

CITY OF TONKA BAY
AGENDA
March 9, 2021
7:00pm

1. CALL TO ORDER
2. ROLL CALL
3. APPROVAL OF AGENDA
4. CONSENT AGENDA

All matters listed within the Consent Agenda are considered to be routine items to be enacted upon by one City Council motion. Items on the Consent Agenda are reviewed in total by the City Council and may be approved through one motion with no further discussion by the Council. Any item may be removed by any Council Member, staff member or person from the public for separate consideration.

- A. Minutes of the Regular City Council Meeting from February 23, 2020
- B. Marina License Application Renewal without Change for Lindbo Landing
- C. Marina License Application with Changes for the Caribbean

5. MATTERS FROM THE FLOOR **Maximum time of five minutes per person***
6. SPECIAL BUSINESS
 - A. Introduction of new Deputy City Clerk, Rachel Myskevitz
7. PUBLIC HEARINGS
 - A. 375 Lakeview Ave Variance Request– Tom Ramler-Olsen
 - B. 70 Wildhurst Road Variance Request – Tom Ramler-Olsen
8. OLD BUSINESS
 - A. 40 Wildhurst Variance Request
9. NEW BUSINESS
 - A. Bay Street Fire Lane and Dock for the EFD – Chief Curt Mackey

MATTERS FROM THE FLOOR Maximum time of five minutes per person*

12. REPORTS
 - A. Administrator's Report
 - B. Jeff Anderson – Finance, Fire Lanes and Public Access, Technology
 - C. Kristin Viger – Parks and Docks, Sanitation and Recycling
 - D. Bill LaBelle – Building Inspection, Municipal Buildings and Grounds
 - E. Tim Connelly – EFD, Commercial Marinas, LMCD
 - F. Attorney's Report
 - G. Adam Jennings –SLMPD, Administration, Public Works, Employee Advisory Board

13. ADJOURNMENT

<p>*For individuals who wish to address the Council on subjects which are not a part of the meeting agenda. Typically, the Council will not take action on items presented at this time but will refer them to staff for review, action and/or recommendation for future Council action.</p>

ITEM NO. 4A

APPROVED MINUTES TONKA BAY CITY COUNCIL REGULAR MEETING FEBRUARY 23, 2021

1. **CALL TO ORDER**

The regular semi-monthly meeting of the Tonka Bay City Council was called to order at 7:00pm.

2. **ROLL CALL**

Members present: Mayor Jennings, Councilmembers Viger, LaBelle, Anderson, and Connelly. Also present were City Administrator Laur and City Attorney Biggerstaff.

3. **APPROVAL OF AGENDA**

Anderson moved to approve the agenda with changes. LaBelle seconded the motion. Ayes: Viger, LaBelle, Connelly, Anderson, Jennings. Motion carried.

4. **CONSENT AGENDA**

A. Minutes of the Regular City Council Meeting from February 9, 2021

B. Special Event Permit Minnetonka Baseball Association Fall and Spring Season.

Viger requested the dollar amount of the special event permit. Laur replied, \$1,960.

Anderson moved to approve the consent agenda. Viger seconded the motion. Ayes: Viger, LaBelle, Connelly, Anderson, Jennings. Motion carried.

5. **MATTERS FROM THE FLOOR**

None.

6. **SPECIAL BUSINESS**

None.

7. **PUBLIC HEARINGS**

None.

8. **OLD BUSINESS**

A. 40 Willow Woods Variance Extension Deadline Follow-up – The applicants are not ready to proceed. They have waived their 120-day rights with a letter that is in the council packet. There is nothing that the council needs to do tonight. The reason for this is to give the applicant a pause on their plans. The council could move to deny the request otherwise. The applicant would need to reapply.

9. NEW BUSINESS

A. Ordinance #2021-02 Residential Picketing

Chief Meehan of the SLMPD requested that member cities consider adopting an ordinance related to targeted residential picketing. Due to recent events in other cities in Minnesota, many cities have considered, and a number have adopted, these types of regulations which seek to prohibit targeted residential picketing which is defined in the ordinance.

Discussion was had regarding the right to peacefully protest and first amendment rights.

Anderson moved to waive the second reading and adopt Ordinance #2021-02 an Ordinance related to targeted residential picketing and criminal penalties. LaBelle seconded the motion.

Ayes: LaBelle, Viger, Anderson Nays: Connelly, Jennings. Motion carried.

Anderson moved the adoption of Resolution 2021-06 authorizing publication by title and summary of Ordinance #2021-02.

Ayes: Connelly, Viger, Anderson, LaBelle, Jennings. Motion carried.

B. Ordinance #2021-03 Snow Emergency Parking Regulations

Historically the Public Works department has had difficulty clearing snow after significant snowfall events due in part, to cars parked on streets within the city. Many cities have sought to address these issues by adopting regulations which prohibit parking after defined snowfall events. The ordinance would create a similar standard in Tonka Bay. When there is an accumulation of 2" of snow or more the city would declare a snow emergency and cars would need to be moved off the streets. Cars would be ticketed and towed otherwise.

A discussion was had regarding how often public works has issues with cars parked on city streets. Sunrise and Lakeview were specified.

The conversation was tabled to gather more information the rest of this winter season. Will revisit in winter 2021/22.

10. MATTERS FROM THE FLOOR

None.

11. REPORTS

A. Administrator's Report – The city received eleven applications for the Deputy

City Clerk position. Mayor Jennings and staff will interview five of those applicants.

- B. Jeff Anderson – Finance, Fire Lanes and Public Access, Technology – No report.
- C. Kristin Viger – Parks and Docks committee met. They discussed the concept proposals for Manitou Park and look forward to showing the council at the March 23 meeting. The new plan will include a girls’ fastpitch softball field. The park will be more inclusive than it is now.

Received a letter from a neighbor off Lilah Lane. The neighbor is concerned about development in Shorewood that will affect residents on Lillah Lane.

- D. Tim Connelly – EFD, Commercial Marinas, LMCD – Met with Gregg and Vickie of the LMCD. The EFD will be holding a live burn on Feb. 27, in Shorewood. City Administrator Laur will be participating.
- E. Bill LaBelle – Building Inspection, Municipal Buildings and Grounds – The EFD is requesting use of fire lane #8 on Bay Street. LaBelle is concerned about room for another dock and the residents that live next/near to it.
- F. Attorney's Report – No report.
- G. Adam Jennings – SLMPD, Administration, Public Works, Employee Advisory Board – Bonding for Manitou Road. Jennings read the email correspondence between himself and Sen. Osmek.

12. ADJOURNMENT

There being no further business, Anderson moved by to adjourn the meeting at 7:51pm. LaBelle seconded the motion. Ayes: Viger, LaBelle, Connelly, Anderson, Jennings. Motion carried.

Adam Jennings, Mayor

Attest:

Kathy Laur, City Administrator



4901 Manitou Road
 Tonka Bay MN 55331
 952-474-7994
www.cityoftonkabay.net

MARINA LICENSE APPLICATION
Renewal without Change

License Year: 2021

No. of Boat Storage Units _____

I, DON WESTMAN, 285 WEST POINT RD, 612 599 1894
 (name of owner) (address) (phone)

certify that no changes are to be made in the "dock use area" or the number of boats stored for lake use
 by LINDBO LANDING at 285 WEST POINT RD.
 (business name) (address)

during the 2020 season, that the maximum number of boats stored at docks will be 42, at moorings
 _____, and land-based boat storage units for lake use _____, that the locator map, survey (or plat), site
 plan, and dock construction detail on file with the city for last year's application will be applicable to the
 license being applied for, and that I will obtain a new license from the City of Tonka Bay before making
 any changes.

CHECK THE NATURE OF SERVICES AND INDICATE PARKING PROVIDED:

SERVICE PROVIDED	CHECK IF APPLICABLE	NO. OF PARKING SPACES
Boat Storage	✓	21
Launching Ramps		
Sales		
Service		
Boat Rentals		
Restaurant		
Other:		
Sanitary Facilities	✓	No. Units: /
Boat Toilet Pumping Service		

1. Base Fee and Yearly Renewal	\$270.00
2. <u>42</u> units at \$5.00 per unit =	<u>210.00</u>
TOTAL FEE	<u>480.00</u>

I further certify that the information provided herein and all attachments hereto are true and correct statements, and I understand that any license issued may be revoked by the City. I consent to permitting officers and agents of the City to enter the premises at all reasonable times to investigate and determine compliance with Section 520.

Date 1 FEB 2021

Authorized Signature
 Title OWNER
 Relationship to Owner SELF
 Email Address DONBWESTMAN@GMAIL.COM

paid \$480 on 2/4/21 OM



4901 Manitou Road
 Tonka Bay MN 55331
 952-474-7994
www.cityoftonkabay.net

MARINA LICENSE
 WITH CHANGE
 APPLICATION

License Year: ~~2019~~ 2021

No. of Boats 134

OWNER INFORMATION	
Name	SHAWN WISCHMEIER
Address	110 SUNRISE AVENUE
City, State, Zip	TONKA BAY, MN 55331
Phone	(919) 448-8884
Business Name	THE CARIBBEAN TONKA BAY LLC
Street Address	135 LAKEVIEW AVENUE
City, State, Zip	TONKA BAY, MN 55331
Phone	(952) 474-6825

The following information must accompany the application:

1. Legal description
2. Overall site plan
3. Landscape plan
4. Access roads
5. Proposed hours of operation
6. Method of maintaining security on premises
7. Names/addresses of neighbors within 350 feet

PLEASE PROVIDE THE FOLLOWING INFORMATION:	
Maximum number of boats stored in the water at docks	134
Maximum number of boats stored in shore slides	0
Maximum number of motored or sail boats dry stored for lake use	0
Amount of Public Liability Insurance	GENERAL LIABILITY ATTACHED + \$10M UMBRELLA
Insurance Company Name	INTERNATIONAL MARINE UNDERWRITERS + PREFERRED
Policy Number	1355H42032 (GENERAL) EX 5 053 9184 CINCINNATI UMBRELLA
LMCD Approval	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

NATURE OF SERVICES AND PARKING PROVIDED:		
SERVICE PROVIDED	CHECK IF APPLICABLE	NO. OF PARKING SPACES
Boat Storage	✓	91
Launching Ramps	✓	
Sales		
Service	✓	
Boat Rentals		
Restaurant	✓	25
Other (explain):		
Sanitary Facilities	✓	No. Units: 6
Boat Toilet Pumping Service	✓	

FEEES


Base Fee and Yearly Renewal
134 units at \$5.00 per unit =

\$270.00
670.00
940.00

TOTAL FEE

I certify that the information provided herein and all attachments hereto are true and correct statements, and I understand that any license issued may be revoked by the City. I consent to permitting officers and agents of the City to enter the premises at all reasonable times to investigate and determine compliance with Section 520.

Date 2/23/21

Authorized Signature 
Title MANAGING PARTNER
Relationship to Owner OWNER

APPROVED:

Date of City Council Meeting:

By: 
City Administrator

Date: 2/23/21

City of Tonka Bay Memorandum

To: City Council Members
Kathy Laur, City Administrator

From: Thomas Ramler-Olson, Assistant City Planner
Nick Preisler, City Engineer

Date: March 2, 2021
City Council Regular Meeting March 9, 2021

Project: 017236-000, Phase 003

Requests: Variance for a principal structure side yard setback of 5.1 feet where the minimum is 8 feet
Variance for a principal structure rear yard (streetside) setback of 16 feet where the minimum is 25 feet
Variance for a mechanical system setback of 3 feet where the minimum is 8 feet
Variance for an impervious cover amount of 46.69 percent where the maximum is 25 percent
Variance for a floor area ratio (FAR) of 0.49 where the maximum is 0.30
Conditional Use Permit to redevelop a legal, non-conforming residential lot with a substandard area

PID: 27-117-23-31-0005

RECOMMENDATION

Based on the findings of fact, staff recommends approval of variances for a principal structure side yard setback of 5.1 feet and rear yard setback of 16 feet; a mechanical system setback of 3 feet; and an FAR of 0.49. Staff recommends denial of a variance for an impervious cover amount of 46.69 percent where the maximum is 25 percent.

GENERAL INFORMATION

Applicant:	Mike Bader	
Owner(s):	Ryan Fischer	
Subject Property:	375 Lakeview	
Existing Land Use / Zoning:	Detached, Single-family Residential; zoned R-1A, Shoreland Overlay	
Surrounding Land Use / Zoning:	North:	Detached, Single-family Residential; zoned R-3, Shoreland Overlay
	West:	Detached, Single-family Residential; zoned R-1A, Shoreland Overlay
	South:	Lake Minnetonka
	East:	Detached, Single-family Residential; zoned R-1A, Shoreland Overlay
Comprehensive Plan:	The Tonka Bay 2018-2040 Comprehensive Plan guides this lot for Single-family Residential use.	
Deadline for Agency Action:	Application Date:	February 3, 2021
	60 Days:	April 4, 2021

Extension Letter Mailed: N/A
120 Days: June 3, 2021

CONSIDERATIONS RELATED TO THE REQUEST

1. Overview. The applicant is proposing to redevelop the property at 375 Lakeview Ave and build a new home. This work includes removing the existing home and some features closest to Lake Minnetonka. The home, as proposed by the applicant, will require five (5) variances. Those requests are summarized in the following table:

	Required	Proposed
Lot Area	20,000 square feet	7,006 square feet
Setbacks		
1) Side	1) 8 feet	1) 5.1 feet
2) Rear	2) 25 feet	2) 16 feet
Setback for A/C unit	8 feet	3 feet
Impervious Cover	25 percent	46.69 percent
Floor Area Ratio (FAR)	0.30	0.49

The property is located within the R-1A district, whose minimum lot area is 20,000 square feet and lot width is 75 feet. The lot at 375 Lakeview Ave is legal non-conforming as it has an area of 7,006 square feet and width of 40 feet. Per Hennepin County’s GIS website, abutting lots on the west and east, both of which are in the R-1A district, also have substandard areas of 10,337 square feet and 7,348 feet, respectively. A lot of record with a substandard area may be used for single-family detached residential purposes, so long as its area and frontage width are within 60 percent of the requirements of the lot’s respective district. In the case of 375 Lakeview Ave, the lot area is shy of the minimum of 8,000 square feet needed to satisfy standard. In which case, to redevelop the property and use it for residential, the applicant will need to receive a conditional use permit (CUP).

The applicant proposes an impervious cover amount of 46.69 percent, lower than the existing amount of 47.27 percent. The plan for the property includes an area with amended soils, which is located to receive stormwater and designed to treat the amount of impervious cover in excess of 25 percent. Adding to the proposed impervious cover amount is a nearly 500-square-foot patio located off the lakeside of the home and walkway on the west side that contributes approximately 180 square feet. At a pre-application meeting with the applicant, staff emphasized that impervious cover should be lowered as much as possible.

2. Ordinance Authority

1011.01 NON-CONFORMING BUILDINGS, STRUCTURES, USES AND LOTS; Subd. 2.n

- a) A lot of record existing as of the effective date of this Ordinance in a residential district, which does not meet the requirements of this Ordinance as to area or width, may be utilized for single family detached dwelling purposes provided that in all residential districts, the measurements of such lot’s area and frontage width are within sixty (60) percent of the requirements of the respective district, as established by this Ordinance.
- c) In the event that the measurements of such lot’s area and width do not comply with subsection a) above, then approval for the construction of a single family dwelling may be requested as a conditional use permit, subject as regulated by Section 1003 of this Ordinance.

1011.04 ACCESSORY BUILDINGS, STRUCTURES, USES AND EQUIPMENT; Subd. 1.k

Accessory buildings, uses, or equipment such as air conditioning cooling structures or condensers, satellite dishes and fish houses shall be located only within the principal structure setback requirements and shall be screened from view in accordance with Section 1011.05 of this Ordinance.

1017.06 LOT AREA AND SETBACK REQUIREMENTS; Subd. 3.b.1
Side yards on interior lots must be no less than eight (8) feet.

1017.06 LOT AREA AND SETBACK REQUIREMENTS; Subd. 3.c
Rear yard must be no less than twenty-five (25) feet.

1017.07 LOT COVERAGE AND HEIGHT; Subd. 1
The maximum floor area ratio (FAR) shall be 0.30.

1070.11 IMPERVIOUS SURFACE COVERAGE; Subd. 1.a
The intent of this section is to reduce the effects of overcrowding, to prevent pollution of waters of the community, to minimize flood damages, to maintain property values and to maintain natural characteristics of shorelands and adjacent water areas by controlling lot sizes, placement of structures on lots and alteration of shoreland.

The maximum impervious surface coverage for lots in all zoning districts within the Shoreland District is twenty-five (25) percent of the lot area.

3. Variance Review Criteria

Statutory Criteria

1. *The request is in harmony with the general purpose and intent of this Ordinance.*

A/C CONDENSER SETBACK:

The intent of the ordinance is to regulate mechanical systems on residential lots and allow those reasonable uses without compromising the use and enjoyment of other residential properties in the vicinity. To accommodate a home of reasonable width on the property, the condenser unit is proposed to be located in the east side yard closest to the proposed home and across from the garage on the abutting property at 365 Lakeview Ave. **Criterion met.**

SIDE AND REAR SETBACK, FAR:

The R-1A District provides for low density single family detached residential dwelling units and directly related, complementary uses. The requests for a reduced side and rear yard setback and increased FAR would not compromise the low density nature of the locality. The proposal would also still continue the single-family residential use as required by ordinance. **Criterion met.**

IMPERVIOUS COVER:

The proposed plan for the property shows an area with amended soils sized and designed to treat the stormwater runoff from the proposed impervious cover above the maximum amount of 25 percent. However, due to the significant amount of impervious surface coverage in excess of the maximum, the stormwater treatment area occupies an additional 320 square feet of area in the front yard. When combined with the proposed impervious surface coverage amount, nearly 50 percent of the lot will be altered simply to provide for and mitigate excessive impervious surface. Staff believes this request does not satisfy the stated purpose and intent of the ordinance as it conflicts with the intent to maintain natural characteristics of shorelands and to minimize alteration of shoreland. **Criterion not met.**

2. *The variance is consistent with the comprehensive plan.*

None of the variances would bring the property into conflict with the comprehensive plan, which guides the property for Low Density Residential. **Criterion met.**

3. *The property in question meets the "practical difficulties" test:*

- a. *The property owner proposes to use the property in a reasonable manner.*

All the variance requests continue the reasonable use of the property as a residential lot for single-family dwelling among other similar lots in the immediate area. **Criterion met.**

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

A/C CONDENSER, SIDE, REAR YARD SETBACKS; FAR:

The lot at 375 Lakeview Ave is substandard with an area of about 7,000 square feet, or 13,000 less than the minimum of 20,000 required for R-1A lots. It also has a width of 40 feet, 30 feet less than 70 feet required for R-1A lots. These conditions were not established by the property owner, but nonetheless pose a practical difficulty for locating a structure of reasonable size to meet side, rear, and mechanical system setbacks. The lot size also complicates meeting the FAR maximum for an R-1A lot. If applying the maximum FAR for the R-1A district, an R-1A lot should be able to accommodate a structure with a minimum gross floor area of 6,000 square feet. But the proposal shows about 3,430 square feet. **Criterion met.**

IMPERVIOUS COVER:

The proposed plans are an improvement compared to existing conditions. The proposal provides for a reduction of impervious cover of about 41 square feet or 0.58 percent. However, the applicant is proposing features that unnecessarily contribute to impervious cover, such as the lakeside patio and walkway along the west side of the lot. Both of those features, when added up, contribute approximately 680 square feet, or approximately 10 percent of the total proposed impervious cover. If these features were removed, the request would be lowered to 37 percent. At the pre-application meeting, staff advised the applicant to lower the impervious cover as much as practicable given the substandard size of the lot. Staff interprets the plans as not meeting that guidance. And while the applicant is proposing a stormwater treatment system that is sized and located to treat the stormwater runoff generated by the hardcover in excess of the maximum amount allowed (25 percent), it is the intention of the Shoreland Overlay Ordinance to prefer the natural hydrologic function of the land over an engineered system. A stormwater treatment system will still be needed, but its size can be reduced with the removal of unnecessary impervious cover. **Criterion not met.**

- c. *The variance will maintain the essential character of the locality.*

All the variances requested by the applicant are not expected to compromise the essential character of the locality. **Criterion met.**

City Tests

1. *Will the variance impair an adequate supply of light and air to adjacent property?*

The variances will not impair an adequate supply of light and air to adjacent property. **Criterion met.**

2. *Will the variance unreasonably increase the congestion in the public street?*

The variances will not unreasonably increase the congestion in the public street. **Criterion met.**

3. *Will the variance increase the danger of fire or endanger the public safety?*

The variances will not increase the danger of fire or endanger the public safety. **Criterion met.**

4. *Will the variance unreasonably diminish or impair established property values within the neighborhood, or in any way be contrary to the intent of the zoning ordinance?*

The variances will not unreasonably diminish or impair established property values within the neighborhood, nor in any way be contrary to the intent of the zoning ordinance. **Criterion met.**

4. CUP Review Criteria

The proposed action will require a conditional use permit to redevelop a legal, non-conforming residential lot with a substandard area. According to the City of Tonka Bay Zoning Code, the City Council shall consider possible adverse effects of the proposed conditional use based upon (but not limited to) the following criteria:

1. *The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the Comprehensive Plan.*

The single-family residential structure proposed for the lot in question is consistent with the Comprehensive Plan, which guides the lot for low-density residential development. **Criterion met.**

2. *The proposed site is or will be compatible with present and future land uses of the area.*

The site is proposed to accommodate a single-family residential dwelling, a use that is compatible with present and future land uses of its area. **Criterion met.**

3. *The proposed use conforms to all performance standards contained herein.*

The lot at 375 Lakeview Ave is substandard with an area of 7,006 square feet, almost 13,000 square feet less the minimum area for lots in the R-1A district. This small size constrains the buildable area to such an extent that building a structure that reflects the character of the lot's vicinity is practically difficult. This proposal requires several variances from the performance standards required for development in the R-1A district. Those variances include rear yard setback, side yard setback, mechanical system setback, FAR, and impervious cover. Should those variances be approved, new performance standards would be created that with which the proposal could comply. **Criterion met.**

4. *The impact on character of the surrounding area.*

The proposed use of a single-family residential dwelling would have no impact on the character of the surrounding area as it matches those found on neighboring lots. **Criterion met.**

5. *The demonstrated need for such use.*

The proposed single-family residential dwelling is a needed use in order to reside in Tonka Bay, and its size is reasonable for a home on a riparian lot. **Criterion met.**

6. *The proposed use will not tend to or actually depreciate the area in which it is proposed.*

Staff does not anticipate that the proposed new home will have any negative impact to adjacent property values. **Criterion met.**

7. *The proposed use can be accommodated with existing public services and will not overburden the City's service capacity.*

The proposed project should not have any impact on public utilities. **Criterion met.**

5. Engineering Considerations:

During the pre-application meeting, staff noted the existing excessive impervious surface coverage of the lot and emphasized that impervious surface coverage should be lowered as much as practicable with the proposal. The proposal includes only a minor reduction of impervious surface of about 41 square feet or 0.58 percent of the total lot coverage. Staff identified several features of the proposal that could be eliminated or reduced in size to provide a greater reduction of impervious surface coverage on the lot.

The applicant is proposing a stormwater treatment system that is designed to capture and treat the stormwater runoff generated by the excessive impervious coverage. However, due to the large amount of hardcover in excess of the maximum amount allowed (25 percent), the stormwater treatment system

is very large in comparison to the lot and the drainage of the lot will rely heavily on the stormwater treatment system. Due to the size of the lot, the opportunity for natural treatment of stormwater runoff is limited. If the additional hardcover contributed by the sidewalk and patio were reduced or removed from the proposal, the lot would provide more natural stormwater treatment and the size of the treatment system could be reduced by nearly 50 percent. The reduced dependence on the stormwater treatment system and additional areas for natural stormwater treatment would provide long-term benefits to the quality and amount of stormwater runoff into the lake.

POTENTIAL ACTION

- 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 ITEM and request additional information.

The 60-day review period for this application expires on April 4, 2021. If the Council fails to preliminarily approve or disapprove the request within the review period, the application is deemed preliminarily approved.

RECOMMENDATION

Based on the findings of fact in this report, staff recommends the following:

- Approval of a variances for a principal structure side yard setback of 5.1 feet and rear yard setback of 16 feet; a mechanical system setback of 3 feet; and an FAR of 0.49
- Approval of a conditional use permit to redevelop the lot at 375 Lakeview Ave
- Denial of a variance for an impervious cover amount of 46.69 percent

"I move that we direct staff to prepare a resolution of approval for the requested variances for a principal structure side yard setback of 5.1 feet and rear yard setback of 16 feet; a mechanical system setback of 3 feet; and an FAR of 0.49 at the property located at 375 Lakeview Ave based on the findings of fact listed in the report.

- a. The variances are in harmony with the general purpose and intent of the Ordinance.
- b. The variances are consistent with the City's Comprehensive Plan.
- c. The variances will permit a reasonable use of a single-family residential dwelling on the subject property.
- d. The lot's substandard width and area are conditions not created by the property owner that pose a practical difficulty in complying with rear and side yard setbacks for the principal structure, setback for the a/c condenser unit, and FAR for the principal structure.
- e. The variances will not alter the essential character of the locality.
- f. Granting the requested variances will not impair an adequate supply of light and air to adjacent parcels.
- g. Granting the variances will not unreasonably increase congestion in the public streets.
- h. Granting the variances will not diminish or impair established property values in the neighborhood."

"I move that we direct staff to prepare a resolution of approval for the requested conditional use permit to redevelop the property located at 375 Lakeview Ave based on the findings of fact listed in the report.

- a. The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the Comprehensive Plan.
- b. The proposed site is or will be compatible with present and future land uses of the area.
- c. Should the requested variances be approved, the proposed use conforms to all performance standards.
- d. The proposed use of a single-family residential dwelling would have no impact on the character of the surrounding area
- e. There is a demonstrated need for such a use.
- f. The proposed use will not tend to or actually depreciate the area in which it is proposed.

- g. The proposed use can be accommodated with existing public services and will not overburden the City's service capacity."

"I move that we direct staff to prepare a resolution of denial for the requested variance for an impervious cover amount of 46.69 percent at the property 375 Lakeview Ave based on the findings of fact listed in the report.

- a. The proposal conflicts with the general purpose and intent of the Ordinance.
- b. The applicant is proposing features that unnecessarily contribute impervious cover and do not address a unique circumstance of the lot."

Recommended Conditions if all requests are approved

1. Construction shall occur in substantial conformance with the plans presented at the March 9, 2021 City Council meeting.
2. The applicant must obtain all other permits as may be required.
3. The applicant shall comply with all applicable federal, state, and local laws, rules and ordinances.
4. The applicant must adhere to and remain in compliance with the requirements of this Resolution, applicable performance standards, and such other requirements as may apply.
5. A Stormwater Facility Maintenance Agreement is required by the property owner to ensure the proposed BMPs are constructed and maintained into perpetuity of the proposed use. This agreement shall be submitted and approved by the City Engineer and City Attorney prior to issuance of the certificate of occupancy.
6. All conditions of this variance must be complied with, shall run with the land, and shall not in any way be affected by the subsequent sale, lease or other change from current ownership of the Property.
7. This Resolution is subject to the condition that all representations, written and oral, made by the applicant and their agents and representatives to the City contained in and concerning the applicant's application for the variances must have been true, complete and accurate at the time they were made, and that they remain true and accurate for the duration of the variances.
8. By undertaking the activities approved by the request, the applicant agrees to all conditions.

Date: 02.10.21
To: City of Tonka Bay
Re: Design narrative for 375 Lakeview Avenue

Design:

The architectural design for the proposed home at 375 Lakeview Avenue is based on a contemporary aesthetic that will function for a young growing family with an active lifestyle. This home will be used as a primary residence and will replace the existing 1915 home on the site.

Similar to the home located at 275 Lakeview Avenue, the essential character of this proposed home embraces clean lines and contemporary form. Spatial efficiency, functionality, maintenance-free materials and maximizing views to the lake (while also maintaining privacy) are key components to the design. Natural light and shadow are also considered throughout the design. Some examples include: creating relief in the upper-level walls on the public sides of the home, creating overhangs at the entry points to the home, and overhanging a portion of the main level plan from the foundation on the lake side. Articulation is also used with vertical screen elements at key areas that will cast shadow patterns, provide a sense of privacy while letting in air and light and integrate necessary structural supports. We are proposing a 2' roof overhang at the main level on the lake and street sides that transitions into a trim band on the side yards to provide architectural scale to the elevations. The overhang portions can provide locations for recessed downlighting for security lighting while minimize light pollution. We are proposing to meet the allowable building heights as set forth in the Zoning Code by maintaining the same main floor elevation as the (removed) existing home.

Materials:

We are proposing the exterior cladding to be a neutral dark color [cement board siding](#) and trim so that it will recede into the natural landscape as seen from the lake. We are also proposing either natural wood cladding accents or maintenance free manufactured [wood accents](#) to offer interest and create a sense of inviting warmth at the entry as well as providing curb appeal to the street and lake facing elevations. This also includes wood soffits at the entry overhang. The chimney structure is proposed as a [manufactured stone veneer product](#) and the windows as [Marvin](#) windows and doors. The above grade exposed portion of the foundation is proposed as exposed concrete as well as the new driveway, the entry stoop and steps down to the on-grade lake-side patio, which would be a stone or a concrete paver product on a compacted base material. Because we are early in the design process and price estimating has not been completed, these materials are our starting points and if they would need to be adjusted due to cost, they would follow the requirements of the exterior building materials as set forth in the Zoning Code. We are happy to work with the City on this to assure compliance.

Conclusion:

This substandard lot size was not created by the owner and we believe the proposed design meets the harmony as intended in the Zoning Ordinance. We believe we have increased the sites functionality by providing off-street parking which will reduce traffic congestion along Lakeview avenue, allow more air and light and increase the safety for general traffic, City works and first responders vehicles. We have consciously considered the amount the proposed footprint moves towards the lake to provide this parking. There is room to move the footprint closer to the lake and still be within the setback requirement, but we feel it may be more consistent with the comprehensive plan to keep the neighboring homes in general alignment to one another. This will help preserve their views to the lake. We believe by encroaching the side yard setbacks helps offset the need to place the house any closer to the lake. Lastly, we feel this a long-term investment that will help maintain and improve property values along Lakeview Avenue and will add visually to the beautiful setting.

Thank you for your consideration,



Mike Bader, AIA

Proposed renderings:

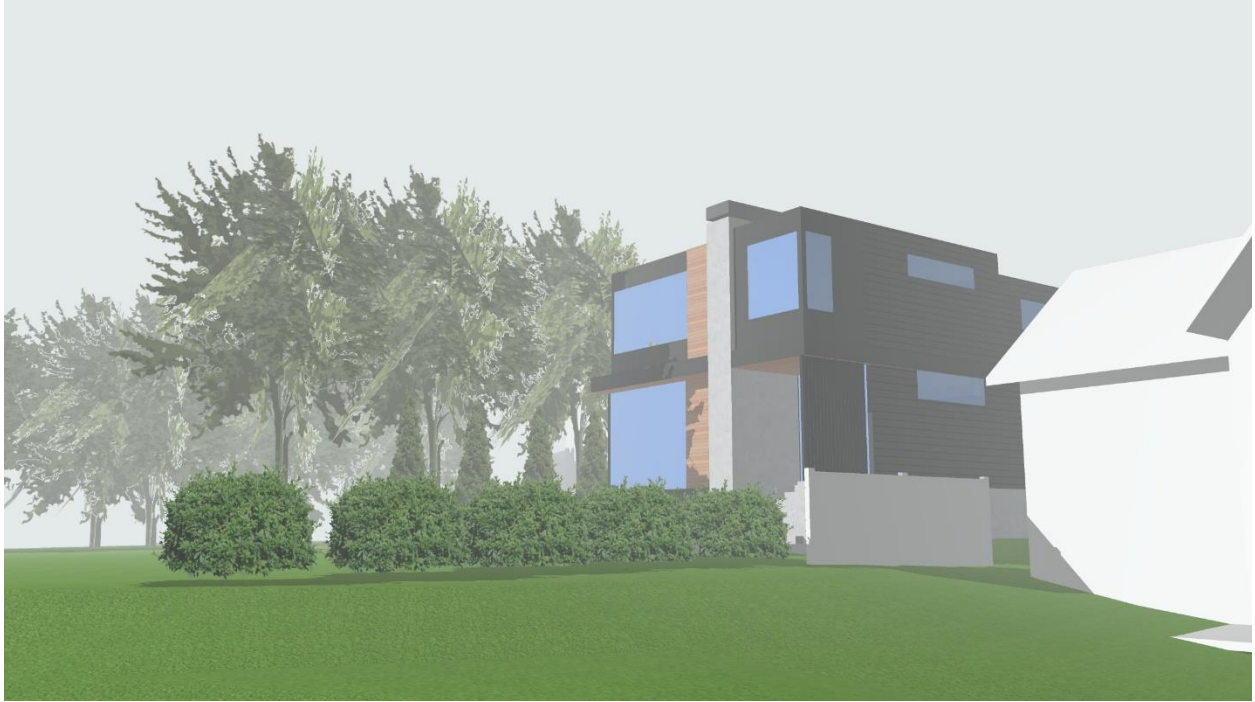
View from lake.



View along Lakeview Avenue.



¾ view looking NW.



Driveway close up view looking east.



City of Tonka Bay Memorandum

To: City Council Members
Kathy Laur, City Administrator

From: Thomas Ramler-Olson, Assistant City Planner
Nick Preisler, City Engineer

Date: March 2, 2021
City Council Regular Meeting March 9, 2021

Project: 017236-000, Phase 005

Requests: Variance to modify no more than 4 feet of natural grade where 2 feet is the maximum amount

Variance to locate a swimming pool 79 feet from the ordinary high water line where the minimum setback is 136 feet

Variance to locate a swimming pool fence 40 feet from the ordinary high water line when the minimum setback is 136 feet

Variance for an impervious cover amount of 33.69 percent where the maximum is 25 percent

PID: 28-117-23-24-0021

RECOMMENDATION

Based on the findings of fact, staff recommends denial of variances to modify no more than 4 feet of natural grade, to locate a swimming pool 79 feet from the ordinary high water line, to locate a swimming pool fence 40 feet from the ordinary high water line, and for an impervious cover amount of 33.69 percent.

GENERAL INFORMATION

Applicant: Brett Harris

Owner(s): Wendy Schoppert & Steve Wold

Subject Property: 70 Wildhurst Rd

Existing Land Use / Zoning: Detached, Single-family Residential; zoned R-1A, Shoreland Overlay

Surrounding Land Use / Zoning:

North:	Detached, Single-family Residential; zoned R-1A, Shoreland Overlay
West:	Lake Minnetonka
South:	Detached, Single-family Residential; zoned R-1A, Shoreland Overlay
East:	Detached, Single-family Residential; zoned R-1A, Shoreland Overlay

Comprehensive Plan: The Tonka Bay 2018-2040 Comprehensive Plan guides this lot for Single-family Residential use.

Deadline for Agency Action:	Application Date:	February 18, 2021
	60 Days:	April 19, 2021
	Extension Letter Mailed:	N/A
	120 Days:	June 18, 2021

CONSIDERATIONS RELATED TO THE REQUEST

1. **Overview.** The applicant is proposing to construct a pool and patio at 70 Wildhurst Road. This work includes modifying the natural grade of the lot and adding a pool fence, which along with home will enclose the entire pool. This work will require four variances summarized in the table below:

	Required / Existing	Proposed
Front Setback (Lakeside)	136 feet (average lakeside setback of principal structures on abutting lots)	79 feet
Pool Fence Setback	136 feet (average lakeside setback of principal structures on abutting lots)	40 feet
Impervious Cover	25 percent / 30.86 percent	33.69 percent
Limit to Grade Modification	2 feet	4 feet

The property is a riparian lot located in the R-1A district. The proposed pool sits above the natural grade more than 9 inches, which makes it subject to principal structure setbacks. It is encroaching into the rear yard or lakeside setback by 57 feet.

Pools are required to be enclosed by a fence or wall that is at least 4 feet high. The applicant is proposing such a fence; however, it is proposed to be about 40 feet from the ordinary high water level and this location conflicts with restrictions on fences taller than 3 feet. Fences with heights exceeding 3 feet are only allowed within the buildable area of riparian lots. The buildable area on the lot is setback 136 feet from the ordinary high water level, which means the proposed pool fence is encroaching upon its setback by 96 feet.

The applicant is proposing to modify the natural grade of the lakeside portion of the lot to eliminate the valley that currently exists in that area. This alteration would move approximately 4 feet of grade, which exceeds the maximum amount allowed.

The area of the lot is about 28,355 square feet, and it currently shows an impervious cover amount of about 30.86 percent, or 8,749 square feet. The addition of the pool and other improvements would result in an increase of 804 square feet, or a proposed amount of 33.69 percent. This amount exceeds the maximum of 25 percent allowed on lots. The applicant proposes a stormwater management feature in the streetside portion of the lot to treat stormwater runoff created by the impervious cover amount greater than 25 percent.

2. Ordinance Authority

1011.02 GENERAL BUILDING AND PERFORMANCE REQUIREMENTS; Subd. 4.d

Modifications which serve to alter the average and typical natural grade of an individual lot more than two (2) feet shall require the review of the City Engineer and approval of the City Council.

1011.03 GENERAL YARD, LOT AREA AND BUILDING REGULATIONS; Subd. 5.b

Terraces, 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.

1011.03 GENERAL YARD, LOT AREA AND BUILDING REGULATIONS; 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.

1011.05 FENCING/SCREENING; Subd. 2.b.1.a

Fences in the front (lakeside) yard between the shoreline and the greater of the building line of the house or fifty (50) feet, shall be no more than three (3) feet in height. Fences or walls located within the buildable area of the lot and at least fifty (50) feet from the shoreline may be up to six (6) feet in height.

1011.05 FENCING/SCREENING; Subd. 2.c

All outdoor swimming pools existing and hereafter constructed shall be completely enclosed by a security fence or wall at least four (4) feet but not more than six (6) feet high and located at least four (4) feet from the edge of a pool.

1070.11 IMPERVIOUS SURFACE COVERAGE; Subd. 1.a

The maximum impervious surface coverage for lots in all zoning districts within the Shoreland District is twenty-five (25) percent of the lot area.

3. Variance Review Criteria

Statutory Criteria

1. *The request is in harmony with the general purpose and intent of this Ordinance.*

EXCESSIVE GRADE MODIFICATION:

The purpose of this ordinance is to establish general development performance standards, specifically related to fill and excavation. This standard limits soil disturbance on lots to an amount that maintains the natural function of the site to treat stormwater and provide stability for development, thereby enhancing the health, safety, and general welfare of residents. The applicant has demonstrated the grade modification they are proposing will be designed to not compromise the natural functions of the site nor threaten erosion of the soil into the lake. **Criterion met.**

LAKESIDE SETBACK OF POOL:

The purpose of front yard (lakeside) setback requirements on riparian lots, among other reasons, is to provide enough area for property owners to build on their lot and enjoy their property while still treating stormwater and maintaining adequate views of Lake Minnetonka for abutting properties. At its proposed elevation of about one (1) foot above the average grade, the proposed pool deck does not violate the intent and purpose of the ordinance. **Criterion met.**

LAKESIDE SETBACK OF POOL FENCE:

The standard to require a fence of four (4) feet in height around in-ground swimming pools is intended to reduce residents' risk of drowning and is, therefore, in harmony with the Ordinance and its purpose and intent to promote and protect the public health, safety, and general welfare. **Criterion met.**

IMPERVIOUS COVER:

The proposed plan for the property shows an area with stormwater treatment system in the northeast corner of the lot which is designed to treat the stormwater runoff from the proposed impervious cover above the maximum amount of 25 percent. This request satisfies the purpose and intent of the ordinance. **Criterion met.**

2. *The variance is consistent with the comprehensive plan.*

ALL VARIANCES:

None of the variances would bring the property into conflict with the comprehensive plan, which guides the property for Low Density Residential. **Criterion met.**

3. *The property in question meets the “practical difficulties” test:*

- a. *The property owner proposes to use the property in a reasonable manner.*

ALL VARIANCES:

Swimming pools on residential lots do not compromise the reasonable use of the property as a residential lot for single-family. **Criterion met.**

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

ALL VARIANCES:

The applicant has failed to identify a unique circumstance to the property not created by the landowner that establishes a practical difficulty to meeting the standards described in the zoning ordinance. **Criterion not met.**

- c. *The variance will maintain the essential character of the locality.*

All the variances requested by the applicant are not expected to compromise the essential character of the locality. **Criterion met.**

City Tests

1. *Will the variance impair an adequate supply of light and air to adjacent property?*

The variances will not impair an adequate supply of light and air to adjacent property. **Criterion met.**

2. *Will the variance unreasonably increase the congestion in the public street?*

The variances will not unreasonably increase the congestion in the public street. **Criterion met.**

3. *Will the variance increase the danger of fire or endanger the public safety?*

The variances will not increase the danger of fire or endanger the public safety. **Criterion met.**

4. *Will the variance unreasonably diminish or impair established property values within the neighborhood, or in any way be contrary to the intent of the zoning ordinance?*

The variances will not unreasonably diminish or impair established property values within the neighborhood, nor in any way be contrary to the intent of the zoning ordinance. **Criterion met.**

4. **Engineering Considerations:**

EXCESSIVE GRADE MODIFICATION

The applicant is proposing some grade modifications to provide support for the proposed pool structure and to provide grading transitions around the pool. The grade modification will not negatively impact the natural functions of the lot or contribute to additional runoff or erosion.

EXCESSIVE IMPERVIOUS COVER

The applicant is proposing to increase the overall hardcover of the lot from 30.86 percent to 33.69 percent. To mitigate the increased runoff the applicant has proposed a stormwater treatment system which will treat the full amount of impervious surface above 25 percent. Additionally, the regrading of the front yard adjacent to the pool is proposed such that the runoff will be slowed down and spread out to promote increased surface filtration and subsurface infiltration. Finally, due to the large size of the lot there is ample opportunity for natural treatment of stormwater throughout the lot. All of this reduces the lot's dependency on the engineered stormwater treatment system to provide stormwater treatment.

POTENTIAL ACTION

- 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 ITEM and request additional information.

The 60-day review period for this application expires on April 19, 2021. If the Council fails to preliminarily approve or disapprove the request within the review period, the application is deemed preliminarily approved.

RECOMMENDATION

Based on the findings of fact in this report, staff recommends the following:

- Denial of variances to modify no more than 4 feet of natural grade, to locate a swimming pool 79 feet from the ordinary high water line, to locate a swimming pool fence 40 feet from the ordinary high water line, and for an impervious cover amount of 33.69 percent

"I move that we direct staff to prepare a resolution of denial to modify no more than 4 feet of natural grade, to locate a swimming pool 79 feet from the ordinary high water line, to locate a swimming pool fence 40 feet from the ordinary high water line, and for an impervious cover amount of 33.69 percent at the property 70 Wildhurst Road based on the findings of fact listed in the report.

- a. The applicant failed to identify unique circumstances to the lot not created by the homeowner that make it practically difficult to meet the standards in the zoning ordinance."

Recommendation Conditions if all requests are approved

1. Construction shall occur in substantial conformance with the plans presented at the March 9, 2021 City Council meeting.
2. The applicant must obtain all other permits as may be required.
3. The applicant shall comply with all applicable federal, state, and local laws, rules and ordinances.
4. The applicant must adhere to and remain in compliance with the requirements of this Resolution, applicable performance standards, and such other requirements as may apply.
5. All conditions of this variance must be complied with, shall run with the land, and shall not in any way be affected by the subsequent sale, lease or other change from current ownership of the Property.
6. This Resolution is subject to the condition that all representations, written and oral, made by the applicant and their agents and representatives to the City contained in and concerning the applicant's application for the variances must have been true, complete and accurate at the time they were made, and that they remain true and accurate for the duration of the variances.
7. By undertaking the activities approved by the request, the applicant agrees to all conditions.



MEMO

To Mayor and City Council
From Kathy Laur, City Administrator and Tom Ramler-Olsen, WSB
Date March 9, 2021
Re 40 Wildhurst Variance Request

If you recall back on December 8, 2020, the Granger's of 40 Wildhurst came before the Council to request a set of variances needed for a proposed detached garage that was connected to their home via an open deck.

The proposed garage had a height that exceeded the maximum for detached accessory structures. It was also designed to have a second floor with living space. This additional floor area resulted in a proposed that also exceed the maximum for detached accessory structures. A third variance was needed to increase the amount of impervious cover to 26.5 percent.

Rather than deny them their variance request, the Council granted them a 60-day extension of their request in order for them to revise their proposal so that the connected walkway between the home and garage was covered, making the garage a necessary part of the principal structure, which is allowed by the zoning code. This revision to create a covered walkway would remove the need for the height and floor area variances. What remains is the impervious cover variance. At the public hearing on December 8, 2020, Staff recommended approval of the impervious cover variance for reasons stated in the staff report dated December 2, 2020.

Before you are the plans for the covered walkway designed by KC Custom Home Design.

Attachments

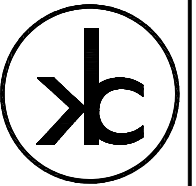
Update plans for the covered walkway

Staff Recommendations

Approval of the Granger's request.

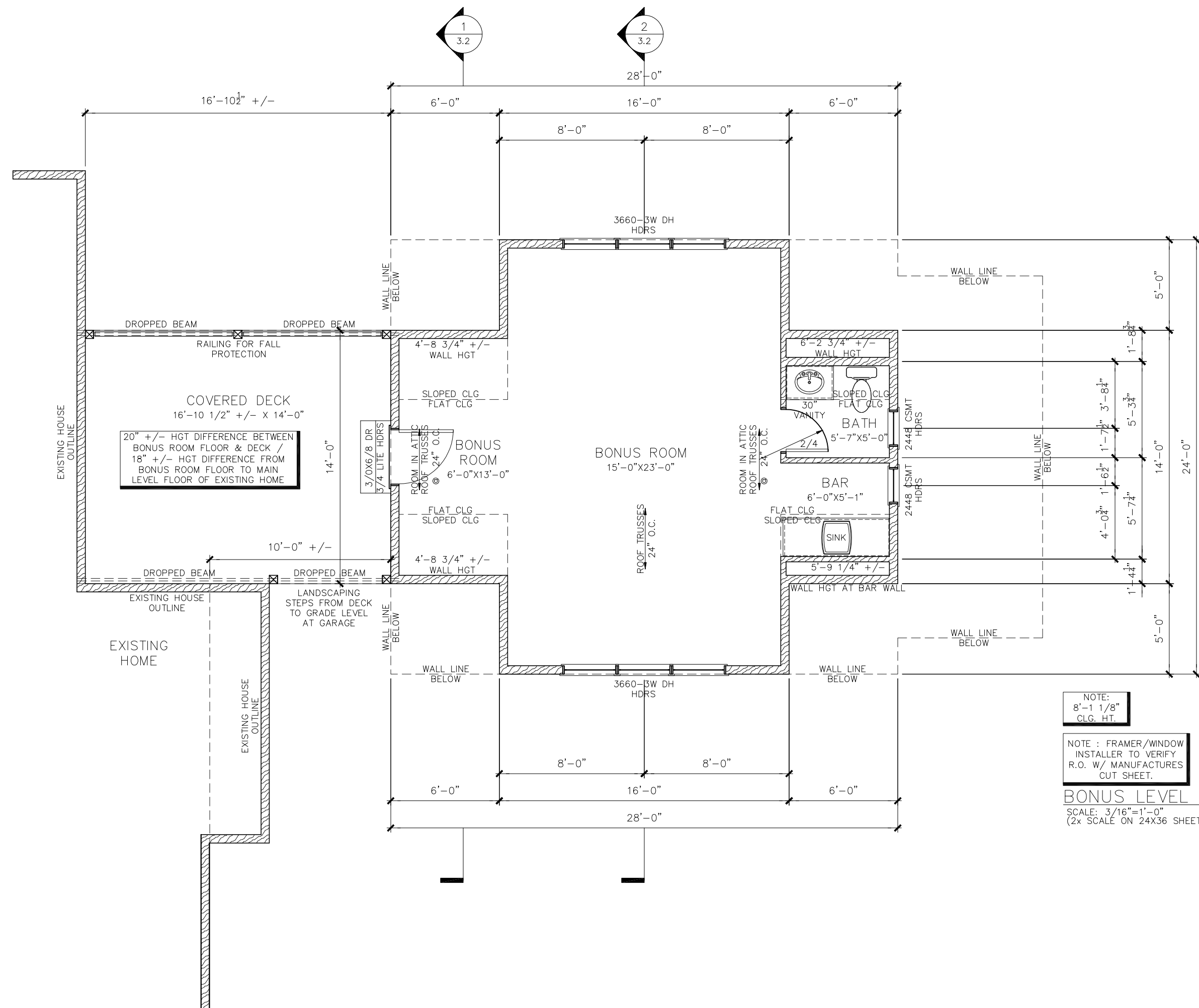
Council Action Required

Motion to approve the request for a variance for impervious cover amount of 26.5 percent.



KC CUSTOM HOME DESIGN, INC.
PO Box 711
Buffalo, MN 55313
Phone: 612.518.2118

**GRANGER RESIDENCE
40 WILDHURST ROAD
TONKA BAY, MN**



NOTE:
8'-1 1/8"
CLG. HT.

NOTE : FRAMER/WINDOW
INSTALLER TO VERIFY
R.O. W/ MANUFACTURES
CUT SHEET.

BONUS LEVEL
SCALE: 3/16"=1'-0"
(2x SCALE ON 24X36 SHEETS)

SITE ADDRESS

LOT	BLOCK
REVISIONS	
08.27.2019	PRELIM SET #1
08.28.2019	PRELIM SET #2
09.24.2020	PRELIM SET #3
10.13.2020	CONST SET #1
02.28.2021	PRELIM SET #4
03.04.2021	PRELIM SET #5

APPROX SQ FT

832 GARAGE SQ FT
552 BONUS ROOM SQ FT
1384 GT SQ FT
236 COV PORCH SQ FT

PLAN# - KC2058

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DATE 09.24.2020

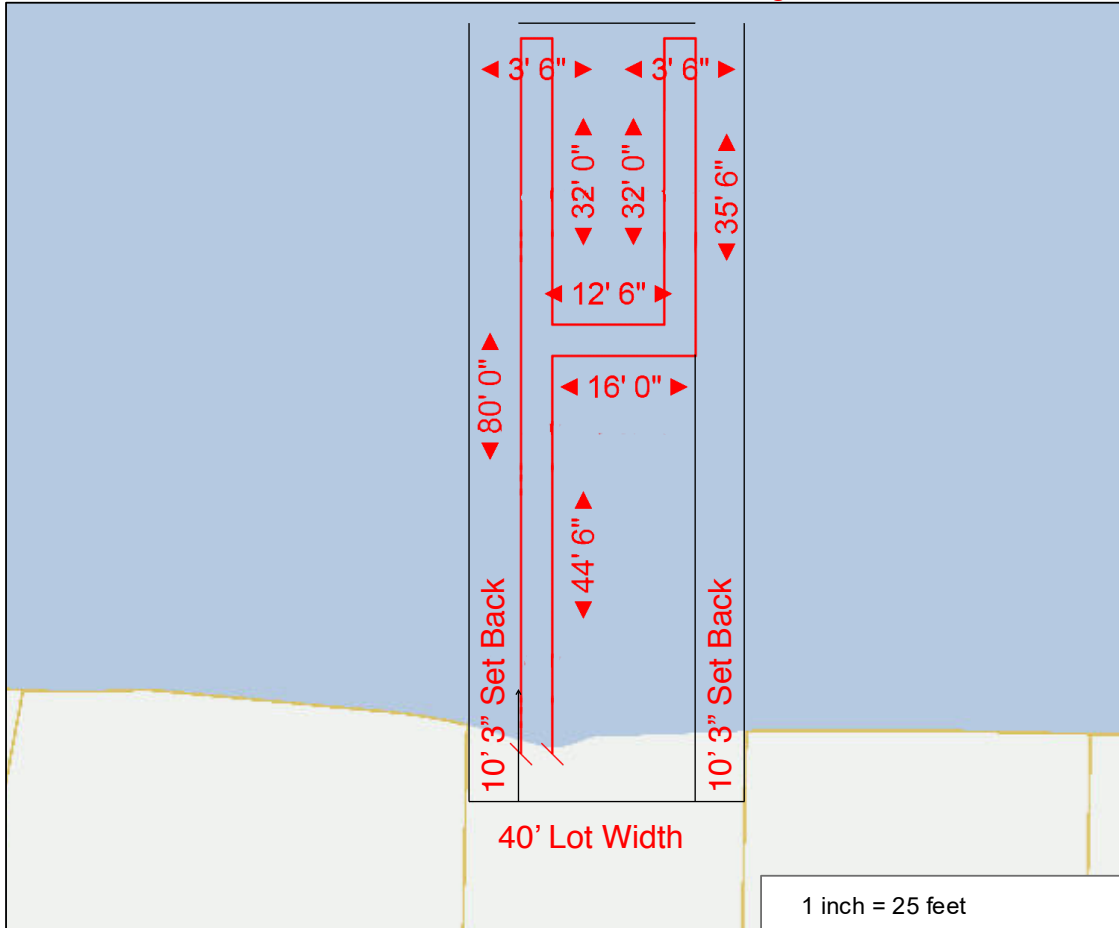
PAGE G2.2



Hennepin County Property Map

19' 6" Dock Width Outer Edges

Date: 1/27/2021



No results

Comments:

This data (i) is furnished 'AS IS' with no representation as to completeness or accuracy; (ii) is furnished with no warranty of any kind; and (iii) is not suitable for legal, engineering or surveying purposes. Hennepin County shall not be liable for any damage, injury or loss resulting from this data.

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