

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

RECEIVED

MAR 03 2016

CITY OF TONKA BAY

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 3-3-2016

SITE ADDRESS (or legal description) 81 WILDMIST ROAD
PID NUMBER 28-117-23-24-0023

NAME OF PROPERTY OWNER(S) TRAVIS AND WENDY VAN NESTLE

MAILING ADDRESS 85 WILDMIST RD EXCELOR MN 55331
Street Address City State Zip

PHONE 952-686-3055 E-mail address TRAVIS@VANNESTLESURVEYING.COM

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

MAILING ADDRESS _____
Street Address City State Zip

PHONE _____ E-mail address _____

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

- TV A. All property owners must sign as co-applicants.
- TV 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.
- TV 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

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with City Code, it shall be the responsibility of the applicant to ensure information provided on the survey corresponds to submitted building plans (including existing and proposed topography). An issued building permit shall only authorize those land alterations identified on the associated survey. Surveys shall include all information as deemed necessary by the City to provide for the enforcement of city code. See below for more details in the "Submit with Application" section, Item #1.

2. **Foundation Survey**

Applications for new structures shall require that an as-built foundation survey be submitted by a time specified by the City (general prior to completing a foundation inspection) unless waived in accordance with the City's survey exemption policy. The as-built foundation survey shall certify both the final setbacks of the structure being built, and the elevations at which the new structure exists. Failure to provide the foundation survey is in direct violation of this ordinance and expenditures incurred beyond the construction of the foundation will not be considered in determining the actions required to bring the building back into conformance if not built to approved plans.

3. **As-Built Survey**

Applications for new structures shall require that an as-built survey be submitted upon completion of work unless waived in accordance with the City's survey exemption policy. The as-built survey shall certify the final topography of the site, verify the drainage patterns existing upon completion of work, and the distance from average ground level to the highest roof peak. Any additional information needed by the city to ensure compliance with code can also be required. The city reserves the right to withhold the certificate of occupancy for dwelling units until final grading addresses all problems that may be detrimental to adjacent properties.

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D. The applicant or representative thereof shall appear before the City Council to answer questions concerning the proposed conditional use permit. See attached public hearing information sheet.

Submit with Application:

1. Eleven (11) to scale copies and Eleven (11) reduced (8-1/2" x 11" or 11" x 17") copies of a certified survey of the property. The survey shall include all information necessary to enforce applicable zoning regulations. Such information may include but is not limited to:
 - Location and Floor Area of existing and proposed structures
 - Lot Lines
 - Parcel size in acres and square feet
 - Building setbacks (closest point of building to each property line)
 - Low floor elevations of existing and proposed structures
 - Water features (lakeshore, wetlands, etc.)
 - Existing and proposed topography – including ground elevations at corners of existing and proposed structures.
 - General location of vegetation
 - Location of structures on adjacent lots
 - Easements
 - Existing and proposed impervious surface calculations.
 - Location of public and private sewer lines or wells.
2. Hardcover calculation – current and proposed
3. Floor area ratio – current and proposed
4. Shoreland impact plan (see following page)

5. Landscape plan and grading and drainage plan (current and proposed)
6. Payment

Additional Information

1. The request shall be considered as being officially submitted and the application timeline commences when all the information requirements are in compliance.
2. The request for conditional use permits 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.
3. 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.
4. 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 conditional use permits so that the Commissioner will receive at least ten (10) days notice of the hearing.
5. A variance of the Ordinance shall be by four-fifths (4/5) vote of the entire City Council.
6. If approved, the conditional use permit 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.
7. Prior to approving an application for a conditional use permit, the City will 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.

1070.16 SHORELAND IMPACT PLAN/CONDITIONAL USE PERMIT

Subd. 1. Shoreland Impact Plan. Except for situations listed below, landowners or developers desiring to develop land or construct any dwelling or any other artificial obstruction on land located within the Shoreland District within the City of Tonka Bay shall first submit a conditional use permit application as regulated by Section 1003 of the Zoning Ordinance and a plan of development, hereinafter referred to as "Shoreland Impact Plan", which shall set forth proposed provisions for sediment control, water management, maintenance of landscaped features, and any additional matters intended to set forth proposed changes requested by the applicant and affirmatively disclose what, if any, change will be made in the natural conditions of the earth, including loss of change of earth ground cover, destruction of trees, grade courses and marshes. The plan shall minimize tree removal, ground cover change, loss of natural vegetation, and grade changes as much as possible, and shall affirmatively provide for the relocation or replanting of as many trees as possible which are proposed to be removed. The purpose of the Shoreland Impact Plan shall be to eliminate potential pollution, erosion and siltation.

Subd. 2. Feasibility. Where strict conformity with provisions of this section is not possible, the requirements specified herein may be exceeded subject to a conditional use permit and shoreland impact plan set forth in this section and with approval by the Minnehaha Creek Watershed District and the City Engineer where applicable.

Subd. 3. Conditions. All conditional use permits for consideration under this section shall be subject to the following conditions:

- a. The projects shall be analyzed to determine the impact of impervious surfaces, storm water runoff, floodplain, and water quality implications. Only those projects shall be allowed where the adverse impacts have been mitigated through approved means to the extent possible.
- b. Storm water treatment measures including, but not limited to, sediment basins (debris basins), de-silting basins or silt traps, installation of debris guards, and microsilt basins on storm water inlets, oil skimming devices, etc. shall be required subject to the review of the City Engineer and Minnehaha Creek Watershed District on projects where applicable.
- c. Projects shall be analyzed by the City in terms of provisions for maintenance and enhancement of landscape features, change in the natural condition of the soil, removal of trees, grade courses and marshes. The land shall also minimize tree removal, ground cover change, loss of natural vegetation, and grade changes as much as possible. It shall further provide for the relocation or replanting as many trees as possible which are proposed to be removed.
- d. Projects shall be analyzed by the City in terms of the appearance of the structure when viewed from the lake's surface. Building materials, and color shall be analyzed to determine which facade and roof materials minimize the appearance and blend the structure into the shoreland and vegetation.
- e. Lot coverage on a project basis shall be restricted to the provisions for maximum impervious surface coverage as provided for in this Ordinance.
- f. Residential densities on a project basis shall not be allowed to exceed the maximum allowed density of the base zoning districts for which the project was proposed.
- g. All projects shall be in conformance with the Shoreland Management Plan, Comprehensive Plan, and Zoning and Subdivision Ordinances of the City of Tonka Bay.
- h. All projects shall be subject to review by the Minnehaha Creek Watershed District and the City Engineer.

Tom W. V. [Signature]

Signature of Applicant

Tom W. V. [Signature]

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	3-3-2016	CS
\$1,150.00	Escrow Fee*	3-3-2016	CS

Receipt # 15512

**CITY OF TONKA BAY
HARDCOVER CALCULATION WORKSHEET
EXISTING AND PROPOSED HARDCOVER**

4901 Manitou Road
Tonka Bay MN 55331
Phone: 952-474-7994 Fax: 952-474-6538
www.cityoftonkabay.net

ADDRESS: 81/83/85 Wildhurst Road

A. HOUSE	<u> </u>	X	<u> </u>	=	<u>1084</u>	S.F.
	<u> </u>	X	<u> </u>	=	<u>1698</u>	S.F.
	<u> </u>	X	<u> </u>	=	<u> </u>	S.F.
	<u> </u>	X	<u> </u>	=	<u> </u>	S.F.
	<u> </u>	X	<u> </u>	=	<u> </u>	S.F.
B. GARAGE	<u> </u>	X	<u> </u>	=	<u>943</u>	S.F.
PARKING PAD	<u> </u>	X	<u> </u>	=	<u> </u>	S.F.
C. DRIVEWAY	<u> </u>	X	<u> </u>	=	<u>4646</u>	S.F.
	<u> </u>	X	<u> </u>	=	<u> </u>	S.F.
D. SIDEWALK	<u> </u>	X	<u> </u>	=	<u>162</u>	S.F.
	<u> </u>	X	<u> </u>	=	<u>547</u>	S.F.
E. PATIO/DECK	<u> </u>	X	<u> </u>	=	<u>384</u>	S.F.
	<u> </u>	X	<u> </u>	=	<u>103</u>	S.F.
F. OTHER	<u> </u>	X	<u>SHED</u>	=	<u>552</u>	S.F.
	<u> </u>	X	<u>PLAYHOUSE</u>	=	<u>48</u>	S.F.
TOTAL HARDCOVER					<u>10 167</u>	S.F.
(divided by) TOTAL LOT SIZE					<u>59 319</u>	S.F.
(equals) HARDCOVER PERCENTAGE					<u>17.1</u>	%

APPROVED: _____ DATE: _____

COMMENTS:

I am the owner and applicant for a sideyard setback variance on the above-noted property, which is in the R-2A zoning district. The property has 2 houses on it. 85 Wildhurst Road is my personal residence, which I live in with my wife, Wendy Van Neste. The house near the street is 81 / 83 Wildhurst Road, and is an upstairs / downstairs duplex.

In the summer of 2015 I improved a large tent made of tarps and 2 x 4 lumber that had been used on our property for 4 years as a boat storage structure. The improvements included sheathing it in metal roofing and attaching it to the ground with driven in place galvanized post footings. No other improvements were made. No trees were removed. No work was done within the required 75 foot wetland setback or on adjacent properties.

In the fall of 2015 I was issued a "stop work order", although the work was essentially completed at that time. The city has since demanded that I provide a survey of the property, make a variance application, and pay \$1300 in fees, which brings us to the current submittal.

The attached survey shows the improvements on the lot, including the structure in question. The neighbor to the North has agreed to grant me an easement for the maintenance of the building, as shown on the survey. While this may not meet the letter of the ordinance with regard to sideyard setback, I hope the City Council will agree that having an area around the building (which exceeds the sideyard setback) designated for maintenance by the owner of the building mitigates the situation somewhat. In addition, the neighbor has written a letter of support for the project. The survey also addresses the issue of a shared driveway with the neighbor. There is a proposed easement shown on the survey which would follow the existing driveway. I have agreed to provide this easement to protect the neighbor from any legal access issues in the future. I would ask that the city council take into account these mitigating factors in review of this variance application.

It is my desire to complete the variance process and have a legally constructed structure. The structure in question is closer than the required 8 foot sideyard setback, but meets all other requirements of the zoning code, section 1019.06, subd.5, and section 1019.07 including hardcover, wetland setback, height, and area. This is a permitted accessory use in the R-2A zoning district, under Section 1019.04, subd. 1 and 2. The zoning code sets forth specific review criteria and conditions for variances in section 1004.2, subd. 3 and subd.4. This narrative is my attempt to address these issues on a point by point basis. Subdivision numbers and letters are as they appear in the zoning code.

Subd. 3:

- a) The structure does not impair light or airflow to the adjacent property.
- b) The structure has no impact on any public street
- c) There is no increased risk of fire and the structure does not endanger the safety of the public

- d) The structure does not diminish established property values. In fact, I would argue it is much more visually appealing to the neighbors than storing boats and other equipment outside (which is allowed by ordinance). Several of the neighbors store boats outside in the winter, covered in tarps.
- e) To my knowledge, this structure is in no way contrary to anything outlined in the Comprehensive Plan.

Subd.4:

- a) The structure is in harmony with the general purposes and intent of the ordinance, which (paraphrasing from section 1001.01 and 1001.02) is to provide for the health, safety, and welfare of the public, to provide open spaces, conserve wetlands, and preserve property values.
- b) To my knowledge, the structure is in no way inconsistent with any proposed Comprehensive plan.
- c) The practical difficulties in meeting the zoning code are:
 - 1) I am proposing a simple unheated storage shed, which would be considered by most as using the property in a reasonable manner, especially since it is a building that would be allowed by the zoning code elsewhere on the property.
 - 2) The "plight of the owner" is because of circumstances specific to this property, and not created by the owner, namely:
 - i. There is a wetland on the property which has a 75 foot setback.
 - ii. The grading of the property, combined with the wetland setback does not allow for the construction of a reasonably sized building of this type anywhere else on the property.
 - 3) If granted, the variance will not alter the essential character of the locality. The building is brown in color, placed far back from the street and neighboring houses, and is a size/ height that is otherwise allowed within this zoning district. Also, it is a visual improvement and preferable (both to the owner and the neighbors) to storing boats and equipment outside under tarps. I would like to point out that the attached survey shows several other neighboring outbuildings which similarly violate the required sideyard setback, so I am not seeking anything out of the ordinary for this neighborhood / zoning district. As a way to mitigate the sideyard setback issues, I have secured a maintenance easement from the neighbor, as shown on the attached survey. This easement extends to the full width of the required setback.

d-f) Do not apply to this situation

g) This structure is an allowed use in the R-2A zoning district

h-i) Do not apply to this situation

j) The practical difficulties that will result if this variance are not granted is that there is no place within the lot for this otherwise allowed structure. This is because of the natural grade of the lot and wetland setbacks, which are specific to this lot.

k) If granted, this variance will not confer onto me any special privilege.

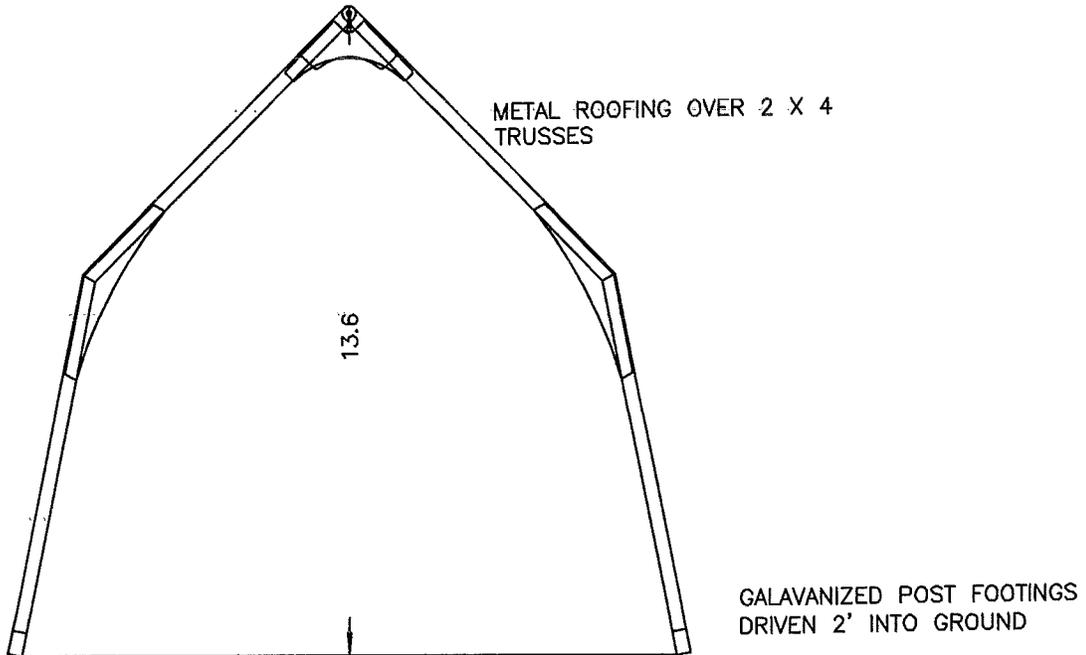
I appreciate the City Council's consideration of this variance request. In review, I think what I am asking for is a reasonable use of the property. It is a use that is in harmony with the neighborhood. It is a use that is, in fact, similar to other uses that have been permitted within the neighborhood (either by granting of variances or non-enforcement of the zoning code). In addition, I have taken steps to mitigate the zoning issues to the extent possible. Thank you for your thoughtful consideration.



date: 3-3-2016

Travis Van Neste, Applicant / Owner

BUILDING CROSS SECTION



SIGNED : *Travis W. Van Neste*

Travis W. Van Neste, Minnesota Professional Surveyor #44109
Michigan Professional Surveyor #46695

JOB # 2015067	ISSUED: 2-18-2016	
DRAWN BY: TWVN	REV: 3-2016	
SCALE: 1" = 2 FEET		

VAN NESTE SURVEYING
PROFESSIONAL SURVEYING SERVICES

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