



February 24, 2016

Ms. Lindy Crawford  
City Administrator - City of Tonka Bay  
4901 Manitou Road  
Tonka Bay, MN 55331

Re: 275 Lakeview Avenue Project, City of Tonka Bay

Dear Ms. Crawford.

Below is a reference summary that is highlighted on the plan submitted with the variance application. We are asking for a variance on the 12 foot high Techny Arborvitae hedge and the electronic gate.

1. On the plan highlighted in Blue is the 12 foot high Techny Arborvitae hedge.
2. Highlighted in Pink is the electronic gate.
3. Highlighted in Green is the 6 foot high Techny Arborvitae hedge.
4. Highlighted in Yellow is a 6' high Aluminum fence with 2 gates.

Additionally enclosed you will find a letter from the neighbor requesting the higher hedge and the letter we wrote you when we found out that a hedge are considered a fence and.

Please let me know if you have any questions.

Sincerely,

Ben Dunlap  
Project Manager, Streeter & Associates

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 1-15-16

SITE ADDRESS (or legal description) 275 LAKEVIEW AVE  
PID NUMBER \_\_\_\_\_

NAME OF PROPERTY OWNER(S) CHRIS & LAURA HADLAND  
MAILING ADDRESS 4840 REBEENTS WALK EXCELSIOR MN 55331  
Street Address City State Zip

PHONE 952-797-4889 E-MAIL LBERGHAFF@ADL.COM

NAME OF APPLICANT(S) (if different from above) BEN DUNLAP (STREETEN'S ASSESSORS)

MAILING ADDRESS 1837 MINNETONKA BLVD WAYzata MN 55391  
Street Address City State Zip

PHONE 612-801-4002 E-MAIL BDUNLAP@STREETENHOMES.COM

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

- A. All property owners must sign as co-applicants.  
 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.  
 C. Survey Requirements:

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1. **Initial Survey**

Every application for building permit (excluding interior remodels, re-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.

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- 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. Eleven (11) to scale copies and Eleven (11) 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?

Subd. 3. 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 of Applicant

Signature of Property Owner

Signature of Property Owner

Signature of Applicant

This Section Completed by Staff			
FEE	FOR	DATE PAID	STAFF INITIALS
\$150.00	Application Fee		
\$1,150.00	Escrow Fee*		

# CITY OF TONKA BAY SURVEY EXEMPTION POLICY

Adopted 9/25/07

## Objective:

It is the objective of this policy to establish criteria defining the circumstances in which a survey (or surveys) will be required as a condition of a building permit. The City recognizes that each required survey adds additional cost for residents, and that staff should strive to only require information necessary to ensure compliance with City Code.

## Proposed Construction:

By code, every application for a building permit shall be accompanied by an up-to-date certified site survey with the following exceptions:

- Interior remodels
- Re-roofs
- Re-siding

The following two conditional exceptions will also be made:

- General maintenance projects (defined as the repair or replacement of an existing structure where no expansion is proposed) can be excluded from the updated survey requirement provided an old survey showing the structure being replaced/repaired is provided. A scaled site plan for general maintenance projects may be permissible if approved by the zoning administrator provided the site plan can verify conformance to code requirements.
- Permits for fences can also be issued provided the fence location is hand drawn to-scale on an old survey that identifies the lot lines and the location of the primary structure. A scaled site plan will not be accepted for fence permits.

## Foundation Survey Criteria:

Applications for new structures will be required to provide an as-built **foundation** survey if one of the following criteria apply:

- The proposed new construction will be within five (5) or less feet of any applicable structural setback requirement;
- The proposed new construction will be within ten (10) or less feet of any existing/proposed well or septic system;
- The proposed new accessory structure or addition will be within five (5) or less feet of any private or public sewer line;
- The proposed new construction is required to be reviewed for its lowest floor opening;

### **As-Built Survey Criteria:**

Applications for new structures will be required to provide an as-built survey if one of the following criteria apply:

- The new construction includes proposed contours that will significantly alter the drainage patterns on the property such that adjacent properties or structures on the subject property are threatened;
- The new construction will be within ten (10) or less feet of any lot line;
- The new construction is proposed to be within two (2) or less feet of the maximum height requirement.
- The proposed new construction is being built in conjunction with a variance or conditional use permit subject to specific grading or screening requirements.

### **Modification of Policy:**

This policy may be amended from time-to-time by the City Council.

To city council members:

As the neighbors most directly impacted by the decision on these arborvitae at 275 Lakeview Ave, we appreciate the opportunity to express our wishes. We regret that we are traveling and are not able to be present in person. Please accept this letter as our voice in the variance hearing.

Chris and Laura Hadland approached us in the planning phase of this project, together with their landscape architect, to discuss the landscape design and planting selection between our adjacent properties. We considered both existing plantings and proposed plantings during that discussion. We strongly believe that our decisions represent the best outcome for both of us.

We had planted a row of Arborvitae about 30 years ago and they had grown to about 20 feet tall. They provided us an attractive privacy separation between the two properties over that time. When the Hadlands first approached us about the landscape design between our properties we discussed what we should do with those aging arborvitae. Although we love the Hadland's house design, it has many large windows facing our house that provide direct visual line of sight between our homes and could potentially compromise privacy for both of us. Hadlands described that they had intended to plant arborvitae as a boundary between our properties, consistent with the original plans filed with the city and discussed at a prior city council meeting that we attended.

In discussions with the Hadlands and their landscape architect we agreed it would be in both our best interests to remove our aging arborvitae and replace with new ones, but taller than 6 feet to provide privacy between the two homes. Upon our agreement, the Hadlands were gracious enough to remove our aged arborvitae and purchase larger plantings at their expense. They also changed the varietal from a bushier techny arborvitae varietal to pyramidal arborvitae which we understand to be slimmer in growth pattern with less lateral growth so as to limit possibility for encroachment onto our property.

We love the appearance now of these trees and would be very happy to have them remain. If fact, we would carry objection to reverting back to a 6 foot planting selection, as this would not provide for the privacy needed between our properties. We removed larger, albeit aging, plantings believing that Hadlands promise to put the current 12 foot plantings in place would provide adequate privacy, even if their height was less than what was being removed. A 6 foot planting would not block the line of sight between windows in our respective houses.

Because the boundary between our properties (at the locale of the taller arborvitae) is sheltered from view from other neighbors, and are so vital to our own interests, we believe our wishes should carry disproportionate weight in the eyes of the city council. Again, we appreciate the opportunity to be heard and trust that the city council will take a decision that serves needs of Tonka Bay residents.

Sincerely,  
Bob and Sally Schneider  
265 Lakeview Ave  
Tonka Bay



December 9, 2015

Ms. Lindy Crawford  
City Administrator - City of Tonka Bay  
4901 Manitou Road  
Tonka Bay, MN 55331

Re: 275 Lakeview Avenue Project, City of Tonka Bay

Dear Ms. Crawford.

We are writing to address the recent notification letter that was sent on November 24<sup>th</sup>, 2015 informing us of an issue with some newly planted privacy screen hedge plantings for our project located at 275 Lakeview Avenue. It has come to our attention that the new privacy screen hedge plantings we started planting along the north side of the property are, by definition, considered a fence and that these plantings do not currently meet the fence requirements listed in Section 1011.05 of the City's Zoning Ordinance.

We were surprised to find out that hedge plantings, including privacy screens by definition are classified as fences. The hedge and privacy screen plantings we intend to plant have been indicated on our drawings and identified to be a critical part of our design from the beginning of our project.

During our review process and meetings with Joe Kohlmann, (the previous City Administrator we worked with prior to you for both the variance application and the building permit) and other staff, it was never brought to our attention that hedges and/or any privacy screens as we have proposed, would be considered fences and therefore need to meet this requirement. In fact, during the variance application process, it was recommended by the planning commission that we work with adjacent property owner to the north to help address some initial concerns that were raised with regards to screening for the property, due to the proximity and location of the proposed new home (particularly with regards to the variance requested for the rear yard setback for property).

We believed with all the previous reviews, approvals and permits required we were allowed to commence with the final landscaping for the project. We were not aware that we needed to apply for a separate fence permit on top of everything, and that the hedges and privacy screens we had intended to plant from the beginning now need to abide by the fence requirements of the ordinance.

The privacy screen hedge plantings in question were planted as we started to commence on the final landscape installation for the project this past fall. These plantings were intended to replace an older existing 20' height privacy screen arborvitae hedge that previously resided on the north side of the property (between our client's property and the property owners directly north of our home). As recommended, we coordinated and worked with the Schneider's (the adjacent property owner to the north) as construction for the project commenced. We asked for permission to remove the existing privacy hedge on their property, as portions of it were located on or growing over our property. This affected construction access for building the home. The Schneider's allowed us to remove this hedge and replace it with new plantings. Removing the older hedge also allowed us to rectify grading and drainage issues that existed between the two properties. It also gave us room to install a new underground storm water infiltration system that manages and mitigates all the storm water runoff for the property.

Our goal was to try and finish the final landscaping for the property this fall (before the December winter weather prevented us from doing any further work and prior to the owners moving into the home in February of 2016).

Due to limited access on the north side of the property, we commenced with planting these plantings first. Since the notification letter was sent, we have stopped planting on the property entirely and will hold on planting any remaining portions of the final landscaping and hedge plantings until we officially resolve this matter. Per our conversations, we would like to formally request to keep the 20 privacy screen hedge plantings already planted in their current interim state while we seek to formally file a request for variance application to allow the planting of these trees between the neighboring properties.

We are requesting this for the following reasons listed below.

1. Due to the recent timeframe and lateness of planting these (now with winter upon us and the ground starting to freeze), we are concerned that we would potentially damage and harm these plantings if we were to remove them now.
2. We are also concerned that we may potentially damage the recently installed new site drainage system that handles the storm water runoff for the property and any other surrounding elements that were recently installed in this area of the property.
3. The adjacent affected neighboring property to the north of our project (where the plantings in question currently resides) had previously requested that we plant a privacy screen between the two properties to replace an older hedge planting that was previously removed due to construction of our new home.
4. The location of the plantings in question is only noticeable between the two parcels and does not affect any other adjacent property owners or neighbors. Its location is concealed from view and does not create safety or security issues.

Please understand our rationale and request for keeping the hedge in its current state. We hope to resolve this matter in the coming months and will seek to preserve the hedge as it currently is planned through a new variance request for the project. If our variance request for keeping the hedge is denied and we are required to remove the hedge, we would request that we be allowed to do this work in the spring so we can take better precautions to protect existing infrastructure and assure a better success of replanting these plantings at that time.

We look forward to resolving this matter with everyone involved as soon as we are able and hope you will allow our request to maintain these plantings in the interim. Thank you for your assistance!

Sincerely,

Ben Dunlap  
Project Manager, Streeter & Associates

  
Travis Van Liere  
Landscape Architect – Travis Van Liere Studio

cc. Chris & Laura Hadland  
Steven Streeter, Streeter & Associates  
Charles Stinson, Charles R. Stinson Design  
Todd Irvine, Keenan & Svieven



**CITY OF TONKA BAY**  
 4901 Manitou Road  
 Tonka Bay MN 55331  
 Phone: 952-474-7994  
 www.cityoftonkabay.net

**FENCE PERMIT APPLICATION**

APPLICATION DATE		PERMIT NO.	
SITE ADDRESS	275 LAKE VIEW Ave		
PID NUMBER			
<b>INFORMATION REQUIRED ON PROPERTY OWNER:</b>			
NAME	CHRIS & LAURA HADLAND		
ADDRESS	4840 REBEUTS WALK		
CITY/STATE/ZIP	EXCELSIOR MN 55331		
PHONE NUMBER	952-797-4881		
<b>INFORMATION REQUIRED ON BUILDER/CONTRACTOR:</b>			
NAME	STREETER & ASSOCIATES		
ADDRESS	18312 MINNETONKA BLVD		
CITY/STATE/ZIP	WAYZATA MN 55391		
PHONE NUMBER	952-449-9448	LICENSE NO.	

NUMBER TO CALL WHEN PERMIT IS READY: 612-801-4002

**PLEASE PROVIDE THE FOLLOWING INFORMATION:**

- \_\_\_\_\_ 1. Completed application form and property owner approval (if required).
- \_\_\_\_\_ 2. Three copies of a current REGISTERED land survey showing fence location (**surveys must be attached to application and show the proposed fence location**).
- \_\_\_\_\_ 3. Property pins must be located and flagged.

**INFORMATION ON FENCE:**

VALUE OF COMPLETED WORK	
STARTING DATE	
COMPLETION DATE	
<b>DESCRIPTION OF PROJECT (Include height of fence and kind of materials):</b>	
6' HIGH HEDGE ON THE WEST EDGE OF THE PROPERTY	

QUESTIONS: BUILDING INSPECTOR - METRO WEST INSPECTIONS - (763) 479-1720 OR LINDY CRAWFORD - ZONING ADMINISTRATOR - (952) 474-7994

Signature of Applicant \_\_\_\_\_

**FEES: (office use)**

Permit Fee \$100.00  
 Penalty \_\_\_\_\_

City Official's Initials \_\_\_\_\_

**TOTAL** \$100.00

# CITY OF TONKA BAY CONSTRUCTION PROJECT REQUIREMENTS

The following conditions shall be met throughout the building project. It will be the responsibility of the project manager, building superintendent and/or property owner to inform all parties involved of the following requirements:

1. Construction hours are as follows (with no exceptions):  

Monday through Friday	7:00 a.m. – 8:00 p.m.
Saturday and Sunday	10:00 a.m. – 5:00 p.m.
2. Parking shall be restricted to one side of the street. If the street width is such that parking on one side still restricts traffic, contact City Hall at (952) 474-7994 for alternate parking sites.
3. Dumpsters, building materials, rock, etc. shall be located on the building site. All other locations involving placement of these materials within City right-of-way requires prior approval from the Public Works Superintendent (952) 474-2947.
4. Adequate toilet facilities must be on site. See City Code Section 300.04 for standards.
5. The city street shall be cleared at the end of each workday or sooner if so needed. If the street is not cleaned within a 24-hour period, the City will authorize Public Works to clean the street. All related costs will be billed to the property owner.
6. Any excavation within the city right-of-way requires a street excavation permit.
7. Seasonal Load Restrictions: Load limits for all streets in Tonka Bay are 4-tons per axle weight once posted. Please note that some streets may be posted year-round for 4-tons per axle weight. The City of Tonka Bay follows the Minnesota Department of Transportation's schedule for posting and removal of load restriction limits. Tonka Bay does not issue overweight permits during this period. It is the responsibility of the contractor to monitor the load restriction limits as posted by Mn/DOT. The Mn/DOT load restriction 24-hour telephone hotline is 1-800-723-6543 or (651) 406-4701 in the Minneapolis/St. Paul Metro area.

If you have any questions regarding these requirements, please contact Robin Bowman at (952) 474-2947.

Date: 11/4/15 Signature: 

# CITY OF TONKA BAY SURVEY EXEMPTION POLICY

Adopted 9/25/07

## **Objective:**

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- Re-roofs
- Re-siding

The following two conditional exceptions will also be made:

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## **Modification of Policy:**

This policy may be amended from time-to-time by the City Council.

**CITY OF TONKA BAY  
FENCE HEIGHT  
PERMISSION FORM**

Resident Requesting Fence Permit:

Name \_\_\_\_\_  
Street Address \_\_\_\_\_  
Telephone \_\_\_\_\_

Date \_\_\_\_\_

Dear Neighbors:

I am applying for a building permit for a fence that will be six feet in height.

Tonka Bay City Code requires that neighbors on any side of my property where I desire to install a fence six feet high grant their permission. Please do so by filling in the information below.

Name \_\_\_\_\_  
Street Address \_\_\_\_\_  
Telephone \_\_\_\_\_

Signature \_\_\_\_\_

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Name \_\_\_\_\_  
Street Address \_\_\_\_\_  
Telephone \_\_\_\_\_

Signature \_\_\_\_\_

---

Name \_\_\_\_\_  
Street Address \_\_\_\_\_  
Telephone \_\_\_\_\_

Signature \_\_\_\_\_