CITY OF TONKA BAY
VARIANCE APPLICATION
Phone: (952) 474-7994 Fax: (952) 474-6538
www.cityoftonkabay.net

RECEIVED
OCT 24 2012

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 10/26/12

NAME OF PROPERTY OWNER(S) Chris P. Schmidt | Alison A. Schmidt

MAILING ADDRESS 5560 MANITOU RD [redacted] SHOREWOOD, MN 55331
Street Address City State Zip

PHONE 612.859.9000

SITE ADDRESS (or legal description) 45 West Point Ave Tonka Bay MN 55331

PID NUMBER 22-117-23-32-0016

NAME OF APPLICANT(S) (if different from above) _____

MAILING ADDRESS _____
Street Address City State Zip

PHONE (952) 401-1159

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

CS **A. All property owners must sign as co-applicants.**

CS **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.**

CS **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 Overly 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	10/24/12	CB
$1,150.00	Escrow Fee*	"	CB

Variance Request Narrative

45 West Point Ave

Tonka Bay, MN 55331

Date: October 15, 2012

Property Owners: Chris P Schmidt & Alison A Schmidt

Reason for Rebuild:

Our family size has grown from three people to six people over the last twelve years of living in the existing home at 45 West Point Ave Tonka Bay, MN 55331. The current three bedroom home we are living in does not allow for enough space for our growing family. We really love the location of our existing home and after years of looking elsewhere for a suitable home have determined that where we live now is where we want to be for years to come.

The existing structure is deteriorating rapidly. One part of the existing home was built in the 20's and has almost 90 year old stucco hidden behind our existing siding in this area. In addition, we have found that there is no insulation on that side of the home. Wood siding is falling off the structure year after year due to improper construction. Our current heating bills are about three times what they should be due to improper insulation.

Water problems have plagued us for years due to poor construction previous to our purchase of the home. Mold was found throughout the home and our insurance company has determined that these were pre-existing conditions and will not cover any removal or repairs to address the problem.

We have a child with asthma and he is suffering due to the air quality issues that are caused by the above referenced problems.

Our due diligence has led us to determine that due to the above major issues it is cost prohibitive to try to address all the issues without re-building the home.

City Criteria:

1.) Variance Request is reasonable. We propose to continue to use the property as a single family home. This proposal reduces the crowding of structures and impervious surfaces which will reduce the impact on the lake.

2.) The application presents unique circumstances: The property exists with given hardships that we have no ability to change in regards to non-conforming lot size and low elevation.

3.) See #4 below.

City Tests:

1.) Our application will not impair an adequate supply of air and light to adjacent properties as it is below the maximum building height by nearly 5 feet.

2.) Our application will actually reduce the congestion in the public street leading to our home. Our existing paved parking flows directly into the street whereas our proposal will separate the public street by a green space and will promote parking in the courtyard of our property.

3.) Our application will not increase the danger of fire or public safety.

4.) This application will enhance and not reduce the essential character of the locality by replacing non-conforming structures of significant age and condition with more conforming structure with natural materials that complement the fabric of the neighborhood.

Additional Narrative:

1.) Existing grade is such that the lowest floor must be above the existing grade which prevents a lower level.

2.) The impact of very low existing grade causes all living space to be located above the main level.

3.) Our proposal will remove significantly non-conforming detached structures that encroach on our neighbor's property and replace them with an attached structure that improves or reduces every non-conforming aspect.

4.) Our proposal significantly reduces hardcover presence along West Point Avenue providing for more plantings and landscaping.

5.) Our proposal reduces encroachment on both sides from existing structures.

6.) Our proposal reduces structural encroachment on lake setback.

7.) Our proposal conforms to building height requirements.

8.) Our proposal reduces hardcover by 2%.

October 24th, 2012
Shoreland Impact Narrative
45 West Point Avenue
Tonka Bay, Minnesota 55331

The proposed site improvements at 45 West Point Avenue in Tonka Bay include the deconstruction and removal of the existing structures and impervious areas and propose the construction of a new single family home with attached garage, driveway and terrace. In doing so, several aspects of the site needed to be designed or analyzed to verify conformance to City requirements. Great care was taken to consider all existing site conditions and impact on the shoreland area. The following summary of the basis of design for the impervious surface coverage and storm water management along with the attached existing and proposed site plans and Architectural drawings will demonstrate the reduced impact and improvement on the shoreland area.

The property is located on Lake Minnetonka and falls within the shoreland zoning district. The shoreland ordinance states that, where appropriate and where practices are in place for the treatment of storm water, impervious surface coverage of between thirty-six (36) percent to forty-five (45) percent may be allowed. Our proposal of 43.4% impervious area falls within this criteria. With the design of the new residence this proposal reduces the existing impervious area by 2.4%. This credit in pervious area allows additional natural drainage and management of storm water on the site that was already adequately mitigated due to existing site conditions. Please refer to the proposed site plan for existing and proposed hardcover calculations and site conditions.

The storm water management will utilize the existing and proposed site conditions and will promote drainage to both the lake and the street via swales located on both the north and south side yards as well as the natural drainage of the interior yard. The goal was to prevent drainage onto the adjacent properties while still utilizing the existing drainage ways and vegetated soil surfaces to convey, store, filter, and retain storm water runoff before discharging into Lake Minnetonka and the city's water management systems. The relatively flat nature of the lot and the proposed residence being 0.7' lower than existing residence further manage storm water rate and flow by allowing adequate time for absorption and filtration. Please refer to the proposed site plan for water flow diagrams and proposed grading to help illustrate this. In addition to the above, by reducing the amount of impervious area on the site by 2.4% we have increased the amount of pervious area to further aid in managing and storing storm water.

The affect the proposed residence has on the property has little to no impact on the existing landscape and natural surroundings. In fact the proposal actually increases the amount of natural landscape by reducing the impervious area and provides more green space. In addition to this increase the landscape plan has additional trees shrubs and other vegetation proposed to tie in with the overall aesthetic as viewed from both the street and the lake. Drainage from the roof will be directed into these planting areas to add additional support to manage storm water rate and filtration. To further protect the existing site conditions, all existing significant trees will be protected and silt fence will be installed at the entire perimeter of the lot. This will manage storm water and maintain the site during construction

The Schmidt's have invested months designing, engineering, and carefully planning out the improvement of this property. The applicant has worked with the city's planning department diligently and on multiple occasions in a sincere effort to comply with its ordinances and codes. As a result of those meetings and discussions, this shoreland impact plan addresses all of the criteria outlined in section 1070.16 of the city code and supports the overall objective of the Shoreland district.

Thank you for your consideration.

Sincerely,
Peter Eskuche, AIA
Project Architect

ESKUCHE ASSOCIATES
Adam Burrington, Project Manager
18318 Minnetonka Boulevard
Deephaven, MN 55391
O: 952.544.3844 M: 612.799.8005
www.eskuche.com

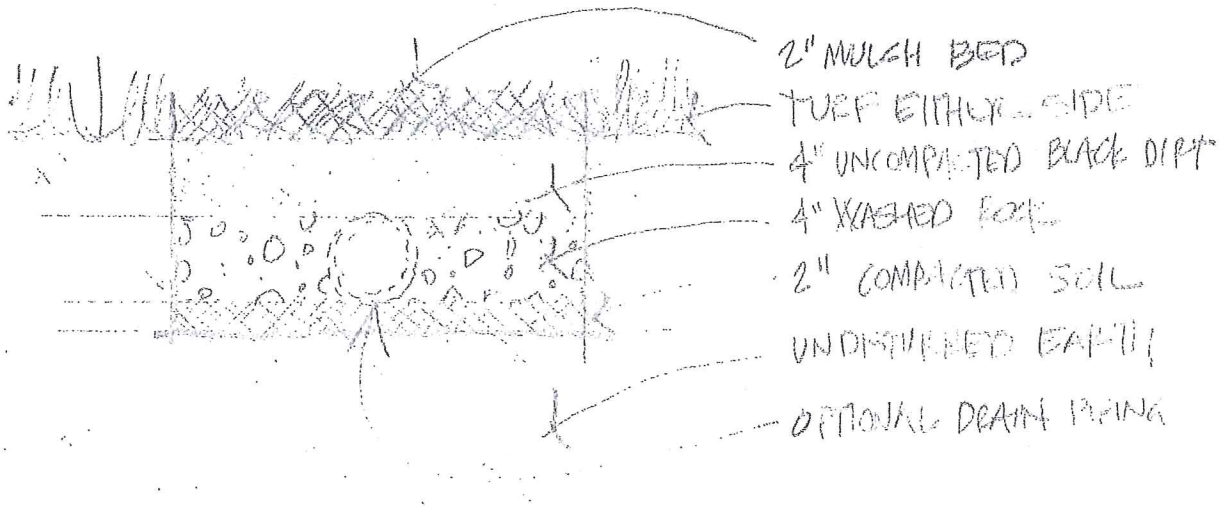
October 26th, 2012
Shoreland Impact Plan
45 West Point Avenue
Tonka Bay, Minnesota 55331

This proposal for a replacement home with attached garage is located on Lake Minnetonka and falls within the shoreland zoning district. The shoreland ordinance states that, where appropriate and where practices are in place for the treatment of storm water, impervious surface coverage of between thirty-six (36) percent to forty-five (45) percent may be allowed. This proposal of 43.4% impervious area falls within this criteria. This proposal reduces the existing impervious area of 45.8% by 2.4%. This reduction allows additional natural drainage and management of storm water on the site. Please refer to the proposed site plan for existing and proposed hardcover calculations and site conditions. Great care has been taken to improve upon the existing site conditions and impact on the shoreland area. The following summary describes the plan proposed to reduce shoreland impact as illustrated by the attached Landscape/Site plan and drawing below.

The property has minimal topographic pitch. This provides for a greatly reduced impact on the lake, allowing more time for absorption and filtration. The proposed home is .7' lower than the existing, decreasing the slope of the yard which further improves the absorption.

The proposed residence has less impervious surface and therefore, less impact than exists today. Today, there are multiple structures and large expanses of uninterrupted paved areas causing concentrated drainage flow. The proposed impervious surfaces are distributed to allow more space for drainage, not just decreased area.

To address storm water, care was taken to design special mulch planting beds. These beds will treat and contain storm water. They provide far more than just an attractive buffer in which shrubs and native plantings can reside. They have a unique soil/granular stratification that both helps with plant survival, but also has water holding capacity for severe rain events. A sample illustration of this mulch bed is shown below:



Due to the flatness of the site, there is little need for erosion control measures even for large scale rain events. The positioning and size of the mulch beds further reduces that need. During construction, siltation fencing will be positioned at the perimeter of the construction area which will manage storm water and maintain the site during construction.

There are only three trees on the site that will be impacted by construction of the proposed residence. Two of them are within the building envelope. They are located near the center of the property making this nearly unavoidable. This proposal provides for three Maple trees to replace these. Two of the three replacement trees will line the roadway. This will provide long term shade, color and beauty to the roadway which has a significant concentration of impervious surface and building structures. In addition, there is a dying Birch tree on the lake facing side of the yard. This will be also be replaced with a native species Maple. To protect the existing site conditions, the remaining tree, which is not within the construction area will be protected from construction with orange protection fencing.

The proposed exterior materials on the house are natural. There is a combination of Stone, Natural stained cedar siding and warm, medium grey and brown accent colors. This will be in harmony with the mulch and plantings as well as the turf yard and compliment the shoreland view.

The Schmidt's have invested months designing, engineering, and carefully planning out the improvement of this property. Great care has been illustrated to mitigate shoreland runoff. The applicant has worked with the city's planning department diligently and on multiple occasions in a sincere effort to comply with its ordinances and codes. As a result of those meetings and discussions, this shoreland impact plan addresses all of the criteria outlined in section 1070.16 of the city code and supports the overall objective of the Shoreland district.

Thank you for your consideration.

Sincerely,
Peter Eskuche, AIA
Project Architect

Adam Burrington, Project Manager
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