



CITY OF TONKA BAY MEMORANDUM

To: City Council Members
Lindy Crawford, City Administrator

From: Erin Perdu, AICP, City Planner
Justin Messner, City Engineer

Date: March 22, 2016
City Council Regular Meeting for April 12, 2016

WSB Project No. 01987-600

Request: Request for approval of a conditional use permit for a metal-sided accessory structure and a reduction in the required side setback for a wood frame metal shed located along the northern edge property at 81 Wildhurst Road, PID: 28.117.23.24.0023.

RECOMMENDATION

Staff 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.

GENERAL INFORMATION

Applicant: Travis Van Neste

Owners: Travis and Wendy Van Neste

Location: 81 Wildhurst Road

Existing Land Use / Multifamily; Zoned R2-A Two Family/Townhouse District with a Shoreland Overlay

Zoning:

Surrounding Land Use / Zoning: North: Single-Family Residential; zoned R1–A Single Family, Shoreland Overlay
East: Open Space; zoned P Park District, Shoreland Overlay
South: Single-Family Residential; zoned R1–A Single Family with Shoreland Overlay, Multifamily; Zoned R2-A Two Family/Townhouse with Shoreland Overlay
West: Single-Family Residential; zoned R1–A Single Family, Shoreland Overlay

Comprehensive Plan: The Tonka Bay 2009-2030 Comprehensive Plan guides this property for Multifamily Residential land use with a density between 2.9 and 14.0 dwelling units per acre.

Deadline for Agency Action:

Application Date:	03-03-16
60 Days:	05-02-16
Extension Letter Mailed:	N/A
120 Days:	07-01-16

CONSIDERATIONS RELATING TO THE REQUEST

1. **Overview.** The Applicant is seeking a conditional use permit to allow a metal-sided shed structure and a conditional use permit to allow an accessory structure within the required side setback constructed along the northern edge of his property at 81 Wildhurst Road.

Applicant states that the structure was formerly covered by tarps until the summer of 2015 when the Applicant replaced the tarps with metal siding. The required side yard setback for an accessory use in the R-2A zoning district is 8 feet; currently, the Applicant's shed structure is located 1.4 feet from the northern lot line, or 6.6 feet short of the requirement.

2. **Information Required.** The Applicant has submitted a complete conditional use permit application as outlined in Section 1003.01, Subd.1 and has complied with all requests for additional information.

3. **Ordinance Authority.**

Section 1003, Administration—Amendments and Conditional Use Permits, Section 1, Subd. 8 outlines the general criteria for consideration and judgment of a conditional use permit.

Section 1011, General Development and Performance Standards, Section 3, Subd. 5f (“Yards”) requires that a yard setback on a lot may be reduced by a conditional use permit following review.

Section 1011, General Development and Performance Standards, Section 4, Subd. 3 (“Building Materials”) includes the criteria for allowing metal-sided accessory structures through a conditional use permit.

4. **Conformance with Conditional Use requirements**

A. General conditional use criteria (1003.1.8) The City Council shall consider possible adverse effects of the proposed amendment or conditional use. Its judgement shall be based upon (but not limited to) the following factors:

- a. ***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 Tonka Bay 2009-2030 Comprehensive Plan guides this property for Multifamily Residential land use. The requested accessory structure does not change the overall land use for this property.

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

An accessory shed structure is a compatible use within a Residential zoned district.

- c. ***The proposed use conforms with all performance standards contained herein.***

The proposed metal-sided shed complies with all general performance standards of Section 1011.02. The shed structure requires a conditional use permit for a reduction in side yard setback as well as for building material as a metal-sided shed; both are discussed in later sections of this report.

- d. ***The impact on character of the surrounding area.***

While the proposed metal-sided shed structure does not appear to be a common use in the immediate neighborhood, the essential nature of a structure functionally intended for boat and equipment storage does not appear to be out of character with the surrounding area.

e. *The demonstrated need for such use.*

The Applicant reports that a storage structure has already been present on the property for four years, existing to store boats and keep other equipment out of the elements.

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

Staff does not anticipate any negative effects on property values in the neighborhood resulting from this accessory use structure. The placement of the shed structure is sufficiently far from existing buildings on the Applicant's property and adjacent properties, and sufficiently removed from immediate sightlines. Those most likely to view the shed are the residents living on the adjacent property to the north of 81 Wildhurst Lane. Applicant states that he has received the support of the neighboring property owner to the north, which is reflected in the proposed maintenance easement shown on the survey provided.

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

The shed structure does not require maintenance or services from the City.

A review of the conditions set forth in City Ordinance Section 1003.01.8 indicates that the proposed use of an accessory metal-sided shed structure at 81 Wildhurst Road meets the criteria required for consideration of a conditional use permit.

B. *Yard setback conditional use criteria (1011.3.5f)* A required yard on a lot may be reduced by a conditional use permit if the following conditions are met:

a. *The reduction of setback requirements is based upon a specific need or circumstance which is unique to the property in question and which, if approved, will not set a precedent which is contrary to the intent of this Ordinance.*

The placement of a shed structure on the Applicant's property is constrained by the topography of the property as well as the required wetland setback due to a pond at the eastern boundary. The existing driveway on the property provides direct access to the shed in its current location. The current shed site, despite not meeting the setback requirements from the northern lot line, is reasonable considering property characteristics.

The Applicant reports that he has agreement from the property owner to the north regarding the shed structure's existence, factoring in a 7' building maintenance easement to the north of the shed structure extending across the north lot line of 81 Wildhurst Road.

b. *Property line drainage and utility easements as required by the City's Subdivision Ordinance are provided and no building will occur upon this reserved space.*

Not applicable for this conditional use application.

c. *The reduction will work toward the preservation of trees or unique physical features of the lot or area.*

Allowing the existence of the proposed metal-sided shed structure will not eliminate any trees or unique features from the property.

d. If affecting a north lot line, the reduction will not restrict sun access from the abutting lots

The proposed shed structure, located along the northern lot line of the property, stands 13.6 feet in height, and is sited at a considerable distance from the existing home structure on the abutting property to the north. The proposed shed will not restrict sun access from the adjacent property to the north any more than the existing surrounding trees already do.

e. The reduction will not obstruct traffic visibility, or cause a public safety problem.

The proposed shed structure will not restrict traffic visibility or cause a public safety problem.

f. The conditions of Section 1003.01.8 of this Ordinance are considered and satisfactorily met.

As indicated in an earlier section, the conditions of 1003.01.8 have been satisfactorily met.

A review of the conditions set forth in City Ordinance Section 1011.3.5f indicates that the criteria for granting a conditional use permit for a yard setback reduction are sufficiently met.

C. Building materials for an accessory structure (1011.4.3) The same or similar quality exterior material shall be used in the accessory building and in the principal building, except pole barn structures and metal sided accessory buildings may be allowed through conditional use permit in residential districts as provided for in Section 1003 and Section 1011.04.5 of this Ordinance subject to the following:

a. The exterior appearance of the accessory building is not at variance with the principal building from an aesthetic and architectural standpoint as to cause a difference to a degree to cause incongruity.

Review of the Applicant's materials and publicly available imagery shows that the metal-sided shed structure does not match the color of either building on the property, which could be a consideration in the allowance of a conditional use permit. The difference in coloration is not to a degree that causes incongruity and is justifiable considering the efforts to blend the shed structure in to its surrounding environment.

b. A depreciation of neighborhood values or adjacent property values will not occur.

Property values in the neighborhood are not expected to be affected by this accessory use structure. The placement of the shed structure is such that it is far from existing buildings on the Applicant's property and adjacent properties. The Applicant has made an effort to keep visibility of the shed to a minimum and to improve the aesthetic character of the structure.

c. A nuisance such as unsightly building exterior does not result.

The Applicant has stated that he improved what was formerly a "tarp tent" structure into a more permanent metal-sided shed in 2015, a "visual improvement" for the look of the structure. The Applicant selected the color brown for the metal siding, which represents an effort to blend the shed structure into its surroundings.

d. The provisions of Section 1003.01.8 of this Ordinance shall be considered.

As indicated in an earlier section, the conditions of 1003.01.8 have been satisfactorily met.

A review of the conditions set forth in City Ordinance Section 1011.4.3 indicates that the criteria for granting a conditional use permit are met, insofar as the proposed metal-sided shed structure is an improvement over the formerly existing structure and that the Applicant has made significant effort to create a structure that is both not unsightly and sufficiently removed from immediate view.

5. Resident concerns: None reported to date.

6. Engineering Considerations: None given

POTENTIAL ACTION

- 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 ITEM and request additional information.

The 120-day review period for this application expires on 07-01-2016. If the Council fails to preliminarily approve or disapprove the conditional use application within the review period, the application is deemed preliminarily approved.

RECOMMENDATION

Staff 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 approval motion: "I move that we direct staff to prepare a resolution of approval for the requested conditional use permit to allow for a metal-sided accessory structure and a reduction in the required side setback for a wood frame metal shed located along the northern edge property at 81 Wildhurst Road 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 of the metal-sided shed accessory structure will not change and is consistent with the City's Comprehensive Plan.
- b. There is a demonstrated need for the proposed structure on the property.
- c. The proposed use conforms with all performance standards
- d. Granting the conditional use permit will not negatively impact the character of the surrounding area.
- e. The proposed use will not require additional public services and will not overburden the City's service capacity.
- f. The reduction of setback requirements is based upon a specific need or circumstance which is unique to the property in question.
- g. Granting the conditional use permit for a setback reduction will not cause the removal of any additional trees from the property.
- h. Granting the conditional use permit for a setback reduction does not restrict sun access from the abutting lots.
- i. Granting the conditional use permit for a setback reduction will not obstruct traffic visibility, or cause a public safety problem.
- j. The proposed use of the accessory shed structure does vary in coloration the principal building on the property, but the difference is justifiable and not to a degree to cause incongruity.

- k. The proposed use will not cause depreciation of neighborhood values or adjacent property values.
- l. Granting a conditional use permit for the proposed metal-sided shed structure will not cause a nuisance or an unsightly building exterior to result.

Recommended Conditions:

1. The Applicant shall obtain all necessary permits and approvals from the City of Tonka Bay and other applicable entities with jurisdiction prior to any construction. This includes, but shall not be limited to permits from the Minnehaha Creek Watershed District (MCWD) and the Lake Minnetonka Conservation District (LMCD).
2. Construction shall follow the survey and plans as submitted or as required to be updated by the City Engineer.
3. Building of structures shall not occur within any existing or proposed easements on the property.
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.
5. The applicant shall record the proposed maintenance easement (as shown on the approved plans) with Hennepin County within 60 days of approval of the Conditional Use Permit.