

# CITY OF TONKA BAY ITEM NO. 7A

## Tonka Bay City Council Agenda Item Executive Summary

*Title of Item:* **VARIANCE AND CONDITIONAL USE PERMIT REQUESTS:**  
Application from Terry and Sue Brennan requesting two (2) variances  
and a conditional use permit to allow for the construction of a new  
detached garage located at 35 Interlachen Lane – R-1A zoning – PID:  
21-117-23-34-0006

*Report Date:* **5-27-14**

*Meeting Date:* **6-10-14**

*60 Day Review  
deadline:* **60 day period ends 7-4-14**

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

*Summary:* The Applicant's are seeking to tear down the existing detached garage structure and construct a new detached garage on the property located at 35 Interlachen Lane. Construction of the new detached garage as proposed requires two (2) variances and one (1) conditional use permit. In summary, the requested variances and conditional use permit are as follows:

1. **A 2 foot variance from the minimum required side yard setback** of 8 feet resulting in a 6 foot side yard setback.
2. **A 22 foot variance from the minimum required front yard setback** of 50 feet resulting in a 28 foot front yard setback.
3. **A conditional use permit to allow the detached garage to be 2.5' above the maximum height allowance** of 15' for a total height of 17.5'.

Staff does not believe that the Applicant has met the Statutory and City Criteria for approving the requested variances from the required front yard setback and required side yard setback. Staff does not recommend the variance from the required side yard setback. Staff does however find that a conditional use permit to allow the detached garage to exceed the maximum height allowance is reasonable based on the City Criteria for approving a conditional use permit. Staff has provided a template motion on page 10 as well as findings of fact for the requested variances and conditional use permit.

City of Tonka Bay Planning Department  
**Variance Report**

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**To: City Council**

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

**Meeting Date: June 10, 2014**

**Applicants:** Terry and Sue Brennan

**Owners:** Terry and Sue Brennan

**Location: 35 Interlachen Lane**

**Zoning: R-1A**

**Introductory Information**

**Proposed Project:** The Applicants are proposing to remove an existing 12.3' x 30.2' detached accessory structure and construct a new 24' x 24' detached garage on the property located at 35 Interlachen Lane.

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

1. A **2 foot variance from the minimum required side yard setback** of 8 feet resulting in a 6 foot side yard setback.
2. A **22 foot variance from the minimum required front yard setback** of 50 feet resulting in a 28 foot front yard setback.

**Conditional Use Permit Request:**

1. A **conditional use permit to allow the detached garage to be 2.5' above the maximum height allowance** of 15' for a total height of 17.5'.

**Findings**

**Site Data:** Lot Size – 19,315 square feet  
Existing Use – Single Family Home  
Existing Zoning – R-1A  
Property Identification Number (PID): 21-117-23-42-0006

**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 19,315 square feet.
- Section 1011.01, Subd. 2.n.1.a allows a lot of record existing as of the effective date of the Ordinance in a residential district, which does not meet the requirements of the Ordinance as to area or width, may be utilized for

single family detached dwelling purposes, provided that in all residential districts, the measurements of such lot's area and frontage width are within sixty (60) percent of the requirements of the respective district, as established by this Ordinance.

- 60 percent of the minimum lot area requirement in the R1-A District is 12,000 square feet, and therefore a variance from the minimum lot area requirement is not needed in this case.
- The lot width requirement in the R1-A District is 75 feet. The lot of record is 110.83 feet.

***Rear-Yard Setback:***

- The rear-yard setback for an accessory structure in the R1-A District is 8 feet.
- The Applicant is proposing to construct the new detached garage 98 feet from the rear lot line.

***Front-Yard Setback:***

- The front-yard setback for an accessory structure in the R1-A District is the 50 feet.
- The Applicants are proposing a front-yard setback of 28 feet, therefore a variance is needed.

***Side Yard Setback:***

- The side yard setback for an accessory structure in the R1-A District is 8 feet.
- The Applicants are proposing a side yard setback of 6 feet, therefore a variance is needed.

***Height:***

- The maximum height limit within the R1-A District for an accessory structure is 15 feet.
- Section 1002.02.B. defines "Building Height, Accessory Buildings" as "the height of accessory buildings measured from the top of the finished ground floor elevation to the top cornice line of a flat and mansard roof, and to the uppermost part on a shed, pitched, hipped, round or other arch-type roof".
- Section 1011.04, Subd. 1.c. states that "no accessory building shall exceed the allowable building height except to match roof pitch or style of the principal structure. If the height standards are exceeded, a conditional use permit, according to the provision of Section 1003 and Section 1011.04.5 of this Ordinance, shall be required".
- The Applicants are proposing a detached garage that measures 17.5' in height, which exceeds the height limitations and therefore requires issuance of a conditional use permit.

***Floor Area Ratio (FAR):***

- 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 existing home includes 3,069sf of space (per the Applicant's letter from Sathre-Bergquist dated April 29, 2014). The proposed detached garage will have a square footage of 576 sf, for a total of 3,645 sf or a FAR of .19,

which complies with the Code.

**Hardcover:**

- 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 9.0%. The Applicants are proposing a hardcover of 12.8% with the construction of the new detached garage.

**Application Review:**

**Applicable Code  
Definitions:**

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

**Building Height, Accessory Buildings.** The height of accessory buildings measured from the top of the finished ground floor elevation to the top cornice line of a flat and mansard roof, and to the uppermost part on a shed, pitched, hipped, round or other arch-type roof.

**Conditional Use.** Those occupations, vocation, skills, arts, businesses, professions, or uses and/or related buildings/structures, or improvements specifically designated in each zoning use district or by this Ordinance which for the respective conduct or performance may require reasonable, but special, peculiar, unusual or extraordinary limitations, facilities, plans, structures, conditions, modification, or regulations for the promotion of preservation of the general public welfare, health, convenience and the integrity of the City Comprehensive Municipal Plan and this Ordinance.

**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.

**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 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) c.** No accessory building shall exceed the allowable building height except to match roof pitch or style of the principal structure. If the height standards are exceeded, a conditional use permit, according to the provisions of Section 1003 and Section 1011.4.5 of this Ordinance, shall be required.

**1017.06 Lot Area and Setback Requirements; subdivision (4) a.** Accessory structures in the R1-A Zoning District shall be set back not less than fifty (50) feet from the front yard lot line.

**1017.06 Lot Area and Setback Requirements; subdivision (4) b.** Accessory structure in the R1-A District shall be set back eight (8) feet from the side yard lot line.

**1017.06 Lot Area and Setback Requirements; subdivision 4 c.** Accessory structures in the R1-A District shall be set back eight (8) feet from the rear yard lot line.

**1017.06 Lot Area and Setback Requirements; subdivision 4 d.** Accessory structures in the R1-A District shall be set back six (6) feet from other buildings on the property.

**1017.07 Lot Coverage and Height; subdivision 4.** Accessory buildings shall be limited to a maximum height of fifteen (15) feet.

The requested variances and conditional use permit are as follows:

1. A 2 foot variance from the minimum required side yard setback of 8 feet resulting in a 6 foot side yard setback.
2. A 22 foot variance from the minimum required front yard setback of 50 feet resulting in an 28 foot front yard setback.
3. A conditional use permit to allow the detached garage to be 2.5' above the maximum height allowance of 15' for a total height of 17.5'.

**Variance Criteria Review:**

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

**A. Statutory Criteria**

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

Front Yard Setback Variance Request: The City's intent of establishing minimum setback requirement is to ensure that land does not become overcrowded with structures, to regulate and limit the intensity of the use

of lot areas, and to regulate and determine the areas of yards, recreation and open space within and surrounding such buildings.

In this instance the existing house is located 7.6 feet from the front yard lot line along Interlachen Lane. The existing detached accessory structure is located approximately 7 feet from the front lot line. The home immediately to the east is located approximately 50' from the front yard lot line. Furthermore, directly across Interlachen Lane, riparian lots are allowed to construct detached accessory buildings eight (8) feet from the rear (street) property line.

The Applicant proposes to use the property in the same manner as it was previously used with the exception that the detached accessory structure will be sized to accommodate the storage of two (2) vehicles where it currently does not. The construction of the new detached garage will create a greater setback distance from the front yard lot line than current conditions and will be set back further from the front property line than the existing house.

However, the new detached garage will be greater in size and height over existing conditions. While the detached garage is located in what feels like the "side yard" based on the existing location of the home on the property, it is still in the front yard based on the City Code (and as it relates to the neighboring property to the east). The Ordinance intends to limit the intensity of the lot area and space within the surroundings such as buildings, and increasing the size of the detached garage would be intensification in this regard. As such, it does not appear that the Applicant's request to locate the detached garage closer to the front yard lot line and within the required front yard meets the intent of the ordinance. **Criteria not met.**

Side Yard Setback Variance Request: The intent of the setbacks is to provide an adequate buffer between homes/structures and to provide for areas of recreation/open space and stormwater drainage areas on properties. The existing accessory structure is located 3.5 feet from the side yard lot line. The proposed detached garage is proposed 6 feet from the side yard lot line.

A utility pole currently exists to the west of the existing driveway location. While an improvement will be made by creating a greater side yard setback with the new detached garage over existing conditions, it seems reasonable that the detached garage could be moved an additional 2 feet to the west to meet the ordinance requirements. Even with the location of the existing utility pole, it is reasonable for the driveway to be designed to accommodate the slight relocation of the detached garage, in the same or similar manner as proposed with this application. While a greater setback from the side yard lot line will be created, it seems reasonable that the Applicants could feasibly construct a detached garage and meet the Ordinance requirements. **Criteria not met.**

2. *The variance is consistent with the comprehensive plan.*  
Both 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. A detached garage is a typical accessory use to a single-family dwelling. The construction of a new detached garage 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.*

Front Yard Setback Variance Request: The property owners are proposing to continue to use the property for a single family home with a detached accessory structure. The existing home is located closer to the front property line along Interlachen Lane than would be allowed if constructed today under the current ordinance requirements. Locating the garage 28 feet from the front property line does not meet the ordinance requirements, however does provide a greater setback over current conditions and creates synergy with the location of the existing home.

Furthermore, having at least two off-street parking spaces on the property is a requirement of the City Code and will be met with the proposed detached garage structure. Having a detached garage is a reasonable use of the property in the single-family residential zoning district. **Criteria met.**

Side Yard Setback Variance Request: The property owners are proposing to continue to use the property for a single family home with a detached accessory structure. Locating the detached garage 6 feet from the side property line does not meet the ordinance requirements, however does provide a greater setback over current conditions. Additionally, as mentioned above, having at least two off-street parking spaces on the property is a requirement of the City Code and will be met with the proposed detached garage structure. Having a detached garage is a reasonable use of the property in the single-family residential zoning district. **Criteria met.**

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

Front and Side Yard Setback Variance Request: The existing property is a large parcel that is fairly flat and fairly void of significant trees. The property does have a slight grade variation with higher elevations toward the north (Interlachen Lane side) and lower elevations further to the south, mainly to the southwest (about 4-feet). Additionally, there is a large significant tree (Elm 22 on the survey provided by the Applicant) located to the south of the proposed garage in the location of the proposed garage that would have to be removed if the 50 foot front yard setback was required.

While it has always been past policy of the City to preserve and maintain existing mature trees wherever feasible, in this instance, there does not appear to be unique circumstances in regards to a significant topographical challenge, nor a significant number of mature trees that would need to be removed, if the setbacks were met. It appears reasonable for the Applicant to construct a new detached garage and meet the City Code requirements as it relates to front and side yard lot line setbacks, and it does not appear that there are unique circumstances that exist. **Criteria not met.**

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

Front and Side Yard Setback Requests. The homes immediately adjacent to the Applicant's property are set back a distance from the front property line and appear to meet, or are close to meeting, the required 50 foot front yard setback (based on a review of Hennepin County aerial photography data). While the existing home on the property is located significantly closer to the front property line, Staff believes the enlargement both in terms of overall size and height of the existing detached accessory structure in the front yard will have an impact over existing conditions.

It is noted that across the street, riparian lots are allowed to construct detached garages 8 feet from the rear yard (street side) property line, however those lots also must adhere to many additional requirements pertaining to the shoreline than the Applicant's property. While the character of the locality is quaint with somewhat narrow and meandering streets with tightly spaced homes and unusual building placement on unique lots, Staff feels construction of a new detached garage in closer proximity to the front yard lot line, and within the required front yard, would maintain the essential character of the locality. **Criteria met.**

**B. City Tests:**

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

Both Variance Requests: No. The existing detached accessory structure is located in a close proximity to both the front and side yard lot lines. The proposed detached garage will be set back further from the lot lines, and should not impair an adequate supply of light and air from reaching adjacent property. While the proposed garage is taller in height than City Code allowance by 2.5', the nearest adjacent home to the east is set back from the front and side property lines a distance that allows for adequate light and air on the property. Granting the variance would not impair an adequate supply of light and air from reaching adjacent properties, but would impact the visual impact by having a larger and taller detached accessory structure as proposed. **Criteria met.**

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

Both 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. An detached garage is a permitted accessory use to a single-family home. **Criteria met.**

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

Both Variance Requests: No. The use of the property for a single family dwelling with a detached garage structure 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?*

Both Variance Requests: The proposed construction of the new detached garage 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.**

**Conditional Use  
Permit (CUP)  
Requests:**

The requested conditional use permit with this application is:

1. **A conditional use permit to allow the detached garage to be 2.5' above the maximum height allowance of 15' for a total height of 17.5'.**

According to code, the City Council shall consider possible adverse effects of the proposed conditional use based upon (but not limited to) the following factors:

1. *The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the Comprehensive Plan.*

The Comprehensive Plan guides this area for low density single family residential development. A detached garage is a very common accessory use associated with a single-family dwelling. Approving the request will not change the current use of the property as a single family home. The existing home is approximately 25 feet in height as provided by the Applicant in a letter dated April 29, 2014 from Sathre-Bergquist, Inc. The proposed detached garage will provide off-street parking for two (2) cars, which meets the City Code. While the garage is taller than 15 feet as allowed, having a garage 17.5 feet in height is

not an unreasonable height of a detached garage. Furthermore, the existing home has a relatively steep roof pitch and the proposed garage will match in architectural style and design very closely. Staff believes the proposed project will be an improvement to the property. **Provided Council finds the other CUP criteria are met, staff finds the request is consistent with the goals and policies of the Comprehensive Plan.**

2. *The proposed site is or will be compatible with present and future land uses of the area.*

The existing and future land use for the property is for single family residential. The proposed detached garage is consistent with the land use and is common among other homes in the neighborhood. **Criteria met.**

3. *The proposed use conforms to all performance standards contained herein.*

Staff has reviewed the proposed plans and finds that all performance standards are met. **Criteria met.**

4. *The impact on character of the surrounding area.*

The proposed conditional uses will not have any negative impact on the character of the surrounding area. The home currently exists with a detached accessory structure, and replacing the structure with a larger detached garage will not greatly impact the overall character or visual impression of the home and the surrounding area. Staff does find that the structure should be located to meet the front and side yard lot line setbacks as to not have a visual and spatial impact on the adjacent neighbor. **Criteria met.**

5. *The demonstrated need for such use*

The property owners wish to construct a larger detached accessory structure (detached garage) to provide adequate off-street parking and storage on their property, which is not uncommon or unreasonable. Given that the improvement is a permitted use and the roof pitch and architectural design will be similar to that of the existing home, staff finds the request reasonable. **Criteria met**

6. *The proposed use will not tend to or actually depreciate the area in which it is proposed.*

The proposed improvements will not have any negative impact to adjacent property values and will enhance the appearance of the subject property, which will also likely have a positive impact in the surrounding area. **Criteria met.**

7. *The proposed use can be accommodated with existing public services and will not overburden the City's service capacity.*

The proposed project will not have any impact on public utilities. **Criteria met.**

**Engineering Reports:**

As noted previously, the existing property has an existing hardcover of 9.0%. The Applicants are proposing a hardcover of 12.8% with the construction of the new detached garage, which will not exceed the 25% maximum impervious surface coverage.

The location of the proposed detached garage (both as the Applicant has proposed and if the Applicant were to adhere to the Ordinance setback requirements) in an area that is relatively flat in topography and minimal site work would be necessary. The City Engineer has reviewed and administratively approved the proposed plans, and will review the building permit prior to construction of the detached garage.

**Resident Concerns:**

- Staff is not aware of any concerns raised to date.

**Conclusion**

**Council Options:**

The City Council has the following options:

- A) DIRECT STAFF TO PREPARE A RESOLUTION APPROVING ALL OF THE REQUESTS (based on the applicant’s submittals and findings of fact).
- B) DIRECT STAFF TO PREPARE A RESOLUTION APPROVING SOME OF THE REQUESTS, BUT DENYING SOME OF THE REQUESTS (based on the applicant’s submittals and findings of fact).
- C) DIRECT STAFF TO PREPARE A RESOLUTION DENYING ALL OF THE REQUESTS (based on the applicant’s submittal and findings of fact).
- D) TABLE THE ITEMS and request additional information.

The 60-day review period for this application expires on 7-4-14. An extension letter may be sent to the applicant and the home owners. A final decision MUST be made prior to 9-2-14.

**Recommendation:**

Staff recommends denial of the requested variances based on the findings detailed in the report and as outlined in the template denial motion below. Staff also recommends approval of the requested conditional use permit based on the findings detailed in the report and as outlined in the template approval motion below.

**Template Denial Motion of Requested Variances: (Recommended)**

“I move that we direct staff to prepare a resolution of denial for the requested variances from the front and side yard lot line setbacks to allow for the new construction of a detached garage on the property located at 35 Interlachen Lane based on the following findings of fact:”

- The requested variances are not consistent with all of the standards for granting a variance as described in Minn. Stat. 462.357, Subd. 6 and Tonka Bay City Code Section 1004, Subd. 3.
- Topographic and site conditions do not prevent the property owners

from constructing a detached garage structure in a location that would meet the provisions of the zoning ordinance.

- Conditions upon which the application for the variances are sought are not unique to the parcel of land as other properties in the City of Tonka Bay and in the immediate neighborhood have similar need for detached garage structures, but have found ways to comply with the zoning ordinance regulations.
- The proposed variance is not in keeping with the spirit and intent of the Ordinance as it states in Section 1011.01, Subd. 1 that “it is the intent of this Section that all non conformities shall be eventually brought into conformity”.
- Minnesota Statute 462.357, Subd. 1e allows for the continued use of the nonconforming structure through “repair, replacement, restoration, maintenance or improvement, but not including expansion”.
- Opportunities exist for the Applicant to construct a detached garage structure to meet the requirements of the City Zoning Ordinance and State Statute without the need for a variance.

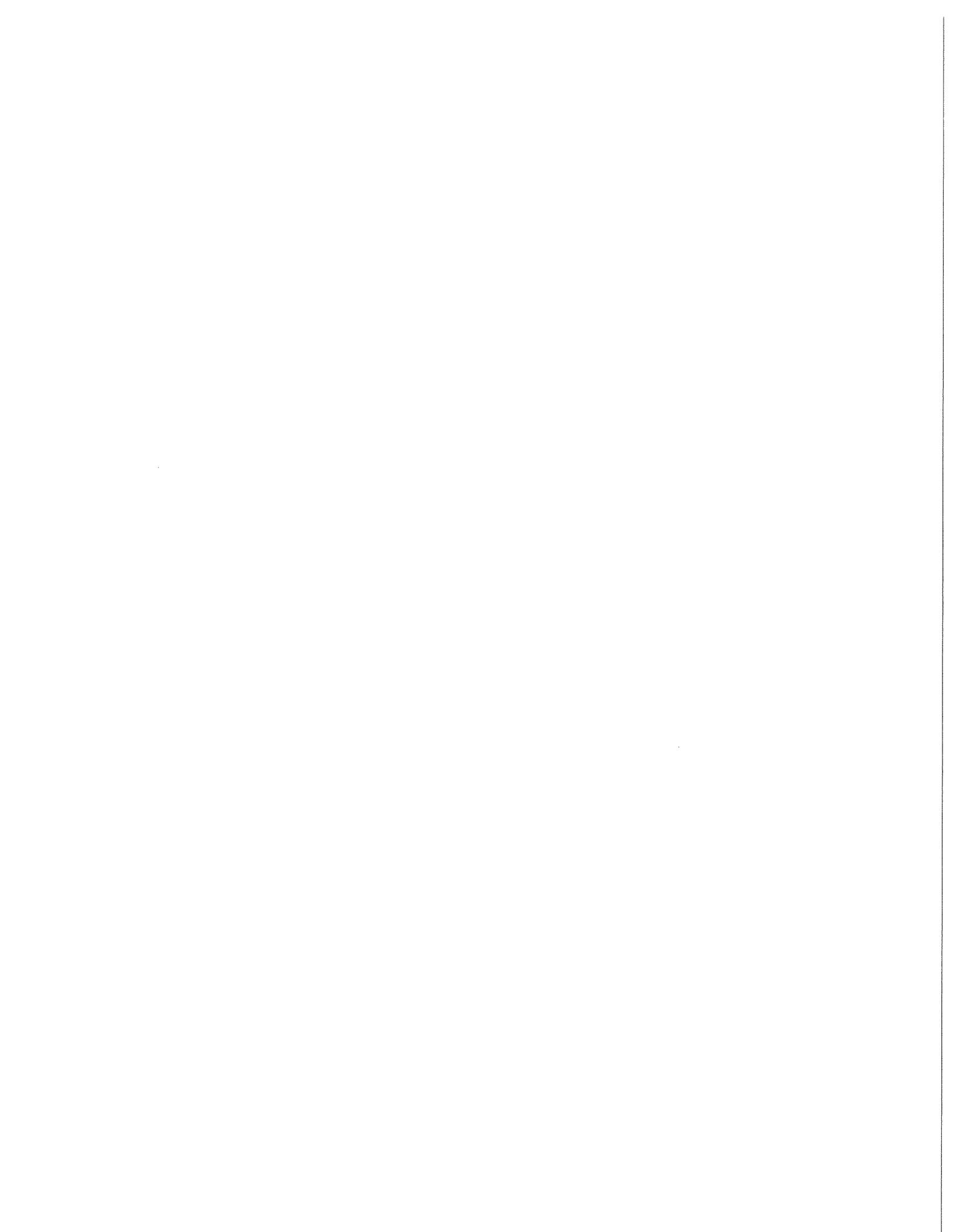
***Template Approval  
Motion of Requested  
Conditional Use  
Permit Request:  
(Recommended)***

“I move that we direct staff to prepare a resolution of approval for the requested conditional use permit to allow for the new construction of a detached garage on the property located at 35 Interlachen Lane that will exceed the maximum allowable height for an accessory structure 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”.

- a. The proposed use as a single-family home will not change with the addition of a detached garage structure and is consistent with the City’s comprehensive plan.
- b. The proposed detached garage is a permitted accessory use associated with a single-family dwelling and is compatible with present and future land uses of the area.
- c. Granting the requested conditional use permit will not impair an adequate supply of light and air to adjacent parcels.
- d. Granting the conditional use permit 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.
- e. Granting the conditional use permit will not increase the danger of fire or endanger the public safety.
- f. Granting the conditional use permit will not diminish or impair established property values in the neighborhood.
- g. Granting the conditional use permit will not alter the essential character of the locality.
- h. The continued use of the property as a single-family home with the addition of a detached garage 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.

***Recommended  
Conditions:***

- i. The conditional use permit requests are in harmony with the general intent of the ordinance.
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. Building of structures shall not occur within any existing or proposed easements on the property.
  3. 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.
  4. The conditional use permit shall expire one year from the date of the resolution. City Council approval will be required for any subsequent extension.



CITY OF TONKA BAY  
VARIANCE APPLICATION

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

RECEIVED

MAY 05 2014

Application fee: \$150.00

CITY OF TONKA BAY

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 May 5, 2014

NAME OF PROPERTY OWNER(S) Terry & Sue Brennan

MAILING ADDRESS 35 Interlachen Lane Tonkabay MN 55331  
Street Address City State Zip

PHONE 952-474-9176

SITE ADDRESS (or legal description) \_\_\_\_\_

PID NUMBER \_\_\_\_\_

NAME OF APPLICANT(S) (if different from above) \_\_\_\_\_

MAILING ADDRESS Same  
Street Address City State Zip

PHONE \_\_\_\_\_

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

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

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 GENERAL PROVISIONS AND STANDARDS**

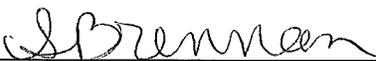
Subd. 3. Review Criteria. In considering all requests for a variance and in taking

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

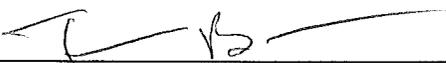
- a. Impair an adequate supply of light and air to adjacent property.
- b. Unreasonably increase the congestion in the public street.
- c. Increase the danger of fire or endanger the public safety.
- d. Unreasonably diminish or impair established property values within the neighborhood, or in any way 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.

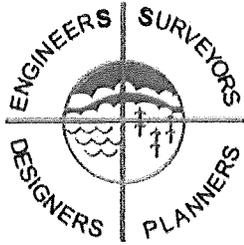
  
 \_\_\_\_\_  
 Signature of Applicant

  
 \_\_\_\_\_  
 Signature of Property Owner

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

  
 \_\_\_\_\_  
 Signature of Property Owner

This Section Completed by Staff			
FEE	FOR	DATE PAID	STAFF INITIALS
\$150.00	Application Fee	10/13	CB
\$1,150.00	Escrow Fee*	10/13	11



# SATHRE-BERGQUIST, INC.

150 SOUTH BROADWAY, WAYZATA, MINNESOTA, 55391

TEL:(952)476-6000 FAX:(952)476-0104 WEB:WWW.SATHRE.COM

April 29, 2014

Mr. and Mrs. Brennan  
35 Interlachen Lane  
Tonka Bay, MN 55331

RECEIVED

MAY 01 2014

CITY OF TONKA BAY

Per our conversation of Monday, April 28, 2014.

We estimate the existing structure to be about 25 feet high above grade. (house)

The new garage structure is to be built at the existing grade. The existing drainage pattern should not change.

As surveyors we typically do not measure each floor to determine the floor ratio of an existing home. We do however measure the foundation of the structure. In this case the structure area is 1,023 sq. ft. If we presume that each floor is the same area (even though the 2<sup>nd</sup> floor and basement are smaller) we would end up with a total of 3,069 sq. ft. Using this area we can calculate the floor ratio for this lot to be 15.76%.

Please contact me if you have any questions.

Regards,

David Pemberton, P.L.S. #40344