RESOLUTION NO. 14-32

A RESOLUTION APPROVING VARIANCES FROM THE MINIMUM REQUIRED LOT AREA, MINIMUM REQUIRED LOT WIDTH, MINIMUM REQUIRED REAR YARD SETBACK FOR THE PRINCIPAL STRUCTURE, AND A CONDITIONAL USE PERMIT TO ALLOW AN INCREASE TO THE TOTAL AMOUNT OF IMPERVIOUS SURFACE COVERAGE ON THE LOT TO ALLOW FOR THE CONSTRUCTION OF A NEW HOME ON THE PROPERTY LOCATED AT 35 WEST POINT AVENUE
ANN MARIE JENNINGS

WHEREAS, the City of Tonka Bay is a municipal corporation, organized and existing under the laws of the State of Minnesota; and

WHEREAS, the City Council of the City of Tonka Bay has adopted zoning regulations in the Municipal Code to promote orderly development and utilization of land within the city; and

WHEREAS, Ann Marie Jennings ("Applicant") submitted an application on behalf of Ann Marie Jennings C/O Bestmark Inc. ("Property Owner"); and

WHEREAS, the Property Owners own the property located at 35 West Point Avenue which is legally described as follows:

Lot 10, WEST POINT, Village of Tonka Bay, Hennepin County, Minnesota, and reserving easements of record.

WHEREAS, the Property Owners' Property is located within the R-1A zoning district; and

WHEREAS, the Applicants are requesting the following:

1. A **7,039 square foot variance from the minimum lot area requirement** to allow for the construction of a new home on a lot that is 12,961 square feet in area.
2. A **25 foot variance from the minimum required lot width requirement** to allow for the construction of a new home on a lot that is 50 feet wide along Lake Minnetonka.
3. A **6.2 foot variance from the required 23 foot rear yard setback** for a roof overhang (**7 foot variance from the required 25 foot rear yard setback** for the principal structure) to allow for the construction of a new home 18 feet from the rear property line with a 1.2 foot roof overhang.
4. A **conditional use permit to allow a 13% increase** over the maximum impervious surface coverage of 25.0% for a total of 38% impervious surface coverage.

WHEREAS, Kelsey Johnson, City Planner, and Justin Messner, City Engineer, issued a report dated September 16, 2014 on the application made by the Applicants (Planning Report), analyzing the request made in relation to City Ordinance criteria and made recommendations if the requests were approved by the City Council; and

WHEREAS, the City Council reviewed the requests on September 23, 2014, and held a public hearing, following the required notices and publication; and

WHEREAS, no neighbors spoke on the Applicant's proposal; and

WHEREAS, the Applicants presented to the Council reasons for their proposal; and

WHEREAS, the City Council, following the public hearing and deliberation on the variance and conditional use permit requests to allow for the construction of a new home directed staff to prepare a resolution for its consideration, and having considered the application, the Planning Report, the resolution prepared by staff, makes the following findings of fact and conclusions:

1. The proposed use as a single-family home will not change and is consistent with the comprehensive plan.
2. Granting the requested variances and conditional use permit will not impair an adequate supply of light and air to adjacent parcels.
3. Granting the variances and 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.
4. Granting the variances and conditional use permit will not increase the danger of fire or endanger the public safety.
5. Granting the variances and conditional use permit will not diminish or impair established property values in the neighborhood.
6. Granting the variances and conditional use permit will not alter the essential character of the locality.
7. The continued use of the property as a single-family home 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.
8. The variance requests are in harmony with the general intent of the ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Tonka Bay hereby approves the variance and conditional use permit requests, to allow for the construction of a new home; as shown on the Plans attached hereto, as Exhibit A (the Plans); and

BE IT FURTHER RESOLVED, that the approval of the requested variances and conditional use permit, shall include the following 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. 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 variances shall expire one year from the date of the resolution. City Council approval will be required for any subsequent extension.

PASSED AT A REGULAR MEETING of the Tonka Bay City Council this 23rd day of September, 2014.

Motion introduced by Anderson and seconded by Ansari.

Roll call vote:

Ayes –	Anderson, Ansari, Clapp, De La Vega and Grothe
Nays –	None
Absent –	None

Gerry De La Vega, Mayor

ATTEST:

Joseph Kohlmann, Clerk/Administrator