

Tonka Bay City Council Agenda Item
Executive Summary

Title of Item: **VARIANCE REQUESTS:** Application from Jon Maakestad and Bev Turbin requesting variances to allow for the construction of a new detached garage building in the front yard at 42 Woodpecker Ridge Road – R-1A zoning – PID: 28-117-23-13-0022

Report Date: **8-22-14**

Meeting Date: **9-9-14**

60 Day Review deadline: **60 day period ends 10-5-14**

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

Summary: The property owners are proposing to construct a detached garage building in the front yard of the property located at 42 Woodpecker Ridge Road. Section 1011.04, Subd. 1.a. Accessory Buildings, Structures, Uses and Equipment General Provisions states that “except as may be specifically provided, no accessory use, building, structure or equipment shall be allowed within a required front yard”. Furthermore, Section 1011.04, Subd. 1.j states that “except in the case of single family detached dwellings, accessory buildings shall not exceed thirty (30) percent of the gross floor area of the principal buildings”. The requested variances are as follows:

1. A **variance** to allow for the construction of a detached garage in the front yard of the property.
2. A **33.02 foot variance** to allow for the construction of a detached garage 16.98 feet from the front lot line where a 50 foot setback is required.
3. A **14.6 percent variance** to allow for the construction of a detached garage that exceeds the maximum allowable percentage of gross floor area of the principal building of 30 percent.

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 6 as well as findings of fact for approval for the requested variances.

City of Tonka Bay Planning Department
Variance Report

To: City Council

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

Report Date: August 15, 2014

Meeting Date: September 9, 2014

Applicant: John Maakestad and Beverly Turbin

Owner: John Maakestad and Beverly Turbin

Location: 42 Woodpecker Ridge Road

Zoning: R-2A

Introductory Information

Proposed Project: The property owners are proposing to construct a new detached garage structure within the front yard. The project will also include an extension of the existing driveway to access the new detached garage building.

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

1. A **variance** to allow for the construction of a detached garage in the front yard of the property.
2. A **33.02 foot variance** to allow for the construction of a detached garage 16.98 feet from the front lot line where a 50 foot setback is required.
3. A **14.6 percent variance** to allow for the construction of a detached garage that exceeds the maximum allowable percentage of gross floor area of the principal building of 30 percent.

Findings

Site Data: Lot Size – 30,210 square feet
Existing Use – Two family dwelling unit
Existing Zoning – R-2A
Property Identification Number (PID): 28-117-23-13-0022

Comp Plan Guidance:

- The comprehensive plan guides this lot for multifamily use. The corresponding zoning assigned to this property (R-2A) allows for two-family dwelling units (multi-family homes).

Accessory Buildings:

- No accessory building or use, except as specifically provided by the Zoning Ordinance, may be located in a front yard.
- The applicants have proposed to locate the detached garage building in the front yard. A variance will be required.

***Accessory Building
Front Yard Setbacks:***

- The front yard setback for an accessory building in the R-2A District is 50 feet.
- The Applicants are proposing to construct a detached garage building 16.98 feet from the front lot line, thus a variance is required.

***Accessory Building
Side Yard Setback:***

- The side yard setback for an accessory building in the R-2A District is 8 feet.
- The Applicants are proposing to construct a detached garage building 187 feet from the side lot line.

***Accessory Building
Rear Yard Setback:***

- The rear yard setback for an accessory building in the R-2A District is 8 feet.
- The Applicants are proposing to construct a detached garage building 80.3 feet from the rear lot line.

Hardcover:

- The maximum hardcover permitted on this lot without any review is 25 percent; hardcover between 25 percent and 35 percent can be allowed subject to approval by the City Engineer and City Administrator.
- The applicants are proposing hardcover in the amount of 4,948 square feet, which is 16.4 percent of the lot. This is a 2.6 percent increase from what exists today.

Floor Area Ratio:

- The maximum floor area ratio (FAR) permitted by code in the R-2A District is 0.30 unless otherwise allowed by conditional use permit (CUP).
- Accessory buildings cannot exceed 30 percent of the gross floor area of the principal building.
- The Applicants are proposing a total FAR of 0.08, resulting in an accessory building that 44.6% of the gross floor area of the principal building. A variance is needed.

***Accessory Building
Coverage:***

- No accessory building may occupy more than 25 percent of a rear yard.
- The Applicants are proposing a detached garage building within the front yard, and will occupy 2.4% of the lot.

***Accessory Building
Height:***

- Accessory buildings are limited to a maximum height of 15 feet.
- The Applicants are proposing a detached garage building that will be 12'5" to the peak.

Application Review:

***Applicable Code
Definitions:***

Accessory Building or Use. A subordinate building or use which is located on the same lot on which the main building or use is situated and which is reasonably necessary and incidental to the conduct of the primary use of such building or main use.

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.

Lot, Frontage. The front of a lot shall be, for purposes of complying with this Ordinance, that boundary abutting a public right-of-way. For lots abutting on two streets, the front shall be the boundary with the shortest length. For lakeshore lots, the boundary abutting the lakeshore shall be considered the front.

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:

1011.04 Accessory Buildings, Structures, Uses and Equipment. Subdivision 1.a Except as may be specifically provided, no accessory use, building, structure or equipment shall be allowed within a required front yard. Placement of accessory buildings, structures, and equipment in the Shoreland District shall be regulated as found in Section 1070 of this Code.

1011.04 Accessory Buildings, Structures, Uses and Equipment. Subdivision 1.j Except in the case of single family detached dwellings, accessory buildings shall not exceed thirty (30) percent of the gross floor area of the principal buildings. In those cases where the standards are exceeded, a variance according to the provisions of Section 1004 of this Ordinance shall be required.

1019.06 Lot Area and Setback Requirements. Subdivision 5.a Accessory Structure (s) Setbacks Front Yards. Not less than fifty (50) feet.

Variance Criteria Review:

By state statute, there are three definitive criteria that all variances must address: consistency with the ordinance, consistency with the comprehensive plan, and the establishment of "practical difficulties." Presuming a request meets the statutory criteria, city code also requires that the proposal will NOT impair an adequate supply of light and air to adjacent property, unreasonably increase the congestion in the public street, increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values within the neighborhood.

The requested variances are as follows:

1. A **variance** to allow for the construction of a detached garage in the front yard of the property.
2. A **33.02 foot variance** to allow for the construction of a detached garage 16.98 feet from the front lot line where a 50 foot setback is required.
3. A **14.6 percent variance** to allow for the construction of a detached garage that exceeds the maximum allowable percentage of gross floor area of the principal building of 30 percent.

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

Statutory Criteria

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

It is staff's interpretation that the requirement that no accessory structure or use be located in the front yard is intended to maintain a reasonably consistent appearance and high visual standard of all property from the public street. Additionally, limiting the accessory building to an area that is 30% of the principal structure allows for the visual impression that the detached structure is accessory to the principal structure.

While each unit of the two-dwelling family home has an attached tuck under garage, additional covered storage space is desired by the Applicant. A detached garage building is a reasonable use for a two-dwelling family home. The location of the proposed detached garage building, while located in the front yard, will not have a visual impact to adjacent property or from the public street as there are no surrounding neighbors located in a close proximity. A large grove of trees separate the location of the garage and the neighbors immediately to the southeast. **Criteria met**

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

The Comprehensive Plan calls for this area of the City to be used for multiple family dwellings, and for the development to occur in an orderly fashion in a manner best for the community. A detached garage building is a reasonable accessory use to a two-dwelling family home and is consistent with the City's 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.*

The property owners are seeking to construct a detached garage structure to provide additional storage of vehicles and yard equipment located on their property. The uses conform to the allowed uses in the R-2A district. The existing topography of the site provides a difficulty in locating the structure in a manner consistent with the City Code. The location as proposed by the Applicant presents the most reasonable location for the detached garage building. Staff finds the request reasonable. **Criteria met.**

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

The subject property is uniquely shaped in that it is a long and narrow property with the existing homes located along the south and central portion of the property. This location limits the available room for a detached garage building that could be constructed in a manner

consistent with the City Code. Furthermore, the topography of the property slopes from west to east, which provides an opportunity for the dwelling to have a tuck-under attached garage stall for each unit. The property is also heavily wooded, and the location of the proposed detached garage building would avoid the removal of the significant tress. **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 variances. Detached garage buildings are common on many residential lots within Tonka Bay. The detached garage building will not detract from views of to or from adjacent property as the property is separated by a large grove of trees and a wetland feature. **Criteria met.**

City Tests:

1. *Will the variance impair an adequate supply of light and air to adjacent property?*
No. The proposed detached garage building should not impair an adequate supply of light and air from reaching adjacent property. The detached garage building will be located on the north side of the existing home away from any neighboring structures. **Criteria met.**
2. *Will the variance unreasonably increase the congestion in the public street?*
No. The current use of the property is for a two-dwelling family home, which will not change as a result of granting the variances. **Criteria met.**
3. *Will the variance increase the danger of fire or endanger the public safety?*
No. The installation of a detached garage building 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?*
The proposed addition of a detached garage building should not have any impact on the values of neighboring properties. **Criteria met.**

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

Engineering Reports: in direct conflict with the above intent. **Criteria met.**
As noted previously, calculations for this property indicate that approximately 13.8 percent of the property is hardcover. This does not exceed the 25 percent maximum.

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 10-5-14. An extension letter may be sent to the applicant and the home owners. A final decision MUST be made prior to 12-4-14.

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 variances 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 variances to allow for the construction of a detached garage building in the front yard of the property that exceeds the maximum allowable gross floor area based on the gross floor area of the principal building 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 two-dwelling 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 two-dwelling family home will stay the same and not increase congestion.
- d. Topographic and site conditions prevent the property owners from constructing a detached garage building in a location that would meet the provisions of the zoning ordinance.
- e. Granting the variances will not increase the danger of fire or endanger the public safety.
- f. Granting the variances will not diminish or impair established property values in the neighborhood.

- g. Granting the variances will not alter the essential character of the locality.
- h. The request for a detached garage building is reasonable given the principal use of the property as a two-dwelling family home.
- i. The variance requests are in harmony with the general intent of the ordinance and will not lead to an overcrowding of homes.

***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.
2. The same or similar quality exterior materials shall be used in the accessory building as used in the principal building to the maximum extent possible.
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. Building of the detached garage building shall not occur within any existing easements on the property.
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. The variances shall expire one year from the date of the resolution. City Council approval will be required for any subsequent extension.