



CITY OF TONKA BAY MEMORANDUM

To: City Council Members
Lindy Crawford, City Administrator

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

Date: August 1, 2016
City Council Regular Meeting for August 10, 2016

WSB Project No. 01987-650

Request: **Request for approval of a variance from the required eight foot side yard setback for an accessory structure at 65 Clay Cliffe Drive – R-1A zoning, Shoreland Overlay – PID: 28-117-23-21-0020**

RECOMMENDATION

Staff believes that the Applicant has met the Statutory and City Criteria for approving of the requested variance. Staff has provided a template approval motion on Page 4 as well as findings of fact.

GENERAL INFORMATION

Applicant: Angela Baker

Owners: Angela Baker

Location: 65 Clay Cliffe Drive

Existing Land Use / Single-family Residential; zoned R-1A with a Shoreland Zoning: Overlay

Surrounding Land Use / Zoning: North: Single-family; zoned R-1A, Shoreland Overlay
West: Single-family; zoned R-1A, Shoreland Overlay
South: Single-family; zoned R-1A, Shoreland Overlay
East: Single-family; zoned R-1A, Shoreland Overlay

Comprehensive Plan: The Tonka Bay 2009-2030 Comprehensive Plan guides this lot for Single-family Residential use.

Deadline for Agency Action:	Application Date:	07-11-16
	60 Days:	09-09-16
	Extension Letter Mailed:	N/A
	120 Days:	11-08-16

CONSIDERATIONS RELATING TO THE REQUEST

1. Overview. The Applicant is requesting an after-the-fact variance from the required 8 foot side yard setback for an accessory structure. The accessory structure is 94.4 sq. ft. and 9.5 feet in height. The shed is located 5.5 feet from the east side property line and 5.8 feet from the west side property line, as shown on the attached survey dated June 10, 2016. A building permit is not required for the storage shed since it is less than 200 sq. ft. and the Applicant had the shed constructed without knowing the required setbacks. The storage shed complies with all other requirements of the Tonka Bay zoning ordinance.

2. Ordinance Authority.

1017.06 Lot Area and Setback Requirements (in the R-1A District); subdivision 4, b. requires an eight (8) foot side yard setback for accessory structures.

3. Statutory Criteria

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

The intent of the setback requirement is to prevent an overcrowding of structures within the city. The storage shed is less than 100 sq. ft. and is 9.5 feet in height. In addition, it is estimated that the storage shed is at least 50 feet from any other neighboring structure. Due to the size of the shed and its distance from other structures, staff does not believe that granting the requested variance will result in an overcrowding of structures. Staff finds the requested variance is in harmony with the general purpose and intent of the ordinance. **Criteria met.**

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

The comprehensive plan guides the property for single-family residential use. The requested variance will not change the use of the property as a single-family home. **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.*

The proposed use of an accessory shed for storage is a reasonable one for a single-family home. However, the position of the shed on the lot within the small "notch" in the southeast corner of the property appears unnecessary. The lot is over 30,500 sf. in size and there is ample room on the property further to the north and west to locate the shed in an area that conforms to the ordinance. **Criteria not met.**

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

The subject property is uniquely shaped in that it has an approximately 20 x 35 foot area of the lot in addition to the regularly shaped area of the lot. However, as stated above, the lot has a large back yard area that could easily accommodate the proposed shed in an area that meets the required setbacks. There are no natural features, including surface water, wetlands or heavily wooded areas, which would prevent the placement of the proposed shed. **Criteria not met.**

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

Granting of the requested variance should not alter the essential character of the locality. The storage shed is less than 100 sq. ft. and is 9.5 feet in height. It is estimated to be located at least 50 feet from any neighboring structure. Staff does not believe it will have any impact to neighboring property and should maintain the essential character of the locality. **Criteria met.**

4. City Tests

1. *Will the variance impair an adequate supply of light and air to adjacent property?*

Granting of the requested variance should not impair an adequate supply of light and air to adjacent property. **Criteria met.**

2. *Will the variance unreasonably increase the congestion in the public street?*

Granting of the requested variance should have no impact on congestion in the public street. **Criteria met.**

3. *Will the variance increase the danger of fire or endanger the public safety?*

Granting of the requested variance should not increase the danger of fire or endanger public safety. **Criteria met.**

4. *Will the variance unreasonably diminish or impair established property values within neighborhood, or in any way be contrary to the intent of the zoning ordinance?*

Granting of the requested variance should not have any impact on property values within the neighborhood. Staff does not find the requested variance to be contrary to the intent of the zoning ordinance. **Criteria met.**

5. Resident Concerns. None to date.

6. 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 60-day review period for this application expires on September 9, 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 the fact that the practical difficulties criteria set forth in the Tonka Bay City Code has not been met, staff recommends denial of the requested variance as outlined in the template motion below.

"I move that we direct staff to prepare a resolution of denial of the requested variance from the required 8 foot side yard setback to allow for an accessory structure 5.5 feet from the east side property line and 5.8 feet from the west side property line, as shown on the survey dated June 10, 2016 attached to this report for property located at 65 Clay Cliffe Drive based on the findings of fact listed in the report".

- a. The variance is in harmony with the general purpose and intent of the Ordinance.
- b. The proposed use of the property as a single-family home is consistent with the City's Comprehensive Plan.
- c. The property owner does **not** propose to use the property in a reasonable manner. While the proposed shed is reasonable for a residential property, the placement in the irregular shaped area of the lot is not necessary.
- d. There are **no** unique circumstances to the property not created by the landowner. Specifically, the Applicant has failed to show any unique circumstances requiring the variance because the existing structure can be placed within the required setbacks in the large back yard area.
- e. The variance will not alter the essential character of the locality.
- f. Granting the requested variance will not impair an adequate supply of light and air to adjacent parcels.
- g. Granting the variance will not unreasonably increase congestion in the public street.
- h. Granting the variance will not diminish or impair established property values in the neighborhood.