

**CITY OF TONKA BAY
ITEM NO. 4B**

RESOLUTION NO. 14-08

**A RESOLUTION APPROVING VARIANCES FROM THE MINIMUM REQUIRED LOT WIDTH, MINIMUM REQUIRED REAR YARD SETBACK FOR THE PRINCIPAL STRUCTURE, MINIMUM REQUIRED REAR YARD SETBACK FOR THREE AIR CONDITIONING UNITS, AND A VARIANCE FROM THE REQUIRED 15-FOOT FLOOD PLAIN BUFFER AROUND ALL EXTENDED STRUCTURES TO ALLOW FOR THE CONSTRUCTION OF A NEW HOME
LAURA BERGHOFF AND CHRIS HADLAND
275 LAKEVIEW AVENUE**

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, David Wilson, Travis Van Liere and Steven Streeter ("Applicants") submitted an application on behalf of Laura Berghoff and Chris Hadland ("Property Owners"); and

WHEREAS, the Property Owners own the property located at 275 Lakeview Avenue which is legally described as follows:

Tracts A & B, Reg. Land Survey No. 0064, Files of the Registrar of Titles, Hennepin County, Minnesota.

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

WHEREAS, the Applicants are requesting the following:

1. A **44.8 foot variance from the minimum lot width requirement** to allow for the construction of a new home on a lot that is 30.2 feet wide.
2. A **17 foot variance from the minimum required rear yard setback** of 25 feet resulting in an 8 foot roof overhang setback (9.8 feet from the building wall).
3. A **variance from the required 15 foot flood plain buffer** around all extended structures.
4. A **variance from the minimum required rear yard setback for three air conditioning units** to allow for the placement of the air conditioning units 6.7 feet, 7.2 feet and 8.4 feet from the rear property line.

WHEREAS, Kelsey Johnson, City Planner, and Justin Messner, City Engineer, issued a report dated April 14, 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 April 22, 2014, and held a public hearing, following the required notices and publication; and

WHEREAS, 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.
7. The continued use of the property as a single-family home is a reasonable use of the property. It is how the property is zoned and it is how the property has been used in the past.
8. The variance requests are in harmony with the general intent of the ordinance.
9. Topography in the area provides that the home will always be accessible in the event of a flood;
10. The landowners do not own all property within 15' of the proposed home.
11. Engineering has reviewed the proposed improvements and does not find reason to believe the proposed improvements would increase flood levels or represent a threat to public safety.

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. Construction shall follow the survey and plans as submitted or as required to be updated by the City Engineer.
5. Building of structures shall not occur within any existing or proposed easements on the property.
6. The proposed landscaping buffer along the rear property boundary shall conform to the City Code and shall remain and be maintained at all times.
7. 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 22nd day of April, 2014.

Motion introduced by Grothe and seconded by Anderson.

Roll call vote:

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

Gerry De La Vega, Mayor

ATTEST:

Joseph Kohlmann, Clerk/Administrator