

RESOLUTION NO. 15-15

A RESOLUTION APPROVING A VARIANCE FROM THE MINIMUM REQUIRED FRONT YARD SETBACK FOR A STRUCTURE AND A CONDITIONAL USE PERMIT FOR AN OBSTRUCTION ON LAND IN THE SHORELAND DISTRICT TO ALLOW FOR THE CONSTRUCTION OF DECK STEPS ACCESSING A SAND PATIO AND NEW BOULDER RETAINING WALLS ON THE PROPERTY LOCATED AT 195 MOUND AVENUE – PID 27-117-23-32-0015

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, Southview Design ("Applicant") submitted an application on behalf of Mike Schwartz & Cindy Schwartz ("Property Owner"); and

WHEREAS, the Property Owner owns the property located at 195 Mound Avenue which is legally described as follows:

Lot D, and adjacent vacated street, Slocum's Rearrangement of Manitou Forest, Hennepin County, Minnesota, and reserving easements of record.

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

WHEREAS, the Applicants are requesting the following:

1. **A variance to allow for steps to be installed**, as they are considered a structure that exceeds 9" above the average surrounding ground elevation encroaching into the front yard setback. They will encroach into the required 103 foot front yard setback by ninety-seven (97) feet and four (4) inches.
2. **A conditional use permit to install boulder retaining walls**, as the proposed modifications are considered an artificial obstruction on land located within the Shoreland District

WHEREAS, Erin Perdu, City Planner, and Justin Messner, City Engineer, issued a report dated August 4, 2015 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 August 11, 2015, 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 detached garage 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 City's Comprehensive Plan.
2. Granting the requested variance and Conditional Use Permit will not impair an adequate supply of light and air to adjacent parcels.
3. Granting the variance and Conditional Use Permit 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 variance and Conditional Use Permit will not increase the danger of fire or endanger the public safety.
5. Granting the variance and Conditional Use Permit will not diminish or impair established property values in the neighborhood.
6. Granting the variance and Conditional Use Permit 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. The proposed steps and boulder retaining walls are a reasonable means for the property owners to access the lakefront areas of the property.
8. The variance and Conditional Use Permit requests are in harmony with the general intent of the ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Tonka Bay hereby approves the variance and conditional use permit requests, to allow for the construction of deck steps to access a sand patio and boulder retaining walls; as shown on the Plans attached hereto, as Exhibit A (the Plans); and

BE IT FURTHER RESOLVED, that the approval of the requested variance and conditional use permit shall include the following conditions:

1. The Applicant shall submit an updated survey showing the proper establishment of the benchmark used to determine the finished grades and must be approved by the City Engineer.
2. 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).
3. 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.
4. Erosion control measures shall be shown on the building permit plans and shall be subject to review and approval by the City Engineer.

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.
The variance 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 11th day of August, 2015.

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:

Lindy Crawford, Clerk/Administrator