

RESOLUTION NO. 14-31

**A RESOLUTION APPROVING VARIANCES FROM THE MINIMUM REQUIRED LOT AREA, MINIMUM REQUIRED LOT WIDTH, MINIMUM REQUIRED REAR YARD SETBACK FOR THE ACCESSORY STRUCTURE, MINIMUM REQUIRED SIDE YARD SETBACKS FOR THE ACCESSORY STRUCTURE, AND A VARIANCE FROM THE REQUIRED OFF-STREET PARKING SETBACK TO ALLOW FOR THE CONSTRUCTION OF A NEW HOME AND DETACHED ACCESSORY STRUCTURE ON THE PROPERTY LOCATED AT 105 WEST POINT AVENUE
JEFF HEGGEDAHL AND LAURA WESTBY**

WHEREAS, the City of Tonka Bay is a municipal corporation, organized and existing under the laws of the State of Minnesota; and

WHEREAS, the City Council of the City of Tonka Bay has adopted zoning regulations in the Municipal Code to promote orderly development and utilization of land within the city; and

WHEREAS, Jeff Heggedahl and Laura Westby ("Applicants") submitted an application on behalf of Jeff Heggedahl and Laura Westby ("Property Owners"); and

WHEREAS, the Property Owners own the property located at 105 West Point Avenue which is legally described as follows:

That part of Lot 6 and accretions thereto, "WEST POINT", described as beginning at a point on the extension of the Westerly line of Lot 7, "WEST POINT" distant 59 feet northerly of the Northwest corner of said Lot 7, which point is marked by a Judicial Landmark; thence southwesterly 33.5 feet to a point of the Northeasterly line of West Point Avenue, distant 27 feet northwesterly along the Northeasterly line of said avenue from its intersection with the extension of the Westerly line said Lot 7, which point is marked by a Judicial Landmark; thence southeasterly along the Northeasterly line of said avenue to said extension, which point is marked by a Judicial Landmark; thence deflecting to the left 93 degrees 59 minutes, 132.05 feet, which point is marked by a Judicial Landmark; thence continuing along said last described line to the shore of Lake Minnetonka; thence northerly along said shore to its intersection with a line drawn easterly from the point of beginning, which line forms an angle of 77 degrees 55 minutes deflected to the right at the point of beginning from the Northerly extension of the Westerly line of said Lot 7; thence westerly along said line drawn easterly from the point of beginning to a point 127.2 feet easterly along said line from the point of beginning, which is marked by a Judicial Landmark; thence westerly to the point of beginning.

WHEREAS, the Property Owners' Property is located within the R-1A zoning district; and

WHEREAS, the Applicants are requesting the following:

1. A **13,564 square foot variance of from the minimum lot area** requirement to allow for the construction of a new home on a lot that is 6,436 square feet in area;
2. A **41 foot variance from the minimum required lot width** requirement to allow for the construction of a new home on a lot that is 34 feet wide along West Point Avenue and 55 feet wide along Lake Minnetonka.

3. A **variance of 2.7 feet** from the required 8 foot rear yard setback for an accessory building to allow for the construction of a detached garage 5.3 feet from the rear property line;
4. A **variance of 6.5 feet** from the required 8 foot side yard setback to allow for the construction of a detached garage 1.5 feet from the north property line;
5. A **variance of 2.3 feet** from the required 8 foot side yard setback to allow for the construction of a detached garage 5.7 feet from the south property line; and
6. A **variance of 9.7 feet** from the required 15 foot off-street parking area required.

WHEREAS, Kelsey Johnson, City Planner, and Justin Messner, City Engineer, issued a report dated September 16, 2014 on the application made by the Applicants (Planning Report), analyzing the request made in relation to City Ordinance criteria and made recommendations if the requests were approved by the City Council; and

WHEREAS, the City Council reviewed the requests on September 23, 2014, and held a public hearing, following the required notices and publication; and

WHEREAS, no neighbors spoke on the Applicant's proposal; and

WHEREAS, the Applicants presented to the Council reasons for their proposal; and

WHEREAS, the City Council, following the public hearing and deliberation on the variance requests to allow for the construction of a new home directed staff to prepare a resolution for its consideration, and having considered the application, the Planning Report, the resolution prepared by staff, makes the following findings of fact and conclusions:

1. The proposed use as a single-family home will not change and is consistent with the comprehensive plan.
2. Granting the requested variances will not impair an adequate supply of light and air to adjacent parcels.
3. Granting the variances will not increase congestion in the public street. The use of the property as a single family home will stay the same and not increase congestion.
4. Granting the variances will not increase the danger of fire or endanger the public safety.
5. Granting the variances will not diminish or impair established property values in the neighborhood.
6. Granting the variances will not alter the essential character of the locality. Homes adjacent to the property in question have similar setbacks thus, the property as proposed will not alter the character of its locality.
7. The continued use of the property as a single-family home is a reasonable use of the property.
8. A detached garage is a reasonable accessory use to a single-family home.
9. The variance requests are in harmony with the general intent of the ordinance and will not lead to an overcrowding of homes.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Tonka Bay hereby approves the variance requests, to allow for the construction of a new home; as shown on the Plans attached hereto, as Exhibit A (the Plans); and

BE IT FURTHER RESOLVED, that the approval of the requested variances, shall include the following conditions:

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 (if needed) shall be provided to the city prior to a building permit being authorized.
3. Erosion control measures shall be shown on the building permit plans and shall be subject to review and approval by the City Engineer.
4. The applicant shall work with the City Engineer on a plan to treat stormwater on site. Plans for this treatment will be subject to review and approval by the City Engineer prior to issuance of a building permit.
5. 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.
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. The AC Unit must be located at least 10 feet from the side property line.
9. The variances shall expire one year from the date of the resolution. City Council approval will be required for any subsequent extension.

PASSED AT A REGULAR MEETING of the Tonka Bay City Council this 23rd day of September, 2014.

Motion introduced by Anderson and seconded by Grothe.

Roll call vote:

Ayes –	Anderson, Ansari, Clapp, De La Vega and Grothe
Nays –	None
Absent –	None

Gerry De La Vega, Mayor

ATTEST:

Joseph Kohlmann, Clerk/Administrator