

RESOLUTION NO. 13-05

**A RESOLUTION APPROVING VARIANCES FROM THE MINIMUM LOT SIZE,
BOTH SIDE YARD SETBACKS, THE REQUIRED 15-FOOT FLOODPLAIN
BUFFER AND CONDITIONAL USE PERMITS TO ALLOW A HOME ON A LOT
THAT IS LESS THAN 60 PERCENT OF THE REQUIRED LOT WIDTH, AN
INCREASE TO THE ALLOWED IMPERVIOUS SURFACE AND AN INCREASE
TO THE ALLOWABLE FLOOR AREA RATIO
FOR MARK FUGNER AND JESSICA FUGNER
AT 100 INTERLACHEN LANE**

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, Mark Fougner and Jessica Fougner (“Applicants”) own 100 Interlachen Lane which is legally described as follows:

Lot 5 and commencing at the northeast corner of Lot 6; thence south to the southeast corner thereof; thence west 10 feet; thence northerly to the beginning of Lots 5 and 6, INTERLACHEN, Hennepin County, Minnesota

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

WHEREAS, the Applicants are requesting the following variances:

1. An 8,545.5 square foot variance from the required minimum lot size in the R1-A zoning district.
2. A 0.4 foot variance from the required side yard setback along the east property line.
3. A 3.6 foot variance from the required side yard setback along the west property line.
4. A variance from the required 15 foot floodplain buffer.

and,

WHEREAS, the Applicants are requesting the following conditional use permits:

1. Allow for a home on a lot that is less than 60% of the required lot width in the R1-A District.
2. An 18.9% increase to the allowed impervious surface totaling 43.9%;
3. A 13.9% increase to the allowed floor area ratio (FAR) totaling 43.9%.

WHEREAS, Kelsey Johnson, City Planner, issued a report dated November 27, 2012 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 variance requests on January 8, 2013, and held a public hearing, following the required notices and publication; and

WHEREAS, there were no comments made during the public hearing 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 variances to the minimum lot size, side yard setbacks, and 15 foot floodplain buffer, as well as conditional use permits for reduced lot width, impervious surface and floor area ratio; 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 is consistent with the comprehensive plan.
2. Granting the variances and conditional use permits will not impair an adequate supply of light and air to adjacent parcels.
3. Granting the variances and conditional use permits 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 and conditional use permits will not increase the danger of fire or endanger the public safety.
5. Granting the variances and conditional use permits will not diminish or impair established property values in the neighborhood. The proposed improvements should increase property values in the neighborhood.
6. Granting the variances and conditional use permits will not alter the essential character of the locality. The proposed improvements to the home will fit in with other homes in the neighborhood.
7. The proposed additions are reasonable given the use as a single-family home.
8. The dimensions and size of the parcel were not created by the current owners. These are circumstances unique to the property.
9. The variance and conditional use permit requests are in harmony with the general intent of the ordinance and will not lead to an overcrowding of homes. 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.

10. Grading on the site of more than two feet is not anticipated to result in drainage impacting adjacent parcel.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Tonka Bay hereby approves variances from the minimum lot size, side yard setbacks, and 15 foot floodplain buffer, as well as conditional use permits for reduced lot width, impervious surface and floor area ratio; as shown on the Plans attached hereto, as Exhibit A (the Plans); and

BE IT FURTHER RESOLVED, that the approval of the requested variances and conditional use permits 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 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. 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. Building of structures shall not occur within any existing or proposed easements on the property.
7. Per the Stormwater Facilities Maintenance Agreement and Restrictive Covenant, the applicant shall:
 - a. Agree to construct and maintain a stormwater 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.
8. The City Engineer will verify and approve ingress and egress areas for City access to the stormwater treatment system prior to issuing a building permit.
 9. 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.
 10. The variances and conditional use permits 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 day of January 8, 2013.

Motion introduced by Anderson and seconded by Clapp.

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