

# CITY OF TONKA BAY ITEM NO. 4A

## MINUTES TONKA BAY CITY COUNCIL REGULAR MEETING July 10, 2012

### 1. CALL TO ORDER

The regular semi-monthly meeting of the Tonka Bay City Council was called to order at 7:00 p.m.

### 2. ROLL CALL

Members present: Councilmembers Marceau, De La Vega, Anderson and Holscher. Member absent: Mayor LaBelle. Also present were City Administrator Kohlmann and City Attorney Penberthy.

### 3. APPROVAL OF AGENDA

De La Vega moved to approve the agenda as submitted. Holscher seconded the motion. Ayes 4. Motion carried.

### 4. CONSENT AGENDA

De La Vega moved to approve the consent agenda as presented approving the regular meeting minutes of June 26, 2012. Holscher seconded the motion. Ayes 4. Motion carried.

### 5. MATTERS FROM THE FLOOR

None

### 6. SPECIAL BUSINESS

None

### 7. PUBLIC HEARINGS

A. Variance Requests – Michael/Holli Johander, 245 West Point Road – Kohlmann reviewed the public hearing procedure for the benefit of those in the audience. Jack Corkle, Interim City Planner reviewed zoning and lot dimensions for the subject property. She noted it is currently a vacant lot. She noted several homes in the area tend to be closer to the road than is customary. She discussed the variances requested and discussed the site topography. She noted the proposed driveway and the garage are closer to West Point Road than what is normally allowed. She noted the first variance is for lot area, and the second is for a rear yard setback. She noted the impervious surface coverage will be more than 25%. She stated the applicants are proposing to use the lot in a similar manner as it was used six years ago. She stated the variance meets required

statutes. It is also consistent with the City's Comprehensive Plan. She noted they are proposing to put the lot to a reasonable use. She stated putting a home on the site will maintain the character of the neighborhood, and there would be adequate light and air. No height variances are proposed. She stated property values will increase, because the lot will no longer be vacant. Corkle reviewed the rear yard setback request which is due to the shape and topography of the lot. She noted the lot is higher at the roadway and slopes down to the lake. She stated putting a house on this site is consistent with the Comprehensive Plan. The use is reasonable for a single family home. She indicated the home meets the height requirement. She recommended approval subject to conditions indicated in the staff report. Marceau opened the hearing for public comments. **Bruce Williams, 235 West Point Road** stated the property at 225 West Point Road was built further back from the street when it was reconstructed. He discussed his concerns about the location of the proposed garage at this house. He had concerns about safety and snow removal. He stated he did not oppose the house, but he believed 100 square feet could be eliminated somewhere in order to move the garage away from the street. **Sharon Williams, 235 West Point Road** stated the proposal seems to be covering too much green space. She was concerned about the closeness to the road as she was told she could not expand into the rear yard setback. **Mike Johander, 245 West Point Road** stated he appreciated the Williams' comments. He believed that getting the garage on the side will make it safer for their children. Williams asked what the setback is from the garage to the street. Corkle noted it is five feet. Johander stated a sub-surface runoff mitigation system is proposed so that drainage will not run off the property. Marceau asked if the rear setbacks were reviewed in proximity to this property. Corkle stated the property to the north (225) is five feet from the street. Marceau closed the public hearing. De La Vega stated he viewed the property, and the proposal is consistent with what is currently in existence. He stated topography is a real issue on West Point Road, and he understood why the Johanders are building what has been proposed. He stated he believed the proposed house is a reasonable attempt to use the site, and it not inconsistent with the other homes in the area. Marceau also supported the request citing his support of the design of the garage and topography limitations. Holscher stated if there is no issue with snow removal, she also likes the design as proposed. **De La Vega moved to adopt:**

**RESOLUTION NO. 12-20  
A RESOLUTION APPROVING VARIANCES FROM LOT AREA AND REAR YARD  
SETBACK  
MICHAEL JOHANDER AND HOLLI JOHANDER  
245 WEST POINT ROAD**

**Based on the following findings of fact:**

- a. The proposed use as a single-family home is consistent with the comprehensive plan.
- b. Granting the variances will not impair an adequate supply of light and air to adjacent parcels. The height of the home does not exceed Code requirements and the side yard setbacks are met.
- c. Granting the variances will not unreasonably increase congestion in the public street. The proposed use is a single family home which will not generate traffic volumes that would increase congestion.
- d. Granting the variances will not increase the danger of fire or endanger the public safety.
- e. Granting the variances will not diminish or impair established property values in the neighborhood. Constructing a new home on a vacant lot should increase property values in the neighborhood.
- f. Granting the variances will not alter the essential character of the locality. Constructing a home on a vacant lot will bring the property more into conformance with the neighborhood. A number of the homes on West Point Road in the neighborhood have rear yard setbacks that are less than what is currently required by City Code. The proposed home will fit in with other homes in the neighborhood.
- g. The proposed use as a single-family home is a reasonable use for the property. It is how the property is zoned and it is how the property has been used in the past.
- h. The topography of the site and the size of the parcel were not created by the current owners. These are circumstances unique to the property.
- i. The variance requests are in harmony with the general intent of the ordinance. The ordinance permits single-family homes that meet 60 percent of the district's requirements. Overcrowding of homes will not occur. The ordinance requires the property owner to treat water runoff due to the fact that there is more than 25 percent impervious surface on the lot.
- j. Grading on the site of more than two feet is not anticipated to result in drainage impacting adjacent parcels.

**And subject to the following conditions of approval:**

1. The applicant shall obtain all necessary permits and approvals from the City of Tonka Bay and other applicable entities with jurisdiction prior to any construction. This includes, but shall not be limited to permits from the Minnehaha Creek Watershed District (MCWD) and the Lake Minnetonka Conservation District (LMCD).

2. The MCWD shall review and approve the final grading plans approved by the City Engineer prior to any work being authorized. Proof of MCWD approval shall be provided to the city prior to a building permit being authorized.
3. Silt fencing shall be shown on the building permit plans and shall be subject to review and approval by the City Engineer.
4. A sump pump inspection must be completed by the City of Tonka Bay prior to C.O. being issued.
5. A water meter inspection must be completed by the City of Tonka Bay prior to C.O. being issued.
6. Construction shall follow the survey and plans as submitted or as required to be updated by the City Engineer.
7. Building of structures shall not occur within any existing or proposed easements on the property.
8. Per the Storm water Facilities Maintenance Agreement and Restrictive Covenant, the applicant shall:
  - a) Agree to construct and maintain a storm water collection and detention system on his/her property as shown on the Detention System Drawing.
  - b) Maintain and preserve the detention system until such time as the City, its successors or assigns, agree that the system should be altered in some manner or eliminated.
  - c) Not to dismantle, revise, alter or remove part of the system except as necessary for maintenance, repair or replacement.
  - d) Provide the City the right to ingress and egress over portions of the property in order to access the detention system for inspection and to reasonably monitor the system for performance, operational flows or defects.
  - e) Be responsible for inspecting and maintaining the detention system, on an annual basis. The property owner will provide a letter to the City Engineer by September 1st of each year, stating that inspection and maintenance have been completed.
  - f) Assume all responsibility for the cost of any maintenance and for repairs to the detention system. Such responsibility shall include reimbursement to the City within 30 days after the City mails an invoice to the Owner for

- any work performed by the City. Overdue payments will require payment of interest by the Owner at the current legal rate as liquidated damages.
- g) Obtain written approval from the City Engineer prior to performing any alterations or modifications to the detention system.
9. The City Engineer will verify and approve ingress and egress areas for City access to the storm water treatment system prior to issuing a building permit.
10. The City Engineer shall inspect the property at the property owner's expense during the construction process to ensure on-going compliance with all engineering requirements.
11. The variances shall expire one year from the date of the resolution. City Council approval will be required for any subsequent extension.

**Holscher seconded the motion.** Penberthy suggested "and evidence collected at the public hearing" be added to the motion. So moved and seconded. **Ayes – Anderson, Holscher, Marceau and De La Vega. Motion carried.**

**8. OLD BUSINESS**

None

**9. NEW BUSINESS**

**A. 2013 LMCD Budget** – Kohlmann stated the City has received the budget proposed by the LMCD for 2013. He noted Tonka Bay's share of the budget will be \$12,077. He noted the actual total budget is \$330,604 rather than the \$339,604 shown in the resolution. De La Vega stated he supports the budget as proposed. **Holscher moved to adopt:**

**RESOLUTION NO. 12-21  
A RESOLUTION APPROVING 2013 LMCD BUDGET**

**Anderson seconded the motion. Ayes – Anderson, Holscher, Marceau and De La Vega. Motion carried.**

**10. MATTERS FROM THE FLOOR**

None

**11. REPORTS**

**A. Administrator** – Kohlmann stated a formal memo has been received from the neighbors along the North Waseca fire lane which will be on the next agenda.

**B. Holscher –Building Inspections, Municipal Buildings and Grounds, LMCC, Southshore Senior/Community Center – no report**

**C. Anderson - Technology, Fire Lanes and Public Access – no report**

**D. De La Vega – EFD Board, Parks and Playgrounds, Sanitation and Recycling, LMCD – no report**

**E. Marceau – Finance, Commercial Marinas, Municipal Docks – no report**

**F. Attorney's Report – no report**

**G. LaBelle - Public Works, SLMPD Coordinating Committee, Administration – absent**

**12. ADJOURNMENT**

**There being no further business, it was moved by De La Vega to adjourn the meeting at 7:33 p.m. Holscher seconded the motion. Ayes 4. Motion carried.**

Attest:

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Clerk