

RESOLUTION NO. 17-05

A RESOLUTION APPROVING A CONDITIONAL USE PERMIT FOR THE ROOF PEAK HEIGHT 2.1 FEET HIGHER THAN PERMITTED ON THE PROPERTY LOCATED AT 60 WEST POINT AVE – PID 22.117.23.32.0020

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, Gordon James Construction (“Applicant”) submitted an application on behalf of Phil and Judy Rolchigo (“Property Owner”); and

WHEREAS, the Property Owner owns the property located at 60 West Point Avenue which is legally described as follows:

THAT PART OF LOTS 3 AND 4, WEST POINT, ACCORDING TO THE RECORDED PLAT THEREOF, HENNEPIN COUNTY, MINNESOTA, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT WHERE THE LINE BETWEEN LOTS 3 AND 4, SAID ADDITION, INTERSECTS THE SHORE OF LAKE MINNETONKA, SAID POINT BEING THE MOST NORTHERLY CORNER OF LOT 3; THENCE SOUTHEASTERLY TO A POINT IN THE SOUTHEASTERLY LINE OF LOT 3, DISTANT 10 FEET SOUTHWESTERLY FROM THE MOST EASTERLY CORNER OF SAID LOT; THENCE IN A NORTHEASTERLY DIRECTION TO A POINT ON THE SHORE OF LAKE MINNETONKA WHICH IS 50 FEET NORTHEASTERLY FROM THE POINT OF BEGINNING; THENCE SOUTHWESTERLY 50 FEET TO A POINT OF BEGINNING.

ALSO, THAT PART OF SAID LOT 3 LYING NORTHERLY AND NORTHEASTERLY OF A LINE HEREINAFTER REFERRED TO AS “LINE C”, SAID “LINE C” BEING DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE SOUTHEASTERLY LINE OF SAID LOT 3 DISTANT 36.96 FEET SOUTHWESTERLY, MEASURED ALONG SAID SOUTHEASTERLY LINE, FROM THE MOST EASTERLY CORNER OF SAID LOT 3; THENCE NORTHWESTERLY THROUGH A POINT HEREINAFTER REFERRED TO AS “POINT B” BEING DESCRIBED AS A POINT ON A LINE HEREINAFTER REFERRED TO AS “LINE B” DRAWN FROM A POINT ON THE NORTHEASTERLY LINE OF SAID LOT 3 DISTANT 152 FEET NORTHWESTERLY FROM THE MOST EASTERLY CORNER OF SAID LOT 3 TO A POINT ON THE SOUTHWESTERLY LINE OF SAID LOT 3 DISTANT 188 FEET NORTHWESTERLY FROM THE MOST SOUTHERLY CORNER OF SAID LOT 3, AND SAID “POINT B” BEING DISTANT 75.22 FEET NORTHEASTERLY, MEASURED ALONG SAID “LINE B”, FROM THE SOUTHWESTERLY LINE OF SAID LOT 3. , City of Tonka Bay, Hennepin County, Minnesota, and reserving easements of record.

WHEREAS, the Property Owners’ Property is located within the R-1A zoning district with a Shoreland Overlay; and

WHEREAS, the Applicants are requesting the following:

1. **A conditional use permit** for roof peak height 3.135 feet higher than the permitted structure height.

WHEREAS, Addison Lewis, Assistant City Planner, and Justin Messner, City Engineer, issued a report dated December 2, 2016 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 December 13, 2016, and held a public hearing, following the required notices and publication; and

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

WHEREAS, City Code Section 1011.03 states that the top peak of any portion of roof shall not exceed the allowable building height in the applicable zoning district by more than five (5) feet without a conditional use permit subject to the following:

1. For each additional one (1) foot or fraction thereof increase over the threshold established above, front and side yard setback requirements shall be increased by one (1) foot.
2. The construction does not limit solar access to abutting and/or neighboring properties.
3. The provisions of Section 1003.01.8 conditional uses, are considered satisfactorily met.

WHEREAS, therefore, an 11.135 foot side yard and 53.135 foot front yard setback is required; and

WHEREAS, the Applicants requested variances from the side yard setback on both the east and west sides of the property and, as such, staff recommended denial of the requested CUP for roof peak 3.135 feet higher than permitted in the R-1A District due to the required conditions in City Code Section 1011.03 not being met; and

WHEREAS, the City Council, following the public hearing and deliberation on the Conditional Use Permit request, tabled the requested CUP to allow the Applicants an opportunity to revise the proposed plans; and

WHEREAS, the Applicants revised the roof peak height so as to be 2.1 feet above the permitted structure height and withdrew the side yard setback variance requests;

WHEREAS, based on the revised plans and having considered the application, the Planning Report, the resolution prepared by staff, the City Council makes the following findings of fact and conclusions:

1. The proposed use of the property as a single family home is consistent with the City's Comprehensive Plan.
2. Granting the requested conditional use permit will not impair an adequate supply of light and air to adjacent parcels.
3. Granting the conditional use permit will not unreasonably increase congestion in the public street.
4. Granting the conditional use permit will not diminish or impair established property values in the neighborhood.

5. Granting the conditional use permit will not alter the essential character of the locality.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Tonka Bay hereby approves the Conditional Use Permit request, to allow for roof peak height 2.1 feet higher than the permitted structure height in the R-1A district; as shown on the Plans attached hereto, as Exhibit A (the Plans), subject to the following conditions:

1. The roof peak height may not exceed 39.35 feet.
2. Failure to comply with the conditions of this Conditional Use Permit may result in revocation of the Conditional Use Permit by the City of Tonka Bay.

PASSED AT A REGULAR MEETING of the Tonka Bay City Council this 10th day of January, 2016.

Motion introduced by _____ and seconded by _____.

Roll call vote:

Ayes –

Nays –

Absent –

Gerry De La Vega, Mayor

ATTEST:

Lindy Crawford, Clerk/Administrator