



LAND USE APPLICATION SUMMARY

Property Location: 10 Russell Ct
Project Name: 10 Russell Ct Deck and Hottub
Prepared By: Peter Crandall, City Planner, (612) 673-2247
Applicant: Scott McConnell and Laurie Davis
Project Contact: Scott McConnell
Request: To construct a new deck and hot tub
Required Applications:

Variance	To develop on or within 40 feet of the top of a steep slope in the SH Shoreland Overlay District
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SITE DATA

Existing Zoning	RI District SH Shoreland Overlay District
Lot Area	14,900 square feet
Ward(s)	13
Neighborhood(s)	Fulton neighborhood
Designated Future Land Use	Urban Neighborhood
Land Use Features	N/A
Small Area Plan(s)	N/A

Date Application Deemed Complete	August 24, 2016	Date Extension Letter Sent	
End of 60-Day Decision Period	October 23, 2016	End of 120-Day Decision Period	

BACKGROUND

SITE DESCRIPTION AND PRESENT USE. The site is at the end of a cul de sac and is currently occupied by a single-family dwelling that was permitted for construction in 1950. A 630 square foot addition was added to the rear of the structure in 1988. The site is adjacent to Minnehaha Creek and slopes progressively toward the creek bed.

SURROUNDING PROPERTIES AND NEIGHBORHOOD. The surrounding properties are primarily single and two-family dwellings.

PROJECT DESCRIPTION. The applicant is proposing to construct a new deck and hottub to the rear of the existing house and within 40 feet of a steep slope. The deck is to be constructed on grade on an existing concrete patio and will be structurally supported by concrete piers and requires little to no excavation or grading. The hottub will be set into the ground immediately adjacent to the deck and will require minimal excavation. The deck will not be attached to the house but will be floating on the concrete piers.

PUBLIC COMMENTS. Planning staff was contacted by the neighborhood association and after discussing the project the neighborhood declined to seek further interaction with applicant. Any additional correspondence received prior to the public meeting will be forwarded on to the Zoning Board of Adjustment for consideration.

ANALYSIS

VARIANCE

The Department of Community Planning and Economic Development has analyzed the application for a variance of the Shoreland Overlay District to allow development on or within 40 feet of a steep slope based on the following findings:

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.*

Practical difficulties exist in complying with the ordinance because of circumstances unique to the property. Nearly the entire rear yard is within 40 feet of the steep slope. Any development to the rear of the structure requires a variance to the Shoreland Overlay requirements. The project will be within all other yard requirements for the zoning district and site dimensions.

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 proposal is to be constructed entirely within an area contained by an existing retaining wall. The deck will be constructed on concrete piers mounted on an existing concrete patio. The hottub and deck will be used for the residents of the property only. The affected area of the site will require no grading or major excavation and will be in keeping with the intent of the ordinance and the comprehensive plan.

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.*

The deck and hottub are consistent with the character of the surrounding area and are located entirely to the rear of the existing structure. The project will not be detrimental to the health, welfare or safety of the general public or of those using the property.

Additional Standards for Variances within the SH Shoreland Overlay District

In addition, the Zoning Board of Adjustment shall consider, but not be limited to, the following factors when considering conditional use permit or variance requests within the SH Shoreland Overlay District:

1. *The prevention of soil erosion or other possible pollution of public waters, both during and after construction.*
The deck will be constructed on concrete piers resting at grade or on an existing concrete patio and will require no excavation or soil disturbance. The hottub will be installed on a gravel and paver pad with some minor excavation required. The applicant intends to employ erosion control measure including a silt fence to prevent any contamination of the protected waters.
2. *Limiting the visibility of structures and other development from protected waters.*
The project area is not visible from protected waters due to the surrounding topography and existing natural vegetation on site and on adjacent properties.
3. *The suitability of the protected water to safely accommodate the types, uses and numbers of watercraft that the development may generate.*

This standard is not applicable to the project

Additional Standards to Permit Development on a Steep Slope, Within 40 Feet of the Top of a Steep Slope or Bluff, or Within 50 Feet of the Ordinary High Water Mark of Any Protected Water in the SH Shoreland Overlay District:

In addition, the Zoning Board of Adjustment shall consider, but not be limited to, the following factors when considering variance requests to allow development on a steep slope, within 40 feet of the top of a steep slope or bluff, or within 50 feet of the ordinary high water mark of any protected water within the SH Shoreland Overlay District:

1. *Development must currently exist on the steep slope or within forty (40) feet of the top of a steep slope within five hundred (500) feet of the proposed development.*
The existing single family home is within 40 feet of the steep slope under consideration.
2. *The foundation and underlying material shall be adequate for the slope condition and soil type.*
The foundation of both the deck and hottub will be appropriate for the soil type and slope condition. The deck will rest on concrete piers on a reasonably flat existing yard that is structurally supported by an existing retaining wall. The hottub will be installed on a gravel and paver pad.
3. *The development shall present no danger of falling rock, mud, uprooted trees or other materials.*
The development will pose no danger of falling rock, mud or uprooted trees. No existing vegetation will be disturbed in constructing the proposed project.
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 context.*

The project will not be visible from protected waters and views of the slope will be consistent with its natural appearance and surrounding physical context.

RECOMMENDATIONS

The Department of Community Planning and Economic Development recommends that the Zoning Board of Adjustment adopt staff findings for the application(s) by Applicant Name for the properties located at addresses:

A. Variance to develop on or within 40 feet of the top of a steep slope in the Shoreland Overlay District.

Recommended motion: **Approve** the application for a variance to the Shoreland Overlay district to allow construction of a new deck and hottub within 40 feet of the top of a steep slope, subject to the following conditions:

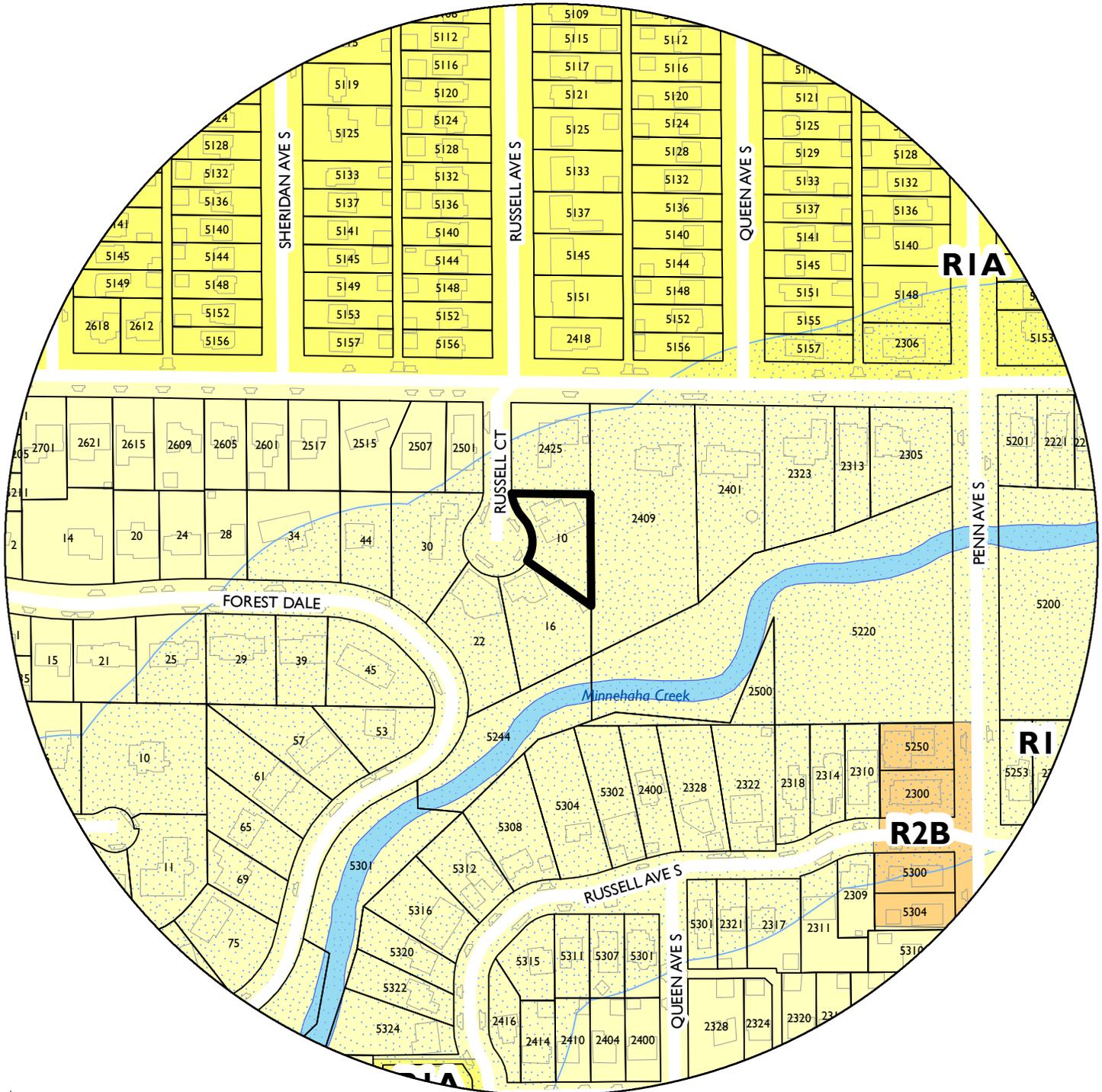
1. Approval of the final site plan by the Department of Community Planning and Economic Development.
2. All site improvements shall be completed by September 15, 2018, unless extended by the Zoning Administrator, or the permit may be revoked for noncompliance.
3. Approval of soil erosion control plan as part of the site plan review application.

ATTACHMENTS

1. Zoning map
2. Written description and findings submitted by applicant
3. Site plan
4. Plans
5. Photos

NAME OF APPLICANT

WARD



PROPERTY ADDRESS
10 Russell Ct

FILE NUMBER
BZZ-7883

General Land Use Application Variance Request
10 Russell Court, Minneapolis MN 55410

Statement of Proposed Use and Description of Project

We propose to build on grade a cedar-plank deck, and install an adjacent hot tub, at the rear of our owner-occupied single-family home. The deck will sit on blocks on both an existing cement patio and an adjacent grassy area. The deck is somewhat L-shaped, with the largest dimensions 45'6" (along the back side of our house) and 34'0" (extending from the house into the backyard). The hot tub is relatively small (6'8" x 7') and will be placed on a gravel and paver pad, on the edge of the existing grassy area.

This will all sit on existing features of our lot, both on the current cement patio and a developed lawn. Both are separated from the creek slope by an existing retaining wall, noted on our drawing to the right (south) of the proposed project. The area between our house and the retaining wall is relatively flat and in 2 levels, with the grassy area about 20" below the patio.

We plan to use the deck and hot tub only for our family; we will continue to use the deck (as we do the existing patio) for evening meals and conversation. The hot tub will be used evenings for relaxation. We respect our neighbors' privacy and desire for quiet, and will continue to make every effort to do so.

Our house was built in the 1950s, and we purchased it in 2010. We have done extensive improvements *inside*, without changing the exterior or footprint of the house. We are invested in the neighborhood and our house, and we plan to stay here for a number of years.

Our home is on the bank, above Minnehaha Creek and within the Shoreland Overlay District. The edge of our proposed deck is within 40' of the steep slope leading to the creek; for this reason, we are requesting a variance to allow the proposed project.

General Land Use Application Variance Request
10 Russell Court, Minneapolis MN 55410

Responses to Requirements for Request for Variance and Shoreland Overlay District Variance

VARIANCE

ALL VARIANCES: *A written statement by the applicant which addresses the following required findings:*

(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.

We are requesting this variance to make small but desired improvements to the outside, backyard area of our home. This variance request is required by our property's presence in the Shoreland Overlay District; we understand that these additional requirements are intended to protect the integrity and natural features of Minnehaha Creek – an intent we fully support. The improvements being proposed – a deck placed on blocks on grade (both an existing cement patio and an existing developed lawn) – are within an area controlled by an existing retaining wall, and on relatively level ground. We expect the proposed deck and hot tub to not contribute to any change in support of the creek bank, and as described below will take steps to abate any erosion or other temporary steps encountered during installation.

We also note that constraints due to the topography of our yard and the Shoreline “steep slope” requirements prevent us from placing the deck and hot tub anywhere in our back yard; all areas are within 40’ setback requirement, and thus limitations are due to factors outside our control. The deck is sized to allow us to place a picnic table and benches/chairs to accommodate our family. As a result, the only way to make this improvement is to request this variance.

Proposed improvements will sit on existing features of our lot, both on the current cement patio and a developed lawn. Both are separated from the creek slope by an existing retaining wall, noted on our drawing to the right (south) of the proposed project. The area between our house and the retaining wall is relatively flat and in 2 levels, with the grassy area about 20” below the patio.

(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.

As noted, we expect the proposed deck and hot tub will not affect current integrity of the creek bank, nor our property. We plan to use the deck and hot tub only for our family; we will continue to use the deck (as we do the existing patio) for evening meals and conversation. The hot tub will be used evenings for relaxation. We respect our neighbors’ privacy and desire for quiet, and will continue to make every effort to do so.

(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.

The proposed deck and hot tub are fully consistent with the current and essential character of our home and our neighborhood – including surrounding properties on our cul de sac. The proposed improvements are in an area of our back yard both already in use, and somewhat out of view of street and neighbors' homes. We will install additional landscaping if needed to enhance privacy, but at this time do not expect that will be needed.

SHORELAND OVERLAY DISTRICT OR MISSISSIPPI RIVER CRITICAL AREA OVERLAY DISTRICT VARIANCE:

In addition, the following findings must be addressed for a variance required by the Shoreland Overlay District or the Mississippi River Critical Area Overlay District:

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

As noted, the deck will be placed on blocks on existing cement patio and developed lawn; no erosion nor pollution of public waters is expected either during or after construction. The hot tub will be installed on a gravel and paver pad, with some minor excavation required. We will install silt barriers during the brief excavation period to mitigate any possible soil erosion. We have selected a hot tub purification system that prevents introduction of harsh chemicals into the environment (the system uses sodium bromide), but to further mitigate any risk after construction, water from the hot tub will only be drained to sanitary sewage.

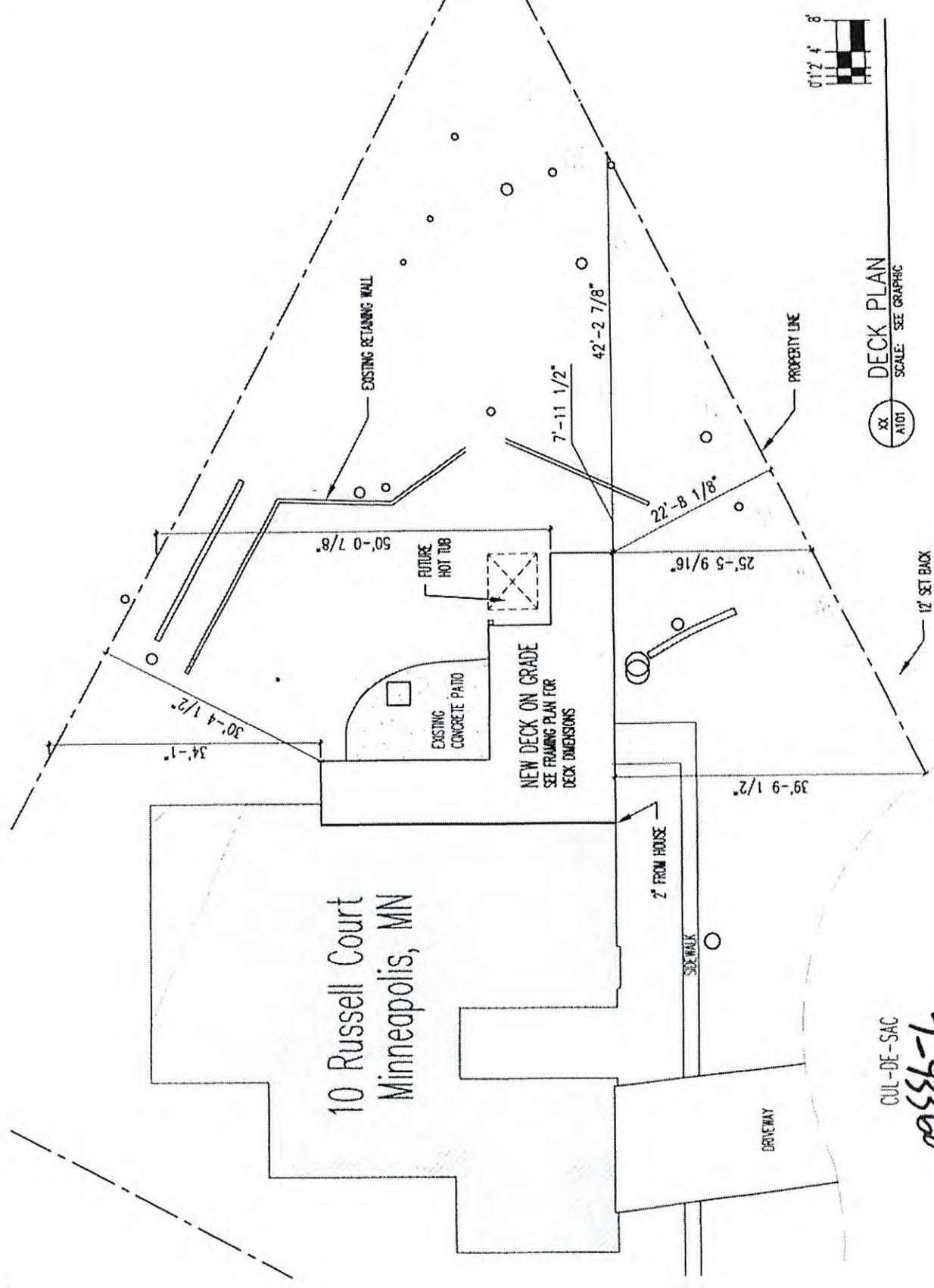
(2) Limiting the visibility of structures and other development from protected waters.

The area under consideration is not visible from protected waters, due both to the topography of the creek and our lot and natural vegetation.

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

No watercraft are involved in this proposed work.

PROJECT NAME
 DATE
 DRAWN BY
 CHECKED BY
 PROJECT NO.
 SHEET NO. OF
 CONTRACT NO.



10 Russell Court
Minneapolis, MN

CUL-DE-SAC
09336-L

FOR PERMIT

SITE PLAN
 SEE DRAWING SCALE
 A101

XX
 A101
 A101
 DECK PLAN
 SCALE: SEE GRAPHIC

Photos, Rear of 10 Russell Court, Site of Proposed Deck and Hot Tub



Rear of house (2 views). Deck will sit on patio shown here.



Deck and Hot Tub will extend to flags on left edge (25' from house, 22'8" to 42'3" from closest property line). Note slight change in level from patio (under picnic table in the photo) and grass.