

CITY OF TONKA BAY ITEM NO. 7C

Tonka Bay City Council Agenda Item Executive Summary

Title of Item: **VARIANCE REQUESTS:** Application from Jeff Heggedahl and Laura Westby requesting variances to construct a new home and detached garage on the property located at 105 West Point Avenue – R-1A Shoreland District zoning – PID: 28-117-23-32-0009

Report Date: **9-16-14**

Meeting Date: **9-23-14**

60 Day Review deadline: **60 day period ends 10-19-14**

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

Summary: The property owners are proposing to remove the existing home to construct a new home and detached garage building on the property located at 105 West Point Avenue. The requested variances are as follows:

1. A **13,564 square foot variance of from the minimum lot area** requirement to allow for the construction of a new home on a lot that is 6,436 square feet in area;
2. A **41 foot variance from the minimum required lot width** requirement to allow for the construction of a new home on a lot that is 34 feet wide along West Point Avenue and 55 feet wide along Lake Minnetonka.
3. A **variance of 2.7 feet** from the required 8 foot rear yard setback for an accessory building to allow for the construction of a detached garage 5.3 feet from the rear property line;
4. A **variance of 6.5 feet** from the required 8 foot side yard setback to allow for the construction of a detached garage 1.5 feet from the north property line;
5. A **variance of 2.3 feet** from the required 8 foot side yard setback to allow for the construction of a detached garage 5.7 feet from the south property line; and
6. A **variance of 9.7 feet** from the required 15 foot off-street parking area required.

Staff believes that the applicant has met the Statutory and City Criteria for approving the requested variances. Staff has provided a template approval motion on page 8 as well as findings of fact for approval for the requested variances.

City of Tonka Bay Planning Department
Variance Report

To: **City Council**

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

Report Date: **September 16, 2014**

Meeting Date: **September 23, 2014**

Applicant: Jeff Heggedahl and Laura Westby

Owner: Jeff Heggedahl and Laura Westby

Location: **105 West Point Avenue**

Zoning: **R-1A Shoreland District**

Introductory Information

Proposed Project: The property owners are proposing to remove the existing single family home and construct a new home and detached garage building on the property located at 105 West Point Avenue.

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

1. A **13,564 square foot variance of from the minimum lot area** requirement to allow for the construction of a new home on a lot that is 6,436 square feet in area;
2. A **41 foot variance from the minimum required lot width** requirement to allow for the construction of a new home on a lot that is 34 feet wide along West Point Avenue and 55 feet wide along Lake Minnetonka.
3. A **variance of 2.7 feet** from the required 8 foot rear yard setback for an accessory building to allow for the construction of a detached garage 5.3 feet from the rear property line;
4. A **variance of 6.5 feet** from the required 8 foot side yard setback to allow for the construction of a detached garage 1.5 feet from the north property line;
5. A **variance of 2.3 feet** from the required 8 foot side yard setback to allow for the construction of a detached garage 5.7 feet from the south property line; and
6. A **variance of 9.7 feet** from the required 15 foot off-street parking area required.

Findings

Site Data: Lot Size – 6,436 square feet
Existing Use – Single Family Home
Existing Zoning – R-1A Shoreland District
Property Identification Number (PID): 22-117-23-32-0009

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 R-1A District is 20,000 square feet. The lot of record is 6,436 square feet.
- Minnesota Statute 462.357, Subd. 1e. Nonconformities (d)(e) states that a nonconforming single lot of record located within a shoreland area may be allowed as a building site without variances from the lot size requirement, provided that:
 1. All structure and septic system setback distance requirements can be met;
 2. A Type 1 sewage treatment system consistent with Minnesota Rules, Chapter 7080, can be installed or the lot is connected to a public sewer; and
 3. The impervious surface coverage does not exceed 25 percent of the lot.
- As outlined later in this report, the impervious surface coverage exceeds 25 percent of the lot, therefore a variance from the lot area is required.
- The lot width requirement in the R-1A District is 75 feet. The lot of record is 34 feet along West Point Avenue and is 55 feet along Lake Minnetonka, therefore a variance from the lot width is required.

Principal Building Setbacks

Front Yard (lake side) Setback:

- The zoning for the R-1A Shoreland District states principal structures must be the greater of 50 feet or the average setback of the two adjacent riparian principal structures on either side of the proposed building site. The average setback for the two adjacent riparian principal structures is 50.5-feet ($53.4' + 47.5' / 2 = 50.5'$).
- The Applicants are proposed in a front-yard setback of 52.4 feet.

Side Yard Setback:

- The zoning for the R-1A Shoreland District requires an 8-foot side yard setback.
- The Applicants are proposing a side yard setback to meet this requirement, with the exception of the chimney location, which is an allowable encroachment, provided it does not project more than 2 feet into a required yard. The chimney will be 6'8" from the north property line.

Rear Yard (street side) Setback:

- The zoning for the R-1A Shoreland District states principal structures must have a rear yard setback of 25-feet.
- The Applicant is proposing a rear yard setback of 30'9" feet.

Accessory Building Setbacks

Rear Yard Setback:

- The rear yard setback for an accessory building in the R-1A District for an accessory building is 8 feet.

Side Yard Setback:

- The Applicant is proposing to construct an accessory building (detached garage) 5.3 feet from the rear property line.
- The side yard setback for an accessory building in the R-1A District is 8 feet.
- The Applicant is proposing to construct an accessory building (detached garage) 1.5 feet from the north property line and 5.7 feet from the south property line, therefore a variance is needed.

Height (Principal Building):

- The maximum height limit within the R-1A District is 2½ stories or 30 feet.
- The building height limits do not apply to items such as chimneys or flues and parapet walls, so long as such structure element does not exceed forty (40) feet in total height or exceed the maximum height of the building by more than five (5) feet, whichever is greater, except by conditional use permit.
- The proposed new home will 25.5' feet to the top of the flat roof and will have chimneys extending to just over 28.5 feet, which meets the City ordinance requirements.

Hardcover:

- The maximum hardcover permitted on this lot without any review is 25 percent; hardcover between 25 percent and 35 percent can be allowed subject to approval by the City Engineer and City Administrator.
- The applicants are proposing hardcover in the amount of 2,014 square feet, which is 31.29 percent of the lot.
- As part of approval, it will be a requirement that stormwater be treated on site. Plans for this treatment will be subject to review by the City Engineer.

Floor Area Ratio (FAR):

- The maximum floor area ratio (FAR) permitted by code in the R-1A District is 0.30 unless otherwise allowed by approval of a conditional use permit (CUP).
- The proposed home will include 1,927 square feet of space for a FAR of 0.30, which complies with the Code.

AC Units:

- Air conditioning units are allowable encroachments within rear yards by ordinance, provided they are at a distance of ten feet from any lot line.
- The Applicant is proposing an AC Unit in the rear yard within the required rear yard setback and will be screened with landscaping.

Driveway/Off-Street Parking:

- 2 off-street parking spaces are required per family unit.
- The Applicants are proposing a detached 2-car garage, which will satisfy this requirement.
- Off-street parking is not allowed within fifteen (15) feet of any street surface.
- The Applicant's driveway will be 15 feet in length at its closest point to the Street surface along West Point Avenue, therefore a variance is needed.

Application Review:

**Applicable Code
Definitions:**

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

Lot Line, Rear. That boundary of a lot which is opposite the front lot line. If the rear lot line is less than ten (10) feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten (10) feet in length within the lot, parallel to and at the maximum distance from the front lot line.

Setback. The minimum horizontal distance between a building and street or lot line. Distances are to be measured from the most outwardly extended portion of the structure at ground level.

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:

1011.03, Subd. 5.b.2. The following shall not be considered encroachments on yard setback requirements “terraces, steps, decks, patios, uncovered porches, stoops or similar features provided they do not extend above the height of the average ground level more than nine (9) inches, or to a distance less than five (5) feet from a side yard and rear lot lines, or more than five (5) feet into a required front yard. No encroachment shall be permitted in existing or required drainage and utility easements. All decks, porches, or stoops over nine (9) inches in height from the average ground level shall comply with all principal structure setbacks.

1011.05, Subd. 5.d. For riparian lots, no principal structure or building addition shall be located closer to the ordinary high water mark than the greater of fifty (50) feet, or the average setback of the two adjacent riparian principal structures on either side of a proposed building site. In all circumstances, the setback shall be established by measuring the distance from the ordinary high water level to the part of the said principal structure that is closest to the lake.

1011.06, Subd. 8. Location. There shall be no off-street parking within fifteen (15) feet of any street surface.

1018.06, Subd. 3.b. Interior Lots (Side Yards, Principal Structure Setbacks). Not less than eight (8) feet.

1018.06, Subd. 3.c. Rear Lots (Side Yards, Principal Structure Setbacks). Not less than twenty (20) feet.

1070.11, Subd. 1.a.1. Allowable Coverage. Where appropriate and where structures and practices are in place for the treatment of storm water runoff and/or prevent storm water from directly entering a public water, impervious surface coverage may be allowed to exceed twenty-five (25) percent to a

maximum of thirty-five (35) percent on any one site with approval of the City Engineer and City Administrator.

***Variance Criteria
Review:***

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

The requested variances are as follows:

1. A **13,564 square foot variance of from the minimum lot area** requirement to allow for the construction of a new home on a lot that is 6,436 square feet in area;
2. A **41 foot variance from the minimum required lot width** requirement to allow for the construction of a new home on a lot that is 34 feet wide along West Point Avenue and 55 feet wide along Lake Minnetonka.
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A **variance of 9.7 feet** from the required 15 foot off-street parking area required.

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

A. Statutory Criteria

1. *The requests are in harmony with the general purposes and intent of the ordinance.*

Lot Area and Width Request: The City’s intent of establishing minimum lot sizes is to ensure that land does not become overcrowded with structures and that the lake does not get polluted. In this instance the physical lot area and width along both West Point Avenue and Lake Minnetonka is narrow and does not meet the provisions of the Code.

There is currently an existing two-story single-family home on the property. The Applicant proposes to use the property in the same manner as it was previously. Staff finds that the newly constructed single-family home and detached garage structure in this location would not contribute to overcrowding and therefore is in harmony with the general purposes

and intent of the ordinance. **Criteria met**

Setback Request: The intent of the setbacks is to provide an adequate buffer between homes and to provide for areas of recreation/open space and stormwater drainage areas on properties. The proposed home is located on a riparian lot that is uniquely shaped. The rear yard is that side of the property opposite the lakeside, which in this case runs parallel to West Point Avenue.

The lot is configured in a manner that narrows in size as it reaches West Point Avenue, decreasing the amount of buildable space for structures such as a detached garage. While the structure will not meet the required setbacks, it is consistent with the homes along the West Point Avenue corridor and the overall plan will provided adequate space for recreational activities/open space and areas to handle stormwater runoff, as well as provide a home layout that minimizes the impacts to the lakeside of the property by positioning the home further from the lake than required by code. **Criteria met.**

2. *The variances are consistent with the comprehensive plan.*

All 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. The construction of a new home 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.*

The property owners are proposing to continue to use the property for a single family home. The layout of the proposed home will meet all of the applicable zoning ordinance regulations. A detached garage is a common accessory use to a single-family residential structure, and the Applicants are proposing to use the property in this reasonable manner. Furthermore, the Applicants are meeting/exceeding the front yard (lakeside) setback requirement, which meets the intent of having the setback; to maintain views to/from the lake.

With the limited area to construct a new home and particularly a new detached garage on the lot given the existing site constraints (setbacks and lot shape), it is reasonable that the Applicants are proposing to construct the prosed detached garage in the selected location, which is consistent with other structures along the corridor. **Criteria met.**

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

The property is unique in that it is not a typical "rectangular" shaped lot, which poses unique circumstances which limits the amount of buildable area on the lot. The lot also was recorded with limited frontage along West Point Avenue and Lake Minnetonka, which is a

circumstance that was not created by the landowner, thus the need for the lot width and lot area variances. Furthermore, there is additional space within the City's right of way along West Point Avenue that allows for driveway access beyond other homes within the immediate area. This creates a visual impression of adequate access to the property, which makes the proposed location of the detached garage reasonable to fit in the character of the neighborhood. **Criteria met.**

- c.) *The variance will maintain the essential character of the locality.*
The essential character of the locality will not be negatively impacted as a result of approval of these variances. **Criteria met.**

B. City Tests:

- 1.) *Will the variance impair an adequate supply of light and air to adjacent property?*
No. The proposed building addition will not impair an adequate supply of light and air to adjacent properties any more so than adjacent properties with similar setbacks. **Criteria met.**
- 2.) *Will the variance unreasonably increase the congestion in the public street?*
No. The current use of the property is for a single-family home, which will not change as a result of granting the variance. **Criteria met.**
- 3.) *Will the variance increase the danger of fire or endanger the public safety?*
No. The proposed addition if added would not unreasonably increase the danger of fire or safety of the public. **Criteria met.**
- 4.) *Will the variance unreasonably diminish or impair established property values within the neighborhood?*
The proposed construction of the new home and detached garage structure will increase the property value, which in turn will support or boost the value of nearby properties.

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.**

Engineering Reports: As noted previously, calculations for this property indicate that 31.29 percent of the property will be impervious hardcover. This exceeds the 25 percent allowable impervious maximum and requires approval from the City Engineer and City Administrator.

Conclusion

Council Options: The City Council has the following options:
A) DIRECT STAFF TO PREPARE A RESOLUTION APPROVING THE REQUEST (based on the applicant’s submittals and findings of fact).
B) DIRECT STAFF TO PREPARE A RESOLUTION DENYING THE REQUEST (based on the applicant’s submittals and findings of fact).
C) TABLE THE ITEMS and request additional information.

The 60-day review period for this application expires on 10-19-14. An extension letter may be sent to the applicant and the home owners. A final decision MUST be made prior to 12-18-14.

Recommendation: Staff recommends approval of the requested variances based on the findings detailed in the report and as outlined in the template approval motion below.

Template Denial Motion: (Not Recommended) “I move that we direct staff to prepare a resolution of denial for the requested variances based on the following findings of fact:”
• (Provide findings to support conclusion)

Template Approval Motion: (Recommended) “I move that we direct staff to prepare a resolution of approval for the requested variances to allow the proposed construction of a new home and detached garage on 105 West Point Avenue, 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 and is consistent with the comprehensive plan.
- b. Granting the requested variances will not impair an adequate supply of light and air to adjacent parcels.
- c. Granting the variances will not increase congestion in the public street. The use of the property as a single family home will stay the same and not increase congestion.
- d. Granting the variances will not increase the danger of fire or endanger the public safety.
- e. Granting the variances will not diminish or impair established property values in the neighborhood.
- f. Granting the variances will not alter the essential character of the locality. Homes adjacent to the property in question have similar setbacks thus, the property as proposed will not alter the character of its locality.
- g. The continued use of the property as a single-family home is a reasonable use of the property.
- h. A detached garage is a reasonable accessory use to a single-family home.

***Recommended
Conditions:***

- i. The variance requests are in harmony with the general intent of the ordinance and will not lead to an overcrowding of homes.
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. The MCWD shall review and approve the final grading plans approved by the City Engineer prior to any work being authorized. Proof of MCWD approval (if needed) shall be provided to the city prior to a building permit being authorized.
3. Erosion control measures shall be shown on the building permit plans and shall be subject to review and approval by the City Engineer.
4. The applicant shall work with the City Engineer on a plan to treat stormwater on site. Plans for this treatment will be subject to review and approval by the City Engineer prior to issuance of a building permit.
5. The City Engineer shall inspect the property at the property owner's expense during the construction process to ensure on-going compliance with all engineering requirements.
6. Construction shall follow the survey and plans as submitted or as required to be updated by the City Engineer.
7. Building of structures shall not occur within any existing or proposed easements on the property.
8. The AC Unit must be located at least 10 feet from the side property line.
9. The variances 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
RECEIVED
AUG 21, 2014
CITY OF TONKA BAY
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 8.21.14

SITE ADDRESS (or legal description) 105 WESTPOINT AVE TONKA BAY, MN
PID NUMBER _____

NAME OF PROPERTY OWNER(S) Jeff Heggedal, Laura Westby
MAILING ADDRESS 115 West Point Ave Tonka Bay MN 55331
Street Address City State Zip

PHONE 612-868-5053 E-MAIL Jeffheggedal@gmail.com

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

MAILING ADDRESS _____
Street Address City State Zip

PHONE _____ E-MAIL _____

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

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

same

LAW JH
LAW JH
LAW JH

RAW JH

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.

RAW JH

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. 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:

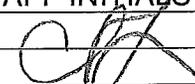
- a. Undue hardship will result if the variance is denied due to the existence of special conditions and circumstances which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same district.
 - 1. Special conditions may 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.

SAME
Signature of Applicant


Signature of Property Owner

SAME
Signature of Applicant


Signature of Property Owner

This Section Completed by Staff			
FEE	FOR	DATE PAID	STAFF INITIALS
\$150.00	Application Fee	8/21/14	
\$1,150.00	Escrow Fee*		