

Department of Community Planning and Economic Development – Planning Division
Zoning Amendment (Rezoning), Conditional Use Permit
BZZ-2629

Date: October 17, 2005

Applicant: Mark & Erin Vannelli

Address of Property: 2401 52nd St. W

Project Name: 2401 52nd St. W

Contact Person and Phone: Mark Vannelli, 5201 3rd Ave S, Minneapolis MN 55419, (612) 839-2773

Planning Staff and Phone: Tara Beard, (612) 673-2351

Date Application Deemed Complete: August 27, 2005

End of 60-Day Decision Period: November 19, 2005

End of 120-Day Decision Period: Not applicable

Ward: 13 **Neighborhood Organization:** Fulton Neighborhood Association

Existing Zoning: R1 Single Family District, SH Shoreland Overlay District

Zoning Plate Number: 35

Lot area: 24,535 square feet

Proposed Use: Single family dwelling unit expansion

Concurrent Review:

- Conditional Use Permit to allow development within 40 feet of a steep slope.
- Variance to allow development within 40 feet of a steep slope.

Applicable zoning code provisions: Chapter 525: Article VII Conditional Use Permits; Article IX Variances – Chapter 546: Article I General Provisions; Article II R1 Single Family District – Chapter 551: Article VI SH Shoreland Overlay District.

Background: The applicants, Mark and Erin Vannelli, have submitted a request to construct a pool and a small kitchen addition within 40 feet of a steep slope at their property at 2401 52nd St. W. This requires a variance and a conditional use permit. The applicants are proposing to locate the pool and all associated structures (deck, stairs, fountain) south of the residence on the flattest portion of the rear yard. The pool will be at the bottom of a steep slope to the north and 20 feet from the top of the steep slope to the south. All required rear and side yard setbacks are in conformance and will remain.

The kitchen addition is on the south (rear) side of the house and includes a new 170 square foot eating area off the kitchen with a deck off the 2nd floor above, and an approximately 240 square foot terrace off the new addition on the 1st floor. The proposed kitchen and terrace addition are at the top of a steep slope between the proposed pool location and the house.

At this time staff has received no written comments from the Fulton neighborhood.

CONDITIONAL USE PERMIT -

Required Findings for the Conditional Use Permit:

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

There is no evidence that the construction of a pool and kitchen addition will adversely affect the public health, safety, comfort or general welfare. The pool is located more than 80 feet from the water and is separated from the steep slope down to the water by an existing stone retaining wall.

- 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 new developments are not in required yard setbacks and are separated from the adjacent property by a 6 foot high fence. Relative to the size of the house and the lot the new developments will not have an impact on the development and improvement of surrounding properties.

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

Utilities would not be affected by the addition of a pool and kitchen addition to the building. Drainage from the steep slope north of the pool will be redirected via drainage tile around the pool (see attached site plan) and will not change the overall impact of a rain event on the property.

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

The kitchen addition and pool are for private use and will have no impact on traffic.

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

The site is designated as Single Family Housing in *The Minneapolis Plan* land use policy. The property has recently been sold and the new owner would like to make some improvements to it. The proposed developments do not appear to conflict with any policies of *The Minneapolis Plan*.

According to other principles and polices outlined in *The Minneapolis Plan*, the following apply to this proposal:

The Minneapolis Plan, Chapter 4.11 states: “Minneapolis will improve the availability of housing options for its residents.” One of the implementation plans for this section of the plan is to “promote the development of housing suitable for people and households in all life stages, and that can be adapted to accommodate changing housing needs over time.” Allowing the expansion of the kitchen and the addition of a pool allows the applicant to increase the amenities offered by their home.

The Minneapolis Plan, Chapter 7.5 states: “Minneapolis will protect and sustain its water resources.” This section includes the implementation step to “preserve and restore wetlands for their irreplaceable contributions to water quality, control of floodwater rates and volumes, wildlife habitat and aesthetic purposes.” Review of the applicant’s minor additions to his home is necessary to ensure the protection of the neighboring steep slope and water body, Minnehaha Creek. Because of the distance from the new construction to the Creek, the existing protection of the Creek from the retaining wall, and the small scale of the addition, staff does not feel that this project would negatively impact the water quality, control of floodwater rates and volumes, wildlife habitat and aesthetic purpose of the Minnehaha Creek and its steep shoreline.

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.

2401 52nd St. W currently conforms to all applicable regulations of the R1 District.

Additional Findings for the Conditional Use Permit per the Shoreland Overlay District:

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

Soil erosion on the site is and will continue to be protected by an existing retaining wall at the top of the steep slope rising from the Creek. The proposed additions occur more than 100 feet from the Creek bank.

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

The proposed additions do not limit visibility from the Creek in any way.

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

The proposed variances should have no impact on the types, uses, and numbers of watercraft that occupy the Creek.

VARIANCE – to permit development in the SH Shoreland Overlay District on a steep slope or bluff, or within forty (40) feet of the top of a steep slope or bluff.

Findings Required by the Minneapolis Zoning Code for the Proposed Variance:

- 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.**

The site is currently put to a reasonable use and the proposed additions are not necessary due to an undue hardship. However, the proposed additions should have little or no impact on the steep slope or Minnehaha Creek and would be permitted without the need for Planning Commission approval if the site were not located in the Shoreland Overlay District.

- 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 steep slope conditions on the property were not created by any persons having an interest in the property. A steep slope is not uncommon to properties bordering Minnehaha Creek in this area; however, the single family dwelling adjacent to the east of the applicant's property does have a pool located within 40 feet of a steep slope.

- 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 spirit and the intent of the ordinance are to protect vulnerable watersheds and steep slopes. The proposed project does not negatively impact Minnehaha Creek or the steep slope leading to it from the property. The granting of the variance will therefore be in keeping with the 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.

- 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 proposed project will have no impact on street congestion, danger of fire, or public welfare and safety.

RECOMMENDATION:

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

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that the City Planning Commission adopt the above findings and **approve** the application for a conditional use permit to allow the expansion of a single-family residential dwelling unit at 2401 52nd St W, subject to the following conditions:

1. As required by Chapter 551.490 (1), soil erosion or other possible pollution of public water, both during and after construction, will be prevented.

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 and City Council adopt the above findings and **approve** the variance to allow development within 40 feet of the top of a steep slope at 2401 52nd St W.

Attachments:

1. Statement of use
2. Findings
3. Correspondence
4. Site Plan, Floor Plans, Elevations, & Zoning map
5. Photos