

**RESOLUTION NO. 12-20**

**A RESOLUTION APPROVING VARIANCES FROM THE REAR YARD  
SETBACK AND MINIMUM LOT AREA  
FOR MICHAEL JOHANDER AND HOLLI JOHANDER  
AT 245 WEST POINT ROAD**

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, Michael Johander and Holli Johander ("Applicants") own 245 West Point Road which is legally described as follows:

Lots 649 and 650, all in MINNETONKA LAKE PARK, and that part of MINNETONKA LAKE PARK, described as all of the land formerly part of Lakeview Avenue and now vacated which is easterly of Lots 649 and 650 MINNETONKA LAKE PARK and which is included between the northerly and southerly lines of said lots, if said lines were extended in the same direction to Lake Minnetonka; PID #22-117-23-33-0016, formerly known as 245 West Point Road; and

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

WHEREAS, the Applicants requested a 20-foot variance from the rear yard setback and a 4,695 square foot variance from the minimum required lot area; and

WHEREAS, Jack Corkle, Interim City Planner, issued a report dated July 10, 2012 on the applications made by the Applicants (Planning Report), analyzing the request made in relation to City Ordinance criteria and found that the requests met City Ordinance criteria and made recommendations if the requests were approved by the City Council; and

WHEREAS, the City Council reviewed the variance requests on July 10, 2012, and held a public hearing, following the required notices and publication; and

WHEREAS, neighbors spoke and submitted written comments on the Applicant's proposal; and

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

WHEREAS, the City Council, following the public hearing and deliberation on the variances to lot area and rear yard setback, directed staff to prepare a resolution for its consideration, and having considered the application, the Planning Report, the evidence presented at the hearing, the files and records herein and the resolution prepared by staff, makes the following findings of fact and conclusions:

- 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.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Tonka Bay hereby approves variances from the rear yard setback and minimum lot area requirements, 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 applicants 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 shall be completed by the City of Tonka Bay prior to C.O. being issued.
5. A water meter inspection shall 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) Construct and maintain a storm water collection and detention system on applicants' 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 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 applicants 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 applicants 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 applicant'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.

PASSED AT A REGULAR MEETING of the Tonka Bay City Council this 10<sup>th</sup> day of July, 2012.

Motion introduced by De La Vega and seconded by Holscher.

Roll call vote:

Ayes – De La Vega, Holscher, Anderson and Marceau  
Nays – None  
Absent – LaBelle

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William LaBelle, Mayor

ATTEST:

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Joseph Kohlmann, Clerk/Administrator