter 525, Administration and Enforcement, the city planning commission shall consider the following for conditional uses located within SH Shoreland Overlay District:

Conditional uses. *Evaluation criteria.* In addition to the conditional use standards contained in Chapter 525, Administration and Enforcement, the city planning commission shall consider the following:

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

Approximately 65 feet of the lot slopes at estimated 40% to the south. The new dwelling will utilize the same foundation walls from the existing structure. The width of which runs 68 feet from the north lot line and over to the steep slope where there is a walk-out. Existing retaining walls essentially are in place to prevent erosion. A small section will be added along with the second tier retaining wall. The area on top of this wall will be used for outdoor activities.

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

The proposed dwelling will not be higher in total height than the existing two-story house. Located approximately 78 feet from Minnehaha Creek, the proposed structure will not be obtrusively visible from the waterway. The property also has several grown trees at its south section, in addition to dense vegetation along the edge of Minnehaha Creek.

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

The proposed installation will not generate any types, uses and numbers of watercraft.

VARIANCE: To allow the construction of a dwelling within 40 feet of the top of a steep slope located in Shoreland Overlay District.

Findings Required by the Minneapolis Zoning Code:

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.

Constructed in 1953, the existing house has shown dilapidation and the applicant intends to tear it down, except its basement walls, and build a new dwelling utilizing existing foundation walls. The lot is 100 feet wide along Washburn Avenue, and approximately 60 feet from its north lot line slopes down to the creek at an estimated 40 percent. Strict adherence to the regulations of Shoreland Overlay District will cause an undue hardship because the land that is relatively flat is 40 feet from the top of a steep slope.

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.

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The circumstance for this site is unique because of the steep slope, and certainly not created by the applicant.

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.**

The proposed dwelling is a permitted use in R1 District and meets its requirements including lot area, lot coverage, impervious surface, and FAR. It utilizes the same foundation walls as the existing house and build up. Granting the variance to reconstruct a dwelling on the same foundation walls will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality.

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.**

The project will not impact any of the above.

VARIANCE: To reduce the north side yard setback from the required 6 feet to 5 feet for the property at 5335 Washburn Avenue S.

Findings Required by the Minneapolis Zoning Code:

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.**

Constructed in 1953, the existing house has shown dilapidation and the applicant intends to tear it down, except its basement walls, and build a new dwelling utilizing existing foundation walls. The lot is 100 feet wide along Washburn Avenue, and approximately 60 feet from its north lot line slopes down to the creek at an estimated 40 percent. Strict adherence to the regulations of Shoreland Overlay District will cause an undue hardship because the land that is relatively flat is 40 feet from the top of a steep slope.

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 circumstance for this site is unique because of the steep slope, and certainly not created by the applicant. The north side yard variance is not on a steep slope but within the 40 foot restriction of SH Overlay District.

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.**

Granting the variance sought for will not change the essential character of the locality and still meet the spirit and intent of R1 district where the property is located.

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- 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.**

The project will not impact any of the above.

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 **approve** the conditional use permit to allow a single-family dwelling on a steep slope in the Shoreland Overlay District at 5335 Washburn Ave. S., subject to the following conditions:

1. The conditional use permit shall be recorded with Hennepin County as required by Minn. Stat. 462.3595, subd. 4 before building permits may be issued or before the use or activity requiring a conditional use permit may commence. Unless extended by the zoning administrator, the conditional use permit shall expire if it is not recorded within one year of approval.
2. Staff shall review and approve the final site and floor plans before building permits may be issued.
3. All improvements shall be completed by July 16, 2008, unless extended by the Zoning Administrator, or permits may be revoked for noncompliance.
4. The project shall comply with all applicable standards of the Shoreland Overlay District.

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 single-family dwelling within forty (40) feet of a steep slope in the Shoreland Overlay District at 5335 Washburn Ave. S.

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 required north side yard from six feet to five feet for a single-family dwelling at 5335 Washburn Ave. S.

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Attachments:

Statement of use
Zoning map
Plans
Photos