

**MINUTES
TONKA BAY CITY COUNCIL
REGULAR MEETING
March 27, 2007**

1. CALL TO ORDER

The regular semi-monthly meeting of the Tonka Bay City Council was called to order at 7:30 p.m.

2. ROLL CALL

Members present were: Mayor LaBelle, Councilmembers Marceau, Folley, Tessness and De La Vega. Also present were City Administrator Sandin, Public Works Superintendent Kluver, City Attorney Penberthy, and Recording Secretary Link.

3. APPROVAL OF AGENDA

De La Vega moved to approve the agenda as submitted. Marceau seconded the motion. Ayes 5. Motion carried.

4. APPROVAL OF MINUTES - Regular Meeting - March 13, 2007

Folley moved to approve the minutes of the regular meeting of March 13, 2007 as amended: Page 3, last paragraph, change motion to read: Ayes – Marceau, Tessness, De La Vega, Folley and LaBelle; Page 5, mid-page, change motion to read: Ayes – LaBelle, Tessness, Marceau, Folley and De La Vega. Tessness seconded the motion. Ayes 5. Motion carried.

5. CONSENT AGENDA - Resolutions 07-13 through 07-15

Marceau moved to approve the Consent Agenda as presented. Folley seconded the motion. Ayes 5. Motion carried.

6. MATTERS FROM THE FLOOR

None

7. PUBLIC HEARING

A. Continued Variance Request - Christopher/Katherine Moses, 25 Cedar Street – Ben Gozola, City Planner discussed the request from Christopher and Katherine Moses at 25 Cedar Street for a variance to add a full story to the existing house. Because of the location of the existing footprint, a 19' variance is required from the 30' front yard setback. A conditional use permit for building height is required and will be heard at the April 10 meeting. Through the aerial photos, he noted that heavy tree cover blocks the view of the property. He noted the house will still conform to the floor area ratio requirements. The non-conformity will not be increasing. He reviewed the state and city's criteria for a variance approval. He recommended approval of the variance request. LaBelle asked if the variance being approved shouldn't be an 18.9 variance rather than 19 feet based on the survey. Gozola recommended rounding up to the higher number to be safe based on measurement discrepancies. LaBelle opened the

hearing for public comments. **Jeanine Kelley, 20 Cedar Street** stated she was in favor of the request. LaBelle closed the hearing. Moses distributed a letter signed by all the neighbors in support of the request. He stated they are doing their best to design an addition that meets code. Tessness stated he didn't see any affect on adjoining properties because of the heavy tree cover. He supported the request. De La Vega stated the design should fit in nicely with the neighborhood. He also supported the request. Marceau stated he also supported the request. Folley was equally in favor. LaBelle stated it's not always feasible to bring a structure into compliance, but he believed it would be a terrific addition to the neighborhood. **Folley moved to adopt Resolution 07-17 approving the front yard setback variance of 19 feet based on the following findings of fact, conclusions, and subject to the following conditions:**

FINDINGS OF FACT

1. The proposed addition will not impair adequate supply of light and air to adjacent properties.
2. The use of the property is not proposed to change, and the average number of daily trips expected for a single family dwelling will not change.
3. The possibility of fire will not increase as a result of this request.
4. The proposed improvements to the home will undoubtedly increase the home's value which in turn will support or boost the value of surrounding properties. The proposed variance will not be in direct conflict with the intent of the zoning ordinance.
5. The Comprehensive Plan calls for this area of the City to be used for single family dwellings, and for development to occur in an orderly fashion in a manner best for the community.
6. The structure in question was presumably built before the adoption of current setbacks in this area given the exiting home is nonconforming to setback requirements. The applicants are building over the existing footprint of the home and not increasing the front yard setback nonconformity.
7. The overall structure will be conforming with the size requirements in code, and the need for a variance only arises due to the existing location of the nonconforming home.
8. The applicants were not responsible for the location of the existing home.
9. No special uses or privileges would be conferred by the granting of the requested variance.

CONCLUSIONS

1. The requested variance was found to satisfy all criteria outlined by code for the granting of such a request.

2. The proposed addition will not increase any of the non-conformities of the existing footprint.
3. The current homeowner was not responsible for the existing non-conformity.

CONDITIONS

1. The applicant shall obtain all necessary permits and approvals from the City and other applicable entities with jurisdiction prior to any construction.
2. Construction to follow the survey as submitted.
3. No construction shall occur within any existing easements on the property.
4. The variance shall expire one year from the date of resolution; City Council approval will be required for any subsequent extension.
5. If no CUP is required, the variance would stand on its own.

Tessness seconded the motion. Ayes - Folley, Tessness, De La Vega, Marceau and LaBelle. Motion carried.

B. Storm Water Pollution Prevention Plan - Annual Review – Greg Kluver, Public Works Superintendent discussed the requirements under the NPDES to hold a public hearing each year to review the city's Stormwater Pollution Prevention Plan. The report is due for submittal on June 30. He gave a brief overview on the plan requirements. Folley asked if a sewer map must be created. Kluver stated that a map needs to be created. LaBelle opened the hearing for public comments. There were none, and the hearing was closed.

C. Continued Variance/CUP Request - Tom/Mary Lauer, 3-5 Lakeview Avenue - Sandin noted the letter was received from Tom Lauer on Monday. Staff recommended the hearing be continued to May 22 based on the applicant's request. LaBelle opened the hearing. There were no comments, and the hearing was continued. **Marceau moved to continue the hearing to the May 22 meeting. De La Vega seconded the motion. Ayes 5. Motion carried.**

8. OLD BUSINESS

None

9. NEW BUSINESS

A. Review Request to Extend Variance - Brad/Cynthia Imes, 125 Crabapple Lane - Sandin stated the Imes have submitted a request to have their variance approved in 2006 extended for one year from today. Marceau believed it is a reasonable request. **Marceau moved to adopt Resolution 07-18 extending the**

variance request until March 27, 2008. Folley seconded the motion. Ayes - De La Vega, Folley, LaBelle, Marceau and Tessness. Motion carried.

B. Review Proposals for 2007 and 2008 Lime By-product Removal - Kluver explained that the lime sludge from the pits north of city hall must be removed every year. Staff recommended approval. He discussed licensing requirements. Marceau noted that in most cases, the Council would not approve a bid that only had one bidder. This is a different case, because the price is so close to previous years. Tessness asked if it would make sense to just accept the first year and rebid the project in 2008. Kluver urged caution due to rising gas costs. **Marceau moved to authorize the Mayor and City Administrator to enter into a contract with Mountain Environmental. De La Vega seconded the motion. Ayes 5. Motion carried.**

C. Sign Permit Request - Re: Desktop - Tonka Village Shopping Center - Sandin reviewed a request from Re: Desktop for a new sign at Tonka Village Shopping Center which conforms to the City Code. She recommended approval. **Tessness moved to approve the sign permit request from Re: Desktop. Folley seconded the motion. Ayes 5. Motion carried.**

D. Sign Permit Request - The Fish Guy - Tonka Village Shopping Center - Sandin reviewed a request from The Fish Guy for a new sign at Tonka Village Shopping Center. It also conforms to the City Code. She recommended approval. **Marceau moved to approve the sign permit request from The Fish Guy. Folley seconded the motion. Ayes 5. Motion carried.**

E. Temporary/Seasonal Sales Permit Request - Sever's Farm Market at Tonka Village Shopping Center - Sandin reviewed the request from Sever's Farm Market to sell fruit and vegetables from June 22 through August 26. They will cross times with Linder's Greenhouses for a short time, but they will be in different locations. **Folley moved to approve the outdoor seasonal sales market for Sever's Farm Market. Tessness seconded the motion. Ayes 5. Motion carried.**

10. MATTERS FROM THE FLOOR

A. LaBelle explained that Mr. Moses believes that he does not need a conditional use permit and is present today to explain why. **Chris Moses, 25 Cedar Street** - Moses explained why he believed that a conditional use permit is not needed for his project. He believed that roof pitch is only a consideration for those structures at the height limitation. His house is well under the height limitation. He also believed that the language in the City Code is vague and unclear. **Paul Hannon, Sala Architects** distributed drawings which visualize what is being proposed. He explained why the request should not require a conditional use permit. Moses asked if work could still begin on the demolition. In response to a question from LaBelle, Moses explained that road restrictions would not be an issue. LaBelle stated we are not in a position to do anything tonight. Until we address the language in the City Code, we need to continue to do what

we're doing. Marceau stated nothing can be done until the next meeting as far as he is concerned. He would be in favor of allowing the demolition. Sandin was comfortable with the demolition permit being issued, although there is some risk involved. Tessness agreed with the risk element. De La Vega stated he would like staff's comments as we move forward with the CUP request. Penberthy noted that average ground level must be marked before the demolition occurs. Gozola stated elevations have been provided with the survey establishing average ground level.. **Folley moved to approve a demolition permit for 25 Cedar Street noting that the property owner should be aware of the risk if a CUP is not approved. Marceau seconded the motion. Ayes 5. Motion carried.**

11. REPORTS

Sandin - no report

Marceau - Finance, Marinas - Marceau stated one of the approved vendors for investments has been sold. Staff will research what has happened and bring it back under the Consent Agenda at the next meeting if all looks good.

Tessness - Buildings, Building Inspections, LMCD, Municipal Docks, Fire Lanes - no report

Folley - Animal Control, LMCC, Technology - no report

De La Vega - Excelsior Fire District, Parks, Sanitation, and Southshore Senior/Community Center - De La Vega reported that the Council will review the EFD equipment plan at the next meeting. He also attended a meeting at the Southshore Center to discuss funding. The Parks and Trails Committee will meet on April 3 at 7:00 p.m.

Attorney's Report - Penberthy reviewed a portion of a half section showing property to the south of the Moses property. He discussed a vacation by the city of a road which had to be taken to district court. He recommended the City Administrator be authorized to execute the Admittal of Service. Council concurred.

LaBelle - Public Works and SLMPD - no report

12. ADJOURNMENT

There being no further business, it was moved by Marceau to adjourn the meeting at 8:35 p.m. Folley seconded the motion. Ayes 5. Motion carried.

Attest:

Clerk