



CITY OF TONKA BAY MEMORANDUM

To: City Council Members
Lindy Crawford, City Administrator

From: Erin Perdu, AICP, City Planner
Justin Messner, City Engineer

Date: April 6, 2016
Planning Commission Regular Meeting for April 12, 2016

WSB Project No. 01987-590

Request: *Request for approval of a variance to allow for the installation of 6 and 12 ft. privacy hedges, and a variance to allow for the installation of an electronic gate at the property located at 275 Lakeview Ave, PID: 27.117.23.31.0003*

RECOMMENDATION

Staff recommends approval of the height variance and denial of the electric gate variance. Staff has provided findings of fact for approval and denial starting on page 2.

GENERAL INFORMATION

Applicant: Ben Dunlap, Streeter & Associates

Owners: Chris & Laura Hadland

Location: 275 Lakeview Avenue

Existing Land Use / Zoning: Overlay Single-Family Residential; zoned R1-A Single Family Residential with a Shoreland

Surrounding Land Use / Zoning: North: Single-Family Residential; zoned R1–A Single Family, Shoreland Overlay
East: Single-Family Residential; zoned R1–A Single Family, Shoreland Overlay
South: Lake Minnetonka
West: Single-Family Residential; zoned R1-- A Single Family, Shoreland Overlay

Comprehensive Plan: The Tonka Bay 2009-2030 Comprehensive Plan guides this property for Single Family Residential land use of less than 2.9 dwelling units per acre.

Deadline for Agency Action:	Application Date:	02-25-16
	60 Days:	04-25-16
	Extension Letter Mailed:	N/A
	120 Days:	06-24-16

CONSIDERATIONS RELATING TO THE REQUEST

- 1. Overview.** The Applicant is seeking to construct hedges, a fence and an electronic gate for the purposes of screening. The applicant is proposing a 6 ft. tall hedge comprised of arborvitae plantings along both the east and west sides of the driveway. Along the north side of the property, the applicant is proposing a 12 ft. tall hedge comprised of arborvitae plantings. The proposed 12 ft. hedge is a replacement for a previous arborvitae hedge that was 20 ft. in height. Six-foot tall sections of aluminum fencing are proposed interior to the lot, connecting with the arborvitae hedge on the north.

The Ordinance allows hedges to be up to 6 ft. tall, but on the condition that the neighboring property owner provides consent. The property owner of 295 Lakeview Ave. (the property to the west) has not provided his consent for the 6 ft. tall hedge proposed along the driveway/295 Lakeview Ave. property line, thus a variance is required. The Ordinance does not allow hedges to be taller than 6 ft. under any conditions, so a variance is required for the 12 ft. tall hedge proposed. The 6 ft. aluminum fence is located near the 12 ft. hedges, and on the property line of 265 Lakeview Ave. The property owners at 265 Lakeview Ave. are supportive of this fence and landscaping; they were involved in the planning process and have written a letter in support of the Applicant. The Applicant also wishes to install an electronic gate at the entrance to the driveway, which requires a variance.

- 2. Ordinance Authority.**

Section 1011.05, Fencing/Screening, Subd. 1, (c) 6. states that no person shall construct any fence or metal construction which is charged by or connected with an electrical system.

Section 1011.05, Fencing/Screening, Subd. 1, (d), 3, Specific Fence Standards includes provisions for fences located between two adjoining lots or parcels that are owned by different property owners.

- 3. Statutory Criteria.**

- 1. The request is in harmony with the general purposes and intent of this Ordinance.*

Hedge/Fence Requests: The purpose and intent of this Ordinance is to promote and protect the public health, safety and general welfare. The proposed fencing/screening is not in conflict with the purpose and intent. **Criteria met.**

Gate Request: While the proposed electric gate deviates from the prohibition on fences connected with an electrical system, the proposed gate will not negatively impact the health, safety or general welfare of the community. **Criteria met.**

- 2. The variance is consistent with the comprehensive plan.*

Hedge/Fence Requests: The proposed variance for fence/hedge height is consistent with the comprehensive plan, which guides this property for single-family residential use. **Criteria met.**

Gate Request: Again, as the use of the property is not proposed to change, the gate request presents no conflict with the Comprehensive Plan. **Criteria met.**

3. *The property in question meets the “practical difficulties” test:*

a.) *The property owner proposes to use the property in a reasonable manner.*

Hedge/Fence Requests: The property owner is seeking to increase the allowable fence/hedge height. The use of the property will remain the same. The request for increased hedge height along the north side of the property is based on the location of the two houses on this property. Because of their closeness and the location of the windows, the increased screening height is necessary to protect the sight lines. . **Criteria met.**

Gate Request: The applicant has not provided any information as to a practical difficulty resulting in the need for an electronic gate. The use of the property as a single family property with reasonable privacy from neighboring homes can take place without an electronic gate across the street side of the property. **Criteria not met.**

b.) *There are unique circumstances to the property not created by the landowner.*

Hedge/Fence Requests: The Applicant is requesting the variances for the purpose of providing adequate screening between homes. The lots in this area are compact, thus homes are located very near to one another (the houses at 275 and 295 Lakeview are approximately 24 feet apart at their closest point). **Criteria met.**

Gate Request: There is no apparent unique circumstance on this property that would justify the need for an electronic entry gate in conflict with the intent of the ordinance. **Criteria not met.**

c.) *The variance will maintain the essential character of the locality.*

Hedge/Fence Requests: The proposed hedge/fence will not alter the essential character of the locality. The areas where the additional height is requested only create visual impacts between the neighboring properties. The neighbor at 265 Lakeview Ave. has indicated their support of the request. While the neighbor at 295 Lakeview has not provided support for the 6 ft. tall hedge along the driveway between the two properties, staff finds that the height will not alter the essential character and is consistent with landscape screening between similar properties. **Criteria met.**

Gate Request: The installation of an electronic entry gate is a significant departure from other single family residences in the neighborhood and in the City as a whole. This is contrary to the intent of the ordinance and the desires of the City to maintain an open and friendly residential character. **Criteria not met.**

4. **Resident concerns:** None reported to date. A letter of support from the neighbors at 265 Lakeview Ave. has been provided.

5. **Engineering Considerations:** None.

POTENTIAL ACTION

- A) DIRECT STAFF TO PREPARE A RESOLUTION APPROVING THE REQUEST based on the Applicant’s submittals and findings of fact.
- B) DIRECT STAFF TO PREPARE A RESOLUTION DENYING THE REQUEST based on the Applicant’s submittals and findings of fact.
- C) TABLE THE ITEM and request additional information.

The 120-day review period for this application expires on June 24, 2016. If the Council fails to preliminarily approve or disapprove the request within the review period, the application is deemed preliminarily approved.

RECOMMENDATION

Based on the findings of fact in this report and compliance with the required variance criteria set forth in the Tonka Bay City Code, staff recommends approval of the hedge variance request. Further, staff recommends denial of the variance request for an electric fence gate based on this request not meeting all of the variance criteria, particularly with regard to ordinance intent and neighborhood character.