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# **Le Sueur County, MN**

**Thursday, May 19, 2016**

**Regular Session**

## **Item 3**

**Thorn**

Staff Contact: Kathy Brockway or Michelle Mettler

# VARIANCE STAFF REPORT

## GENERAL INFORMATION

APPLICANT/OWNER: RAYMOND AND BEVERLY THORN

911 ADDRESS: 24779 French Drive, Cleveland MN 56017

VARIANCE REQUEST: Allow the applicant to install a holding tank 6 feet from the road Right-Of-Way (ROW) and 8 feet from the dwelling in a Recreational Residential "RR" District on a Recreational Development "RD" lake, Lake Jefferson.

VARIANCE NUMBER: 16044

PARCEL NUMBER: 04.510.0220

## SITE INFORMATION

LOCATION: Lot 30, French Addition & Lot 27, Auditor Subdivision of Government Lot 1, Section 6, Elysian Township.

ZONING & PURPOSE: Recreational Residential

The intent of the Recreational Residential (RR) District is to preserve areas which have natural characteristics suitable for both passive and active recreational usage. Also, it is the intent of this district to manage areas suitable for residential development of varying types, including permanent and seasonal housing. Some non-residential uses with minimal impacts on residential uses are allowed if properly managed under conditional use procedures.

GOALS AND POLICIES: See attached Goals and Policies.

GENERAL SITE DESCRIPTION: Shoreland, residential

ACCESS: Existing off French Drive

LAKE: Lake Jefferson, Recreational Development

**Recreational Development Lake** - Lakes that usually have between sixty (60) and two hundred twenty five (225) acres of water per mile of shoreline, between three (3) and twenty five (25) dwellings per mile of shoreline, and are more than fifteen (15) feet deep.

RFPE: Regulatory Flood Protection Elevation: 1022.86 Lowest floor must meet RFPE.

## ATTACHMENTS

Application, Written Detail of Request, Survey, Aerial photo, Findings of Fact,

## STAFF FINDINGS

Staff findings per Le Sueur County Ordinance, the following findings have been developed for this request:

1. <u>Variance:</u>	<u>Request:</u>	<u>Required:</u>	<u>Ordinance:</u>	<u>Page:</u>
a. Structure to septic tank:	8 feet	10 feet	Section 17	17-9
b. Structure to Road right of way	6 feet	10 feet	Section 17	17-9

## ***Le Sueur County Land Use Goals and Policies***

Le Sueur County will adopt and enforce the following land use goals and policies to enhance land use regulation efficiencies, use County resources to meet County residents' needs, and protect County residents' health, safety, and welfare.

**Goal 1: Le Sueur County contains some of the most productive agricultural soils in Minnesota and should adopt and enforce land use goals and policies that conserve and protect agricultural resources and uses.**

Policy: The County will protect the best of its agricultural land as a resource for long term agricultural use.

Policy: An adequate supply of healthy livestock is essential to the well being of Le Sueur County. The location of livestock feedlots and non-feedlot uses too close to one another can cause conflicts. An effort to combine local needs with state feedlot regulations will ensure local involvement in this issue, help provide minimal disruption to existing agricultural businesses, and help provide rules to protect the environment.

**Goal 2: Le Sueur County should adopt and enforce land use goals and policies that conserve and restore its natural resources, bring protections to the ecological systems of the natural environment, and prevent the premature development of natural resource areas.**

Policy: The County should continue its preservation of significant bluff areas and river valleys through its use of a Conservancy Zone.

Policy: Utilize shorelands on Recreational Development Lakes (RD) for housing, but with a focus on development design that protects the resource.

Policy: Preserve shorelands on Natural Environment Lakes (NE) and Tributary Rivers as open space or wildlife areas.

**Goal 3: Improve water quality in Le Sueur County.**

Policy: The County will undertake actions to help protect groundwater as well as surface water features.

**Goal 4: Le Sueur County should adopt and enforce land use goals and policies that provide a wide range of opportunity for Urban and Rural Housing Development.**

Policy: Le Sueur County should allow non-farm development to occur in agricultural areas, but with guidelines meant to reduce conflicts with agricultural operators.

**Goal 5: The County needs to establish closer land use planning efforts with its urbanized cities for reasons of economic efficiencies and to reduce conflicts and confusion.**

# VARIANCE FINDINGS OF FACT

Name of Applicant: RAY & BEVERLY THORN

Variance # 16044

**Variance Request:** TO ALLOW THE APPLICANT TO INSTALL A HOLDING TANK 6 FEET FROM THE ROAD ROW AND 8 FEET FROM THE DWELLING.

- A. No Variance may be granted that would allow any use that is prohibited in the Zoning District in which the subject property is located.
- B. Facts supporting the answer to each question must be documented below, and are hereby certified to be the Findings of Fact of the Board of Adjustment.
- C. A Variance may be granted only where the strict enforcement of the official control will result in a practical difficulty.
- D. It is the responsibility of the applicant / landowner to prove evidence that a practical difficulty exists.
- E. A determination that a practical difficulty exists upon the consideration of the following criteria.

Y N 1. Does the property owner propose to use the property in reasonable manner?

Explain \_\_\_\_\_ JM JW JD CH FC  
☐ ☐ ☐ ☐ ☐

Y N 2. Is the alleged practical difficulty unique to the property?

Explain \_\_\_\_\_ JM JW JD CH FC  
☐ ☐ ☐ ☐ ☐

Y N 3. Were the circumstances causing the practical difficulty created by someone other than the applicant / landowner?

Explain \_\_\_\_\_ JM JW JD CH FC  
☐ ☐ ☐ ☐ ☐

Y N 4. Will the issuance of the Variance maintain the essential character of the locality?

Explain \_\_\_\_\_ JM JW JD CH FC  
☐ ☐ ☐ ☐ ☐

Y N 5. Does the alleged practical difficulty involve more than economic considerations?

Explain \_\_\_\_\_ JM JW JD CH FC  
☐ ☐ ☐ ☐ ☐

F. Variances shall only be permitted when they are in harmony with the general purposes and intent of the official controls.

Y N 6. Is the Variance consistent with and supported by the statement of purposes, policies, goal and objectives in the Ordinance?

Explain \_\_\_\_\_ JM JW JD CH FC  
☐ ☐ ☐ ☐ ☐

Y N 7. Is the Variance consistent with the Comprehensive Plan?

Explain \_\_\_\_\_ JM JW JD CH FC  
☐ ☐ ☐ ☐ ☐

G. **IF ALL THE ANSWERS ARE "YES", THE CRITERIA FOR GRANTING THE VARIANCE HAVE BEEN MET.**

( ) APPROVED ( ) DENIED

CONDITIONS: \_\_\_\_\_  
\_\_\_\_\_

Applicant response to conditions: Agree ( ) Disagree ( )

Reasons: \_\_\_\_\_

Board of Adjustment Chairman

Date

## 2. Affected Agency

The County may only allow variances to the horizontal setbacks set forth below. Variances that pertain to the standards and requirements of the state of Minnesota must be approved by the affected state agency pursuant to the requirements of the state agency. Variances to wells and water supply lines must be approved by the Minnesota Department of Health.

### D. SETBACKS

1. SSTS to structure
  - a. Absorption area to structure 20'
  - b. Tank to structure 10'
2. SSTS to property line 10'
3. SSTS to road Right-Of-Way (ROW) 20'
4. SSTS to road ROW for a nonconforming Lot of Record 10'
5. SSTS to Ordinary High Water Level (OHWL)
  - a. **Natural Environment (NE) Lake**
    1. Special Protection (SP) District 200'
    2. Recreational Residential (RR) District 200'
    3. Recreational Commercial (RC) District 75'
  - b. **Recreational Development (RD) Lake**
    1. Special Protection (SP) District 100'
    2. Recreational Residential (RR) District 75'
    3. Recreational Commercial (RC) District 75'
6. SSTS to Agricultural/ Transitional River, Tributary Stream 100'
7. SSTS to drainage ditch or waters of the state 50'
8. SSTS to Type 3 through 8 wetland 75'
9. SSTS to bluff 30'
  - a. SSTS upgrade and/or replacement for an existing dwelling:
    1. Shall be exempt from bluff setback.
    2. May be located within the bluff impact zone.
    3. Shall not be located within the bluff.
10. SSTS to pool 10'
11. SSTS to buried water lines and water supply wells as defined in Minnesota Rules Chapters 4715 & 4725.



## AERIAL PHOTO



Not to scale



## Variance Application

**I. Applicant:**  
 Name Raymond & Beverly Thorn  
 Mailing Address 50297-405 ave  
 City No. Mankato State Minn Zip 56003  
 Phone # 507-340-4826 Phone # 507-720-5186

**II. Landowner:**  
 Name Raymond C Thorn  
 Property Address 24779 - French Dr  
 City Cleveland State Mn Zip 56017  
 Phone # 507-340-4826 Phone # 507-720-5186

**III. Parcel Information:**  
 Parcel Number 04.510.0220 Parcel Acreage \_\_\_\_\_  
 Township Elysian Section \_\_\_\_\_  
 Subdivision French addition Lot 30 Block \_\_\_\_\_  
+ Lot 27 Auditor's Subdv. mmm

Full Legal Description must be attached.

(Full legal description can be found on deed, not abbreviated legal description from tax statement).

**IV. Variance Request:** List requested alternative to development standard(s).  
I need about a 25 ft. variance on the  
sides of the holding tank  
holding tank 6' to road - row & 8' to house

**V. Description of Request:**

a. A full written description of the proposed variance request with detailed information must be attached.

**VI. Township Notification:**

**Township must be notified prior to application.** (County Commissioners are not the Township Board.)

Elysian Township notified on 4/5/16  
 (Township Name) (Date)

Board Member Linus Hebel regarding the proposed request.  
 (Name)

**VII. Site Plan - Shall be a Certificate of Survey to include, but not limited to:**

- |                            |                |   |             |
|----------------------------|----------------|---|-------------|
| <u>• North point</u>       | <u>• Lakes</u> | <u>• Well</u>   | • Access    |
| <u>• Setbacks</u>          | • Rivers       | • Septic System   | • Easements |
| <u>• Property lines</u>    | • Wetlands     | <u>• Proposed Structures</u>  |             |
| <u>• Road Right-Of-Way</u> | • Streams      | • Existing structures - <u>Within and adjacent to project area.</u> |             |
| <u>• Lot Dimensions</u>    | • Ponds        | • Location of trees to be removed - <u>Shoreland Districts.</u>     |             |

- Impervious Surface
  - Required for Shoreland, Business, & Industrial Districts.
  - Itemized current & proposed impervious surfaces to include total percentages.
  - Examples include but are not limited to: rooftops, sidewalks, patios, decks, driveways, parking lots, storage areas and concrete, asphalt, or gravel roads, or tightly compacted soils.

\*Site shall be physically staked, then surveyed.

\*Stakes shall be in place at the time of onsite visit/meeting, or the application will be tabled.

\*Stakes must remain in place until construction commences.



## VIII. Practical Difficulty:

- a. Variances shall only be permitted when they are in harmony with the general purposes and intent of the official controls and are consistent with the comprehensive plan.
- b. A Variance may be granted only where the strict enforcement of the official control will result in a practical difficulty.
- c. It is the responsibility of the applicant and/or landowner to prove evidence that a practical difficulty exists.
- d. A determination that a practical difficulty exists upon the consideration of the following criteria:

1. Describe how the Variance request is reasonable compared to the ordinance requirements being varied from.

I d St Peter Tried To meet requinements but  
just didn't have enough room, because of well,  
cabin & garage

2. What are the unique circumstances of this property that prevent compliance with the Zoning Ordinance that will result in a practical difficulty?

cabin, garage, & well

3. Describe how the unique circumstances causing the practical difficulty were created by someone other than the applicant/landowner.

Location ~~and~~ of cabin, garage & well are  
The same when d bought The place  
about 15 yrs. ago

4. How will the request maintain the essential character of the locality?

The tank will be covered by lawn and  
Land

5. Does the alleged practical difficulty involve more than economic considerations?

~~It~~ Because There was't enough  
room

6. Is the request consistent with and supported by the statement of purposes, policies, goals and objectives in the Ordinance?

The variance will bring septic  
system into compliance

7. Describe how the request is consistent with the Comprehensive Land Use Plan.

The holding Tank, will no longer  
let septic water getting into ground water

8. Describe the properties current, and any proposed, onsite sewage treatment and water capabilities.

I ~~do~~ now have septic Tank with field,  
I plan on putting a 2000 gal holding tank and  
as needed

9. Explain why this request is the minimum variance amount to afford relief.

because not enough room, road, cabin, garage  
well all add To problem





**IX. Attachments shall include but not limited to:**

- ☒ a. Site Plan-survey ☒ e. Floor plans and/or blue prints (For structures)
- ☒ b. Surveyor Certification ☒ f. Septic System Compliance Inspection
- ☒ c. Access approval ☐ g. Erosion control plan
- ☒ d. Full legal description ☒ h. Description of request

*The Department may request additional information regarding the application.*

**X. Quantities and Submittal Formats:**

- a. One (1) reproducible copy of the request and all other supporting documents.
- b. **Ten (10)** copies must be submitted for documents larger than 11 x 17, documents in color, aerials or photographs.
- c. Electronic version of any supporting documents if available.
- d. Additional copies may be requested as deemed necessary by the Department.

**XI. Fees:**

Variance: \$ 600  
Filing Fee: \$ 46

Variance for Clusters: \$ 600 + \$200 per household  
Filing Fee: \$ 46

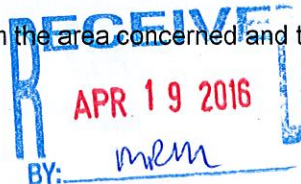
**Additional Fees:**

Special Meeting: \$1,200  
After-The-Fact meeting fee: Doubled + After-The-Fact Penalty.  
After-The-Fact Penalty: \$1,500 OR 10% of the improvement, whichever is greater.

***Fees must be paid at the time of application, cannot be accepted by mail, and are non-refundable. Cash or check. Credit cards will not be accepted.***

**XII. Procedure:** See Section 22 of the Zoning Ordinance for full details.

- a. Pre-application meeting is recommended prior to making application to ensure submittal completion. **Appointment is necessary.**
- b. Application must be made in person by the applicant and/or landowner prior to 12 P.M. on the date of application deadline. **Appointment is necessary.**
- c. All required information must be correct and submitted **at the time of application,** or the application will not be accepted.
- d. Fees **will not** be accepted by mail and must be paid at the time of application.
- e. Notification will be sent to all landowners within 500 feet of the affected property, (minimum of 10 landowners) as well as the affected Town Board, any municipality within 2 miles, and other applicable agencies.
- f. Notice will be published in the newspaper of general circulation in the area concerned and the official newspaper of the County.



- g. The Board of Adjustment may conduct an onsite visit to the affected property prior to the scheduled meeting. Any conversation with the Board of Adjustment during the onsite visit is prohibited.
- h. The Board of Adjustment shall hold a public hearing on the proposed Variance at a scheduled Board of Adjustment meeting.
- i. The applicant or representative must appear before the Board of Adjustment in order to answer questions concerning the request, or the application will be tabled.
- j. The Board of Adjustment has the authority to request additional information or designate conditions.
- k. The Board of Adjustment has the authority to determine Variance approval or denial. No Variance may be granted that allow any use that is prohibited in the Zoning District in which the property is located.
- l. The Department shall notify the applicant and/or landowner in writing of the Board of Adjustment decision.
- m. The Department will file a certified copy of any order or decision issued by the Board of Adjustment with the County Recorder.
- n. A zoning permit is required prior to starting construction however zoning permits will not be available the day of the Board of Adjustment meeting. Zoning permit application must be approved prior to obtaining a zoning permit.

### XIII. Signatures:

I hereby certify with my signature that all data contained herein as well as all supporting data are true and correct to the best of my knowledge.

Raymond E. Johnson  
Applicant's signature

4/5/16  
Date

I hereby certify with my signature that all data contained herein as well as all supporting data are true and correct to the best of my knowledge.

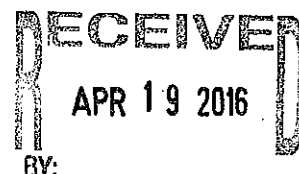
Raymond E. Johnson  
Landowner signature

4/5/16  
Date

#### OFFICE USE ONLY

Date received <u>4-19-16</u>	Present Zoning Classification <u>RD</u>	Feedlot within 500' 1000' <u>(N)</u>
Meeting date <u>5-19-16</u>	Lake Classification <u>RD</u>	Erosion Control Plan <u>(Y)</u> <u>N</u>
60 Day <u>6-18-16</u>	Lake <u>Jefferson</u>	Water courses <u>Y</u> <u>(N)</u>
RFPE <u>1022.86</u>	FEMA Panel # <u>27079C0270</u>	Bluff <u>Y</u> <u>(N)</u>
<input checked="" type="checkbox"/> Site Plan -survey	Flood Zone <u>X-outside</u>	Other _____
<input checked="" type="checkbox"/> Surveyor Certificate	<input checked="" type="checkbox"/> Full legal description.	<input checked="" type="checkbox"/> Septic _____
<input checked="" type="checkbox"/> Floor plans/blue prints	<input checked="" type="checkbox"/> Access approval	<input checked="" type="checkbox"/> COC NONC/Waiver Design
<input checked="" type="checkbox"/> Description of Request	<input checked="" type="checkbox"/> Blue Prints	<input checked="" type="checkbox"/> Fee \$ <u>646</u> ATF / SPEC MTG
<input type="checkbox"/> Application complete	<u>Michelle R. Mettles</u> Planning & Zoning Department Signature	<u>4-19-16</u> <u>16044</u> Date Permit #

01-15-16

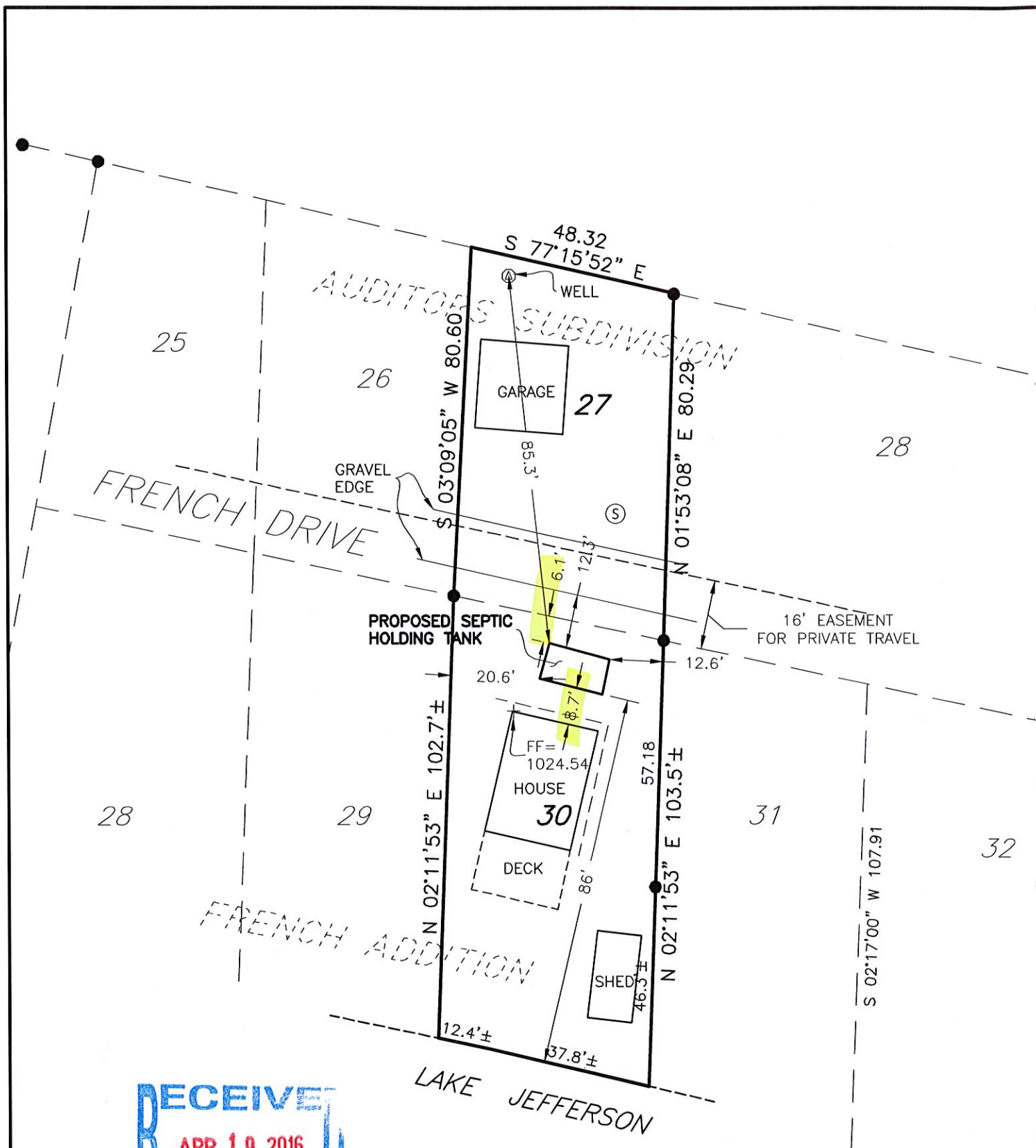


I need To use a  
holding Tank plan because  
There isn't enough ~~the~~ room  
for any other plan To work.

Ray Ihon







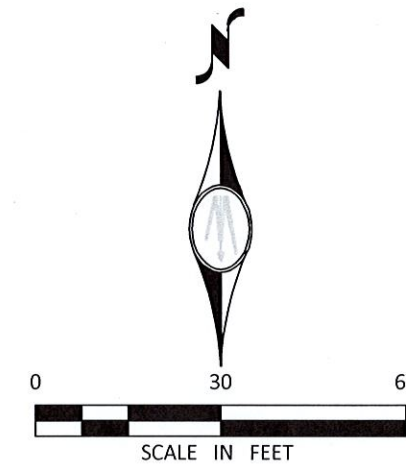
PID 04.510.0220

**OWNER**  
 RAYMOND & BEVERLY THORN  
 50297 405 AVE  
 NORTH MANKATO, MN 56003

**SITE ADDRESS**  
 24779 FRENCH DRIVE  
 CLEVELAND, MN 56017

**LEGEND**

- MONUMENT FOUND
- Ⓐ WELL
- Ⓢ SANITARY MANHOLE



**SURVEYOR'S CERTIFICATION**

I hereby certify that this survey was prepared by me or under my direct supervision and that I am a duly licensed land surveyor under the laws of the State of Minnesota.

*Rory Jensen*  
 Rory Jensen  
 License Number 19789

4-19-16  
 Date

Horizontal Datum: 1996 Le Sueur County Coordinate System

RECEIVED  
 APR 19 2016  
 BY: *mem*

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H:\THORA\_PR\M31111665\CAD\C3D\111665BD1.DWG 04-18-2016 1:35p.m.

SDB111665H

JOB NUMBER: M31.111665

FIELD BOOK: 41V-9 PG 49

DRAWN BY: JLA

4.0 S6-T109N-R24W

<p align="center"><b>EXHIBIT DRAWING</b>          ELYSIAN TOWNSHIP, LE SUEUR COUNTY, MINNESOTA</p>		<p>LOT 30 OF FRENCH ADDITION AND LOT 27 OF AUDITOR'S SUBDIVISION OF GOVERNMENT LOT 1, SECTION 6, TOWNSHIP 109 NORTH, RANGE 24 WEST, ELYSIAN TOWNSHIP, LE SUEUR COUNTY, MINNESOTA</p> <p>FOR: RAY THORN</p>
<p align="center"><b>BOLTON &amp; MENK, INC.</b>          Consulting Engineers &amp; Surveyors</p>		
<p align="center">1960 PREMIER DRIVE          MANKATO, MINNESOTA 56001          (507) 625-4171</p>		

## Surveyor Certification

I. **Applicant:**  
Name RAYMOND THORN

II. **Landowner:**  
Name RAYMOND THORN  
Property Address 24779 FRENCH DRIVE  
City Cleveland State MN Zip 56017

III. **Parcel Information:**  
Parcel Number 04-10-0220

IV. **Site Plan - Shall be a Certificate of Survey to include, but not limited to:**

- North point
- Setbacks
- Property lines
- Road Right-Of-Way
- Lot Dimensions
- Lakes
- Rivers
- Wetlands
- Streams
- Ponds
- Well
- Septic System
- Proposed Structures
- Existing structures - *Within and adjacent to project area.*
- Location of trees to be removed - *Shoreland Districts*
- Access
- Easements
- Impervious Surface
  - Required for *Shoreland, Business, & Industrial Districts.*
  - Itemized current & proposed impervious surfaces to include total percentages.
  - Examples include but are not limited to: *rooftops, sidewalks, patios, decks, driveways, parking lots, storage areas and concrete, asphalt, or gravel roads, or tightly compacted soils.*

\*Site shall be physically staked, *then* surveyed.

\*Stakes shall be in place at the time of onsite visit/meeting, or the application will be tabled.

\*Stakes must remain in place until construction commences.

V. **Quantities and Submittal Formats:**

- a. One (1) reproducible copy of the request and all other supporting documents.
- b. Ten (10) copies must be submitted for documents larger than 11 x 17, documents in color, aerials or photographs.
- c. Electronic version of any supporting documents if available.
- d. Pre-application meeting is recommended prior to making application to ensure submittal completion. **Appointment is necessary.**
- e. Application must be made in person by the applicant and/or landowner prior to 12 P.M. on the date of application deadline. **Appointment is necessary.**
- f. All required information must be correct and submitted **at the time of application**, or the application will not be accepted.

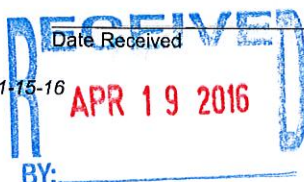
VI. **Signatures:**

The proposed improvements have been physically staked onsite *then* surveyed on 4/11/16, to reflect an accurate account of current and proposed conditions of the property identified above.

*I hereby certify with my signature that all data contained herein as well as all supporting data are true and correct to the best of my knowledge.*

*Ray Jona* 4/19/16 19789  
Surveyor Signature Date Lic #

**OFFICE USE ONLY**



*men*  
Planning & Zoning Department Signature