

CITY OF TONKA BAY ITEM NO. 7A

Tonka Bay City Council Agenda Item Executive Summary

Title of Item: **VARIANCE REQUESTS:** Application from David Wilson, Travis Van Liere and Steven Streeter on behalf of the Property Owners Laura Berghoff and Chris Hadland requesting variances to allow for the construction of a new home located at 275 Lakeview Avenue – R-1A zoning – PID: 27-117-23-31-0003

Report Date: **4-14-14**

Meeting Date: **4-22-14**

60 Day Review deadline: **60 day period ends 5-5-14**

Staff/Guest Reporting: Kelsey Johnson, AICP – City Planner
Justin Messner, PE – City Engineer

Summary: The Applicant's on behalf of the Property Owners are seeking to tear down the existing home and construct a new home on the property located at 275 Lakeview Avenue. Construction of the new home as proposed requires four (4) variances. In summary, the requested variances are as follows:

1. A **44.8 foot variance from the minimum lot width requirement** to allow for the construction of a new home on a lot that is 30.2 feet wide.
2. A **17 foot variance from the minimum required rear yard setback** of 25 feet resulting in an 8 foot roof overhang setback (9.8 feet from the building wall).
3. A **variance from the required 15 foot flood plain buffer** around all extended structures.
4. A **variance from the minimum required rear yard setback for three air conditioning units** to allow for the placement of the air conditioning units 6.7 feet, 7.2 feet and 8.4 feet from the rear property line.

Staff believes that the applicant has met the Statutory and City Criteria for approving the requested variances. Staff has provided a template approval motion on page 10 as well as findings of fact for approval for the requested variance.

City of Tonka Bay Planning Department
Variance Report

To: City Council

From: Kelsey Johnson, AICP – City Planner
Justin Messner, PE – City Engineer

Meeting Date: April 22, 2014

Applicants: David Wilson (Charles R. Stinson Architects), Travis Van Liere (Landscape Architect), and Steven Streeter (Streeter & Associates – Builder)

Owners: Laura Berghoff and Chris Hadland

Location: 275 Lakeview Avenue

Zoning: R-1A

Introductory Information

Proposed Project: The property owners are proposing to tear down the existing home and construct a new home on the property located at 275 Lakeview Avenue.

Variance Request(s): The proposed action will require the following variance:

1. A **44.8 foot variance from the minimum lot width requirement** to allow for the construction of a new home on a lot that is 30.2 feet wide.
2. A **17 foot variance from the minimum required rear yard setback** of 25 feet resulting in an 8 foot roof overhang setback (9.8 feet from the building wall).
3. A **variance from the required 15 foot flood plain buffer** around all extended structures.
4. A **variance from the minimum required rear yard setback for three air conditioning units** to allow for the placement of the air conditioning units 6.7 feet, 7.2 feet and 8.4 feet from the rear property line.

Findings

Site Data: Lot Size – 28,850 square feet
Existing Use – Single Family Home
Existing Zoning – R-1A
Property Identification Number (PID): 27-117-23-31-0003

Comp Plan Guidance:

- The comprehensive plan guides this lot for single family use. The corresponding zoning assigned to this property (R-1A) allows for single family homes.

Lot Area and Lot Width:

- The lot area requirement in the R1-A District is 20,000 square feet. The lot of record is 28,850 square feet.

	<ul style="list-style-type: none"> ▪ The lot width requirement in the R1-A District is 75 feet. The lot of record is 30.2 feet, therefore a variance from the lot width is required.
Rear-Yard Setback:	<ul style="list-style-type: none"> ▪ The rear-yard setback (street side) in the R1-A District is 25 feet. ▪ The property is unique in that the shape of the lot is not a “typical” rectangular shaped lot with definite front, side, and rear lot lines. ▪ On lakefront homes, the rear yard is considered the opposite side of the front which is the lake side, which in this case a large portion of the lot as shown on the Applicant’s survey Sheet 2 of 2. ▪ The Applicant is proposing an 8 foot rear yard roof overhang setback (9.8 foot home setback) from the rear-yard, and thus a variance is required.
Front-Yard Setback:	<ul style="list-style-type: none"> ▪ The front-yard (lakeside) setback in the R1-A District is the greater of 50 feet or the average setback of the two adjacent riparian principal structures on either side of a proposed building site. ▪ The average setback of the two adjacent riparian principal structures on either side is 52.8 feet ($82.9' + 22.7' / 2 = 52.8'$). ▪ The Applicants are proposing a front-yard roof overhang setback of 53 feet (57.2 foot home setback).
Side Yard Setback:	<ul style="list-style-type: none"> ▪ The side yard setback in the R1-A District is 8 feet, which on this lot is located along the western portion of the lot. ▪ The construction of the new home will well meet this minimum requirement.
Height:	<ul style="list-style-type: none"> ▪ The maximum height limit within the R1-A District is 2½ stories or 30 feet. ▪ The building height limits do not apply to items such as chimneys or flues and parapet walls, so long as such structure element does not exceed forty (40) feet in total height or exceed the maximum height of the building by more than five (5) feet, whichever is greater, except by conditional use permit. ▪ The height of principal buildings is measured from the top of the finished ground floor elevation to the top cornice line of a flat roof (in this instance). ▪ The average ground floor elevation is 933.28 feet. ▪ The proposed new home will 22.5 feet to the top of the flat roof and will have parapet walls and chimneys extending to just over 28 feet, which meets the City ordinance requirements.
Floor Area Ratio (FAR):	<ul style="list-style-type: none"> ▪ The maximum floor area ratio (FAR) permitted by code in the R1-A District is 0.30 unless otherwise allowed by approval of a conditional use permit (CUP). ▪ The proposed home will include 7,021sf of space for a FAR of 0.24, which complies with the Code.
Hardcover:	<ul style="list-style-type: none"> ▪ The maximum hardcover permitted on this lot without any review is 25 percent; hardcover between 25 percent and 35 percent can be

administratively approved by the City Engineer and City Administrator.

- The existing property has an existing hardcover of 28.7 %. The Applicants are proposing a hardcover of 34.4% with the construction of the new home. This exceeds the 25% maximum impervious surface coverage by 9.4%.
- The proposed grades and landscaping shown on the stormwater management plan dated 03/06/14 prepared by Travis Van Liere Studio, LLC prevents stormwater runoff from directly discharging to public waters. The plan proposes to direct stormwater runoff from all impervious surfaces to a network of subsurface stormwater filtration/infiltration trenches. The trench network proposed will provide adequate storage and volume control during rainfall events.
- The City Engineer and City Administrator have reviewed and administratively approved the proposed plans.

Flood Plain Buffer:

- The finished fill elevation cannot be lower than one foot below the regulatory flood protection elevation and must extend at least 15 feet beyond the limits of the structure.
- The regional flood protection elevation (RFPE) is 933.5 feet, thus all fill within 15 feet of the proposed home must be at or above 932.5 feet in elevation.
- The Applicant is conforming with this requirement on the subject property; however, there will be areas within 15 feet of the structure that fall on adjacent property, which cannot be corrected/maintained/or enforced by the Applicant. By code, this will require a variance.

AC Units:

- Air conditioning units are allowable encroachments within rear yards by ordinance, provided they are at a distance of ten feet from any lot line.
- The Applicant is proposing a total of three (3) air conditioning units along the rear property line that are 6.7 feet, 7.2 feet, and 8.4 feet from the rear property line. As such, variances are needed.

Application Review:

Applicable Code Definitions:

Building Setback. The minimum horizontal distance between the building and the lot line.

Flood Plain. The channel or beds proper and the areas adjoining a wetland, lake or watercourse that have been or hereafter may be covered by the regional flood. Flood plain areas within Tonka Bay shall encompass all areas designated as Zone A, Zone AE, Zone AO, or Zone AH on the Flood Insurance Rate Map adopted in Section 2.1 of this Ordinance. The 100 year floodplain elevation for Lake Minnetonka is 931.5' (NGVD 1929) as established by the Minnehaha Creek Watershed District.

Floor Area, Gross. The sum of the gross horizontal areas of all floors of the building or portion thereof devoted to a particular use, including accessory storage areas located within selling or working space such as activities, to the production or processing of goods, or to business or professional offices. However, the floor area shall not include basement or cellar floor area other than area devoted to retailing activities, the production or processing of goods,

or to business or professional offices. The floor area of a residence shall not include the cellar area.

Floor Area Ratio (FAR). The floor area of a building or buildings on any lot divided by the area of such lot, or in the case of planned developments by the net site area. The floor area ratio requirements, as set forth under each zoning district, shall determine the maximum floor area allowable for a building or buildings (total floor area of both principal and accessory buildings) in direct ratio to the gross area of the zoning lot.

Lot Area. The total land area of a horizontal plane within the lot lines.

Lot, Width. The shortest horizontal distance between the side lot lines measured at right angles to the lot depth at the minimum required building setback line. If not setback line is established, the distance between the side lot lines measured along the public right-of-way.

Regulatory Flood Protection Elevation (RFPE). The regulatory flood protection elevation shall be an elevation no lower than two feet above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway. For purposes of this paragraph “regional flood” means the same as the 100 year floodplain elevation for Lake Minnetonka which is 931.5’ (NGVD 1929).

Variance. A variance is a relaxation of the terms of the Zoning Ordinance where such deviation will not be contrary to the public interest and where, owing to conditions unique to the individual property under consideration and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship.

Applicable Codes:

1011.03 General Yard, Lot Area and Building Regulations; subdivision (5) b, 3. In rear yards, recreational and laundry drying equipment, arbors and trellises, detached outdoor living rooms, and air conditioning or heating equipment, not exceeding established State noise levels, provided they are at a distance of ten (10) feet from any lot line or as permitted in Section 1070 of the shoreland regulations (are not considered encroachments).

1017.06 Lot Area and Setback Requirements; subdivision (2). Lots in the R-1A Zoning District shall have a lot width of not less than seventy-five (75) feet.

1017.06 Lot Area and Setback Requirements; subdivision (3) c. Principal structures in the R-1A Zoning District shall be setback not less twenty-five (25) feet from the rear yard lot line.

1040 General Floodplain Ordinance Section 4.25. All structures, including accessory structures, additions to existing structures and manufactured homes, shall be constructed on fill so that the lowest floor, including basement floor, is at or above the regulatory flood protection elevation. The finished fill elevation must be no lower than one foot below the regulatory flood protection elevation and shall extend at such elevation at least 15’ beyond the limits of the structure constructed thereon. All buildings within the floodplain shall have the lowest door or window opening at an elevation of at least 933.5’ (NGVD 1929).

The requested variance is as follows:

1. A **44.8 foot variance from the minimum lot width requirement** to allow for the construction of a new home on a lot that is 30.2 feet wide.
2. A **17 foot variance from the minimum required rear yard setback** of 25 feet resulting in an 8 foot roof overhang setback (9.8 feet from the building wall).
3. A **variance from the required 15 foot flood plain buffer** around all extended structures.
4. A **variance from the minimum required rear yard setback for three air conditioning units** to allow for the placement of the air conditioning units 6.7 feet, 7.2 feet and 8.4 feet from the rear property line.

Staff's analysis of the requested variance under the review criteria is as follows:

**Variance Criteria
Review:**

A. Statutory Criteria

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

Lot Width Request: The City's intent of establishing minimum lot sizes is to ensure that land does not become overcrowded with structures and that the lake does not get polluted. In this instance while the physical lot width is narrow and does not meet the provisions of the Code, the lot widens out as it extends toward the lake, ultimately being wider than would otherwise be required by Code. Furthermore, the lot is required to be a minimum of 75-feet wide along the lakeshore, which the lot currently is.

There is currently an existing two-story single-family home on the property. The Applicant proposes to use the property in the same manner as it was previously. Staff finds that the newly constructed single-family home in this location would not contribute to overcrowding and therefore is in harmony with the general purposes and intent of the ordinance.

Criteria met

Setback Requests: The intent of the setbacks is to provide an adequate buffer between homes and to provide for areas of recreation/open space and stormwater drainage areas on properties. The proposed home is located on a riparian lot that is uniquely shaped. The rear yard is that side of the property opposite the lakeside, which in this case runs parallel to the adjoining properties "side yard". In the R1-A District the minimum side yard setback is eight (8) feet, for which the Applicant is proposing to locate their home.

Due to this proposed proximity, the Applicants are proposing a grove of landscaping along the property line to enhance the buffer between the proposed home and the adjoining property. While the proposed home will extend further along the property line than the existing structure is located, it will not be located within the required front yard (lakeside) setback. It appears the Applicant has provided adequate space for recreational activities/open space and areas to handle stormwater runoff, has enhanced

the landscaping to provide a buffer between the new home and the adjacent property, and has provided a home layout that minimizes the impacts to the lakeside of the property by positioning the home further from the lake than required by code. **Criteria met.**

Floodplain Buffer Request: The flood plain buffer requirement is intended to ensure a property owner can access the structure in the event of a flood. A portion of the 15' buffer would fall outside of the property boundary and therefore cannot be guaranteed by the Applicant. In this case, due to the topography, the lot would always be accessible in the event of a flood. **Criteria met.**

Air Conditioner Units Setback Request: The setback requirement for the location of air conditioning units is intended to provide an adequate setback distance from the property line (and adjoining homes) in an effort to minimize the noise commonly heard by the air conditioning unit. On riparian lots, the rear yard is that side opposite the lake. In this case, the rear yard is adjacent to the property line shared with the neighbor. Due to the proposed proximity of the home to the rear yard, compliance with the required setback for an air conditioning unit is not feasible.

Furthermore, the lot is surrounded by lakeshore on the west and south boundaries, which greatly reduces the feasible location for an air conditioning unit. Where the Applicants have proposed to place the units is in an area tucked away from view from the lake in a location that can be easily screened by the home. To mitigate/buffer the noise and visual impact by the adjoining neighbor, the Applicant is proposing a dense landscaping plan including a six (6) foot tall fence along the property boundary. **Criteria met.**

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

All Variance Requests: The Comprehensive Plan calls for this area of the City to be used for single family dwellings, and for the development to occur in an orderly fashion in a manner best for the community. The construction of a new home on this property is consistent with the City's Comprehensive Plan in this manner. **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 property owners are proposing to continue to use the property for a single family home. The property is unique in that it is not a typical "rectangular" shaped lot, which poses unique circumstances whereby majority of the property boundaries become the "rear yard" and provides for limited land area for which a home and associated equipment (air conditioning units) could reasonably be constructed.

While the layout of the proposed home could be modified to potentially reduce the yard setback encroachments, the Applicants are proposing to use the property in a reasonable manner. Furthermore,

the Applicants are meeting/exceeding the front yard (lakeside) setback requirement, which meets the intent of having the setback; to maintain views to/from the lake. With the limited area to construct a new home on the lot given the existing site constraints (setbacks and lot shape), it is reasonable that the Applicants are proposing to construct the proposed home further from the lakeshore by placing the home closer to the north property line as proposed.

Furthermore, the property owner does not own all the property within 15' of the proposed home. Given the existing topography in the immediate area, the lot would always be accessible in the event of a flood. **Criteria met.**

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

The property is unique in that it is not a typical "rectangular" shaped lot, which poses unique circumstances whereby majority of the property boundaries become the "rear yard". The lot also was recorded with limited frontage along Lakeview Avenue, which is a circumstance that was not created by the landowner, thus the need for the lot width variance.

Furthermore, the air conditioner units are required to be located in the rear yard. Given the unique layout of the property, the location of the AC units as proposed presents a challenge to meet the Code requirements and provide an area that is best suited to screen the units and preserve the views along the lake front. To aid in mitigating the visual intrusion and noise the air conditioner units present, the Applicant is proposing a significant amount of screening along the property line, which will screen the units and provide a sound buffer.

Furthermore, the property owner does not own all the property within 15' of the proposed home. It is not the property owner's fault that they do not have legal rights to change/maintain grade levels on adjacent private property. **Criteria met.**

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

The essential character of the locality will not be negatively impacted as a result of approval of the requested variances. The lot is unique and poses a challenge to design a home to meet the required provisions of the City Code. The Applicant has given special attention to preserving the views to and from the lake by proposing a home that meets/exceeds the front yard setback, which on this lot is from the west and south property boundaries. While the rear yard in this case does extend majority of the property due to the unique layout, where the adjoining property abuts the Applicants "rear yard" is actually the abutting property's (neighbors) "side yard". In many other instances throughout the City, a separation of eight (8) feet from the property line would be typical and would fit into the character of the neighborhood.

Furthermore, the proposed home fits into the character of the neighborhood in terms of size and locality along Lake Minnetonka.

The increased landscaping and a six (6) foot fence along the rear property line will provide an enhanced buffer aimed to mitigate the visual impact of the home and air conditioning units. **Criteria met.**

B. Criteria specific to floodplain variances:

1.) *Will the variance result in increased flood levels or threats to public safety?*

Engineering has reviewed the proposed improvements and does not find reason to believe the proposed improvements would increase flood levels or any threat to public safety. **Criteria met.**

2.) *Is the variance the minimum necessary to afford relief?*

The property owner has adequate spacing surrounding between structures to afford relief in case of a flood situation. The property owner has also elevated the grades along the rear yard to direct waters to the lower portion of the property along the southwest portion of the property. **Criteria met.**

C. City Tests:

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

All Variance Requests: No. The proposed home should not impair an adequate supply of light and air from reaching adjacent property. The proposed home will be under the height requirements of the City Code.

Additionally, the nearest home located to the north of the property is setback a distance that allows for adequate light and air on their property. Granting all variances would not impair an adequate supply of light and air from reaching adjacent properties.

Furthermore, the home will meet/exceed the front yard (lakeside) setback. Even if the design of the home were modified to fit within the confines of the required setbacks lake views from the neighbor to the north would be obstructed beyond current site conditions. Additionally, the Applicant has given consideration of the lakeside setbacks and designed the home to become increasingly narrow as it moves to the east. **Criteria met.**

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

All Variance Requests: No. The current use of the property is for a single-family home, which will not change as a result of granting the variance. **Criteria met.**

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

All Variance Requests: No. The use of the property for a single family dwelling is not anticipated to increase the risk of fire or endanger the public safety. **Criteria met.**

4.) *Will the variance unreasonably diminish or impair established property*

values within the neighborhood?

All Variance Requests: The proposed construction of the new home will increase the property value, which in turn will support or boost the value of nearby properties.

Second, the intent of the zoning ordinance is:

To protect the public, such provisions are intended to provide for adequate light and air, safety from fire and other danger; prevent undue concentration of population; provide ample parking facilities; regulate the location and operation of businesses, industries, dwelling and buildings for other specified purposes; preserve property values by providing for orderly and compatible development of the various land uses; encourage energy conservation and the use of renewable energy resources; provide for administration of this Ordinance and all amendments hereto.

Staff does not foresee any way in which the above requested variances will be in direct conflict with the above intent. **Criteria met.**

Engineering Reports:

As noted previously, the existing property has an existing hardcover of 28.7%. The Applicants are proposing a hardcover of 34.4% with the construction of the new home, which exceeds the 25% maximum impervious surface coverage by 9.4%.

The proposed grades and landscaping shown on the stormwater management plan dated 03/06/14 prepared by Travis Van Lier Studio, LLC prevents stormwater runoff from directly discharging to public waters. The plan proposes to direct stormwater runoff from all impervious surfaces to a network of subsurface stormwater filtration/infiltration trenches. The trench network proposed will provide adequate storage and volume control during rainfall events. The City Engineer and City Administrator have reviewed and administratively approved the proposed plans.

Resident Concerns:

- Robert and Alley Schneider, property owners of 265 Lakeview Avenue submitted a letter to the City dated April 13, 2014 in which they state the following concerns with the proposed application:
 - “The loss of some lake views and some privacy”;
 - “The closeness of the house to our lot line and especially the outdoor fire pit. We are worried about where the smoke will go and the noise from the outside dining area and our bedroom on the 2nd floor”;
 - “The placement of the 2 a/c units due to the noise”;
 - “Would like to have the dog run and the 6 foot fence moved. All dogs do bark and we would be concerned about the odor”.

Conclusion

Council Options:

The City Council has the following options:

- 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 ITEMS and request additional information.

The 60-day review period for this application expires on 5-5-14. An extension letter may be sent to the applicant and the home owners. A final decision MUST be made prior to 6-24-14.

Recommendation: Staff recommends approval of the requested variances based on the findings detailed in the report and as outlined in the template approval motion below.

Template Denial Motion: "I move that we direct staff to prepare a resolution of denial for the requested variance based on the following findings of fact:"
(Not Recommended)

- (Provide findings to support conclusion)

Template Approval Motion: "I move that we direct staff to prepare a resolution of approval for the requested variance to allow for the new construction of a home on the property located at 275 Lakeview Avenue based on the findings of fact listed in the report. Furthermore, the approval shall include the conditions listed within the staff report as may have been amended here tonight".
(Recommended)

- a. The proposed use as a single-family home will not change and is consistent with the comprehensive plan.
- b. Granting the requested variances will not impair an adequate supply of light and air to adjacent parcels.
- c. Granting the variances 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.
- 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.
- f. Granting the variances will not alter the essential character of the locality.
- g. The continued use of the property as a single-family home is a reasonable use of the property. It is how the property is zoned and it is how the property has been used in the past.
- h. The variance requests are in harmony with the general intent of the ordinance.
- i. Topography in the area provides that the home will always be accessible in the event of a flood;
- j. The landowners do not own all property within 15' of the proposed home.
- k. Engineering has reviewed the proposed improvements and does not find reason to believe the proposed improvements would increase flood levels or represent a threat to public safety.

Recommended 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 (if needed) 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. Construction shall follow the survey and plans as submitted or as required to be updated by the City Engineer.
5. Building of structures shall not occur within any existing or proposed easements on the property.
6. The proposed landscaping buffer along the rear property boundary as shown on the Site Plan Sheet L101, drawn by TVL dated 01.23.14 of the Applicant's Application shall remain and be maintained at all times.
7. The variances shall expire one year from the date of the resolution. City Council approval will be required for any subsequent extension.

RECEIVED

MAR 06 2014

CITY OF TONKA BAY

CITY OF TONKA BAY
VARIANCE APPLICATION

Phone: (952) 474-7994 . Fax: (952) 474-6538
www.cityoftonkabay.net

Application fee: \$150.00

The application fee is used to cover publication costs, County recording fees, postage and other supplies.

Escrow fee: \$1,150.00

The escrow fee is charged to cover staff expenses, engineering, planning and attorney expenses (as billed) which may be incurred because of your application. All staff time is billed at the regular employee rate plus 30% for overhead costs, which includes benefits, buildings, lights, heat, etc.

Any remaining funds, after expenses, are returned to the applicant. Expenses incurred over \$1100 will be billed to the applicant.

APPLICATION DATE 2/24/2014

NAME OF PROPERTY OWNER(S) LAURA BERGHOFF & CHRIS HADLAND

MAILING ADDRESS 3508 W. 55TH ST., EDINA MN 55410-2305
Street Address City State Zip

PHONE (707) 217-4959
SITE ADDRESS (or legal description) 275 LAKEVIEW AVE., EXCELSIOR, MN 55331
PID NUMBER #2711723310003

NAME OF APPLICANT(S) (if different from above) DAVID WILSON (CHARLES R. STINSON ARCHITECTS)
TRAVIS VAN LIERE (LANDSCAPE ARCH.)
STEVEN STREETER (STREETER & ASSOC. - BUILDER)

MAILING ADDRESS 18304 MINNETONKA BLVD., DEEPHAVEN MN 55391
Street Address City State Zip

PHONE (952) 473-9503 - DAVID X 07
(612) 760-0494 - TRAVIS X

Initial where indicated that you have read and understand the requirement(s):

- DW A. All property owners must sign as co-applicants.
- DW B. The property corners and proposed construction must be flagged/staked at the time of the application and maintained until the council makes a determination.
- DW C. Survey Requirements:
 1. Initial Survey
Every application for building permit (excluding interior remodels, re-

Dw

roofs, re-siding and general maintenance) shall be accompanied by a certified survey at a scale and in quantities deemed necessary by the City of Tonka Bay unless waived in accordance with the City's survey exemption policy (attached). Because the survey will be used to determine an application's conformance with City Code, it shall be the responsibility of the applicant to ensure information provided on the survey corresponds to submitted building plans (including existing and proposed topography). An issued building permit shall only authorize those land alterations identified on the associated survey. Surveys shall include all information as deemed necessary by the City to provide for the enforcement of city code. See below for more details in the "Submit with Application" section, Item 1.

2. **Foundation Survey**

Applications for new structures shall require that an as-built foundation survey be submitted by a time specified by the City (general prior to completing a foundation inspection) unless waived in accordance with the City's survey exemption policy. The as-built foundation survey shall certify both the final setbacks of the structure being built, and the elevations at which the new structure exists. Failure to provide the foundation survey is in direct violation of this ordinance and expenditures incurred beyond the construction of the foundation will not be considered in determining the actions required to bring the building back into conformance if not built to approved plans.

3. **As-Built Survey**

Applications for new structures shall require that an as-built survey be submitted upon completion of work unless waived in accordance with the City's survey exemption policy. The as-built survey shall certify the final topography of the site, verify the drainage patterns existing upon completion of work, and the distance from average ground level to the highest roof peak. Any additional information needed by the city to ensure compliance with code can also be required. The city reserves the right to withhold the certificate of occupancy for dwelling units until final grading addresses all problems that may be detrimental to adjacent properties.

Dw

D. The applicant or representative thereof shall appear before the City Council to answer questions concerning the proposed conditional use permit. See attached public hearing information sheet.

Submit with Application:

1. Ten (10) to scale copies and ten (10) reduced (8-1/2" x 11" or 11" x 17") copies of a certified survey of the property. The survey shall include all information necessary to enforce applicable zoning regulations. Such information may include but is not limited to:

- Location and Floor Area of existing and proposed structures
- Lot Lines
- Parcel size in acres and square feet
- Building setbacks (closest point of building to each property line)
- Low floor elevations of existing and proposed structures
- Water features (lakeshore, wetlands, etc.)

- Existing and proposed topography – including ground elevations at corners of existing and proposed structures.
 - General location of vegetation
 - Location of structures on adjacent lots
 - Easements
 - Existing and proposed impervious surface calculations.
 - Location of public and private sewer lines or wells.
2. Hardcover calculation – current and proposed
 3. Floor area ratio – current and proposed
 4. Landscape plan and grading and drainage plan (current and proposed)
 5. Payment

Additional Information

- A. The request for variances shall be placed on the agenda of the first City Council meeting occurring at least thirty (30) days from the date of official submission unless waived by the Zoning Administrator. Upon receipt of a completed application, the Zoning Administrator shall set a public hearing for a regular meeting of the City Council. The City Council shall conduct the hearing.
- B. Notice of said hearing shall be published in the official newspaper at least ten (10) days prior to the hearing and written notification of said hearing shall be mailed at least ten (10) days prior to all property owners within three hundred fifty (350) feet of the boundary of the property in question.
- C. For properties within the Shoreland, Floodway or Flood Fringe Overlay District, the City will submit to the Commissioner of Natural Resources a copy of the application for proposed variances so that the Commissioner will receive at least ten (10) days notice of the hearing.
- D. The applicant or representative thereof shall appear before the City Council to answer questions concerning the proposed variance.
- E. A variance of the Ordinance shall be by four-fifths (4/5) vote of the entire City Council.
- F. If approved, the variance shall become null and void twelve (12) months after the date of approval, unless the property owner or applicant has substantially started the construction of any building, structure, addition or alteration, or use requested as part of the permit.
- G. Prior to approving an application for a variance, the City shall verify ownership, and that there are no delinquent property taxes, special assessments, interest, or City utility fees due upon the parcel of land to which the permit application relates.
- H. By state statute, there are three definitive criteria that all variances must address. The three criteria are as follows:
 1. Is the variance request reasonable? The hardship requirement does not mean that a property owner must show the land cannot be put to any reasonable use without the variance. Rather, the property owners must show that they would like to use their property in a reasonable manner that is prohibited by the ordinance.
 2. Does the application present unique circumstances?
 3. If approved, would the variance alter the essential character of the locality?

1004.02
Subd. 3.

GENERAL PROVISIONS AND STANDARDS

Review Criteria. In considering all requests for a variance and in taking

subsequent action, the City Council shall make a finding of fact that the proposed action will not:

- a. Impair an adequate supply of light and air to adjacent property.
- b. Unreasonably increase the congestion in the public street.
- c. Increase the danger of fire or endanger the public safety.
- d. Unreasonably diminish or impair established property values within the neighborhood, or in any way be contrary to the intent of this Ordinance.
- e. Violate the intent and purpose of the Comprehensive Plan.
- f. Violate any of the terms or conditions of Subd. 4., below.

Subd. 4. Conditions. A variance from the terms of this Ordinance shall not be granted unless it can be demonstrated that:

- a. Undue hardship will result if the variance is denied due to the existence of special conditions and circumstances which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same district.
 - 1. Special conditions may include exceptional topographic or water conditions or, in the case of an existing lot or parcel of record, narrowness, shallowness, insufficient area or shape of the property.
 - 2. Undue hardship caused by the special conditions and circumstances may not be solely economic in nature, if a reasonable use of the property exists under the terms of this Chapter.
- b. Literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance or deny the applicant the ability to put the property in question to a reasonable use.
- c. The special conditions and circumstances causing the undue hardship do not result from the actions of the applicant.
- d. Granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures or buildings in the same district under the same conditions.

[Signature]
Signature of Applicant

[Signature] same
Signature of Property Owner

Signature of Applicant

[Signature] same
Signature of Property Owner

This Section Completed by Staff			
FEE	FOR	DATE PAID	STAFF INITIALS
\$150.00	Application Fee	3-6-14	[Initials]
\$1,150.00	Escrow Fee*	"	[Initials]

RECEIVED

Date: March 6, 2014

To: City of Tonka Bay
4901 Manitou Rd
Excelsior, MN 55331

Re: Variance Application for a Proposed New Home Construction at 275 Lakeview Avenue in Excelsior, MN

Property Info: Mr. Chris Hadland and Ms. Laura Berghoff
275 Lakeview Avenue
Excelsior, MN 55331

Project Team: Charles R. Stinson Architects – Architecture
Travis Van Liere Studio – Landscape Architecture
Streeter & Associates – Builders / General Contractor
Pierce + Pini Associates – Civil Engineering
Cornerstone Land Surveying – Surveyor

MAR 06 2014

CITY OF TONKA BAY

Brief Written Narrative:

As a follow-up our very helpful meeting with City of Tonka Bay Administrator Joe Kohlmann, and the recently completed Pre-Application review, we are submitting this Variance Application package for a proposed new residence to be located at 275 Lakeview Avenue in Excelsior, MN. Based on our previous conversations and staff review of the proposed project, the following are the items in which we are seeking variance and or conditional use approval in order for the property owners to use their property in a reasonable manner for the construction of a new home for their family:

1. **Conditional Use Approval** - Raising the maximum allowable hardcover up to 35% of total lot area with administrative approval and review (existing hardcover of 28.7%). As requested by city staff, a proposed storm water management plan (developed by Pierce + Pini Associates) has been included with this submittal documenting our proposed method for handling the storm water for the site. The site plan developed by Travis Van Liere Studio highlights to proposed site and landscape design for the project.
2. **Variance Item #1** - A variance from the required lot width requirements. This variance is required due to the non-conforming lot dimensions that existed prior to establishment of this code ordinance.
3. **Variance Item #2** – A variance for the 25' rear setback. From our previous meeting with city staff and the Pre Application review it is our understanding that the rear of this unusually shaped site shall be considered the north side (opposite side of the property from the what is considered the front which is the lakeside). A required 25' rear yard setback would create a very unusually shaped buildable area that is small and unusable. We are seeking a variance for the north-side setback to be considered the typical 8' side-yard setback for a R-1A District. Extensive landscape provisions have been made in the plan in order to ensure privacy between neighboring properties. The proposed new home is proposed to

step along this side to provide additional variation in the façade along this side of the property

4. **Variance Item #3** - A variance from the required 10' setback for proposed AC units. We are seeking a variance from this required distance again due to the unique nature of this parcel and the limited locations for these units to be placed on site. Extensive landscape provisions have been made to limit disturbance and conceal these from site.

5. **Variance Item #4** – A variance from the floodplain buffer (Section 1040, Section 4.25). Our understanding from our previous meeting is that the floodplain buffer requires a 15' setback on all sides from the Property Line / Ordinary High Water Line. As stated in #2 above, we are seeking for north-side setback to be considered the typical 8' side-yard setback in the R-1A District.

Please see the attached supporting documentation and existing site photos to better understand our requests. If you should have any questions or request any additional information regarding the project, please let us know.

Sincerely,

Travis Van Liere
Travis Van Liere Studio, LLC | Landscape Architecture
4146 Coffman Lane
Minneapolis, MN 55406
travis@tvlstudio.com
612-760-0494

David Wilson
Charles R. Stinson Architects
18304 Minnetonka Blvd
Wayzata, MN 55391
david@charlesstinson.com
952-473-9503