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# **Le Sueur County, MN**

**Thursday, July 21, 2016**

**Regular Session**

## **Item 2**

**Retka**

Staff Contact: Kathy Brockway or Michelle Mettler

# VARIANCE STAFF REPORT

## GENERAL INFORMATION

**APPLICANT/OWNER:** CHARLES RETKA, CJ FARMS INC

**911 ADDRESS:** 25331 296<sup>TH</sup> ST, LE SUEUR MN 56058

**VARIANCE REQUEST:** To allow the applicant to construct a grain bin 68 ft. to the road right of way and 3' between existing structure.

**VARIANCE NUMBER:** 16172

**PARCEL NUMBER:** 12.012.7500

## SITE INFORMATION

**LOCATION:** Section 12, Tyrone Township

**ZONING & PURPOSE:** Agriculture

The **Agriculture (A) District** is established for areas where agriculture uses are seen as the best and highest long term use of the land. The land itself needs to be preserved for primarily agricultural activities. These areas should avoid existing cities, residential zones and subdivisions. They should be large contiguous land areas with mostly prime soils.

### GOALS AND POLICIES:

**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.

### GENERAL SITE

**DESCRIPTION:** Existing building site, Agriculture

**ACCESS:** Existing off 296<sup>th</sup> St

## ATTACHMENTS

Application, Written Detail of Request, Survey, Surveyor Certification, 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> |
|----|--------------------------------|-----------------|------------------|---------------------|--------------|
|    | Structure to Road Right of Way | 68 ft.          | 75 ft.           | Section 8, Sub 5. B | 8-7          |
2. 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.
  3. A Variance may be granted **only** where the strict enforcement of the official controls will result in a **practical difficulty**.
  4. It is the responsibility of the **applicant** and/or landowner to prove evidence that a practical difficulty exists.
  5. A determination that a **practical difficulty exists** upon the consideration of the **findings of fact**.

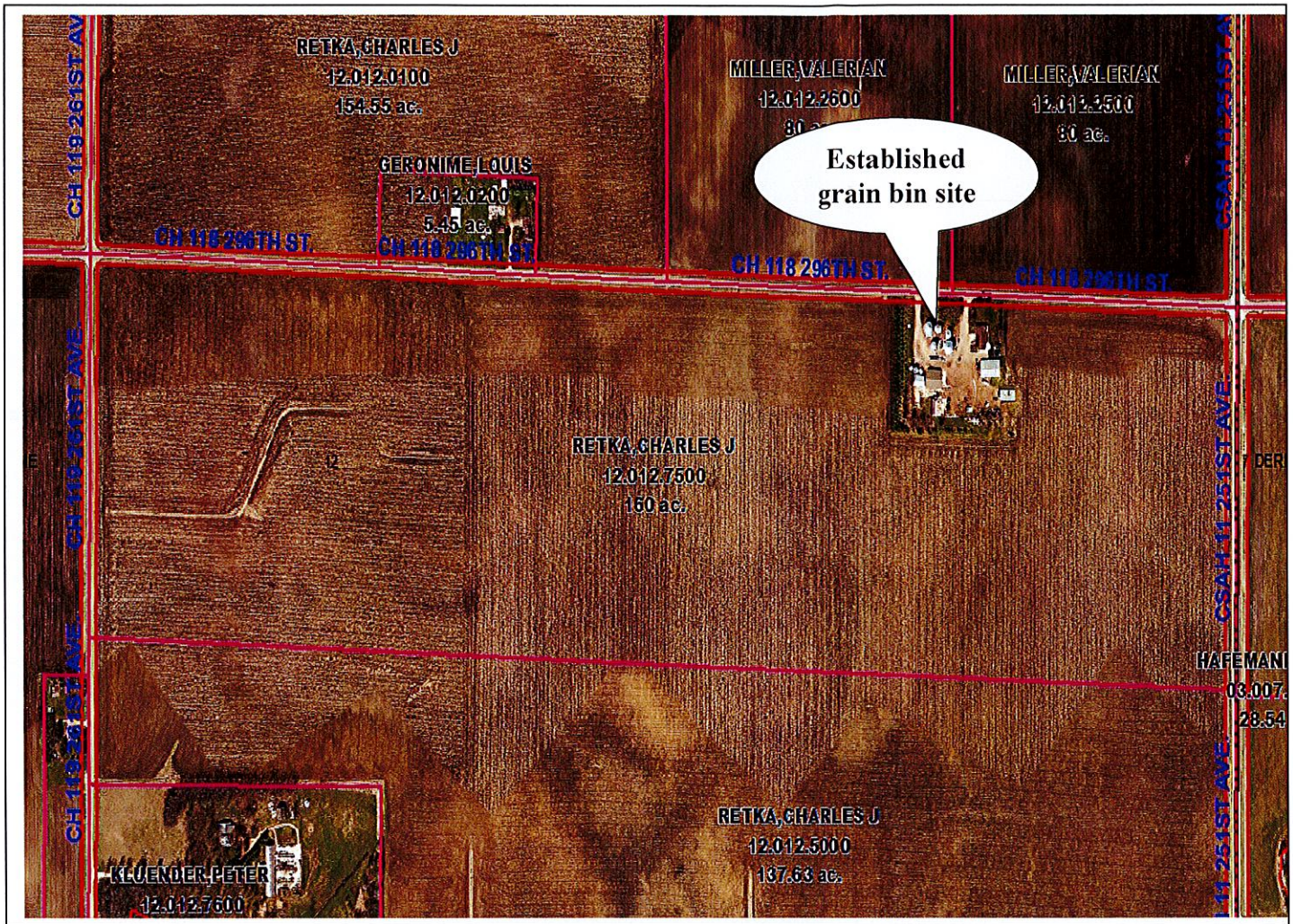
## CONSIDERATIONS

1. The following shall be considered at the hearing:

- a. There are special circumstances or conditions affecting the land, structures or use referred to in the Variance.
- b. The granting of the application will not be a detriment to the public health, safety, and general welfare or injurious to property or improvements in the area adjacent to the property of the applicant/landowner.
- c. Consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.

<b>CONDITIONS</b>
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1. In granting any Variance, the Board of Adjustment may designate such conditions in connection that will secure substantially the objectives of the Ordinance, regulation or provision to which the application is granted.
2. Conditions must be directly related to and bear a rough proportionally to the impact created by the Variance.
3. *If approved*, construction must be completed **prior to the Variance expiration**, Section 22; Subdivision 7.
4. *If approved*, a **zoning permit** must be purchased prior to starting construction, Section 26.
5. **Extension** must be requested 30 days prior to Variance expiration, Section 22; Subdivision 7.



not to scale



# VARIANCE FINDINGS OF FACT

Name of Applicant: CHARLES RETKA CJ FARMS INC

Variance # 16172

**Variance Request:** To allow the applicant to construct a grain bin 68 feet from the road right of way of a county road, 3' between an existing accessory structure.

- 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
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

Explain \_\_\_\_\_

JM	JW	JD	CH	FC
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

Explain \_\_\_\_\_

JM	JW	JD	CH	FC
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

Explain \_\_\_\_\_

JM	JW	JD	CH	FC
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

Explain \_\_\_\_\_

JM	JW	JD	CH	FC
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

Explain \_\_\_\_\_

JM	JW	JD	CH	FC
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

( ☐ ) APPROVED

( ☐ ) DENIED

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

Applicant response to conditions:

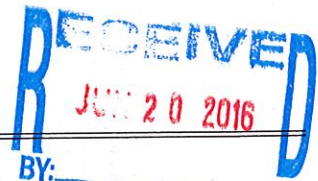
Agree ( ☐ )

Disagree ( ☐ )

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

Board of Adjustment Chairman

Date



## Variance Application

I. **Applicant:**  
 Name Charles Retter C Farms Inc  
 Mailing Address 25331 296 St  
 City LeSueur State MN Zip 56058  
 Phone # \_\_\_\_\_ Phone # \_\_\_\_\_

II. **Landowner:**  
 Name Charles Retter  
 Property Address 25331 296 St  
 City LeSueur State MN Zip 56058  
 Phone # 507 665 6859 Phone # \_\_\_\_\_

III. **Parcel Information:**  
 Parcel Number 12.012.7500 Parcel Acreage 160  
 Township Tyrole Section 12  
 Subdivision \_\_\_\_\_ Lot \_\_\_\_\_ Block \_\_\_\_\_

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).  
Construct a grain bin 48' ROW + 3' from  
Acc. Structure

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.)

Tyrole Township notified on 6/21/16  
 (Township Name) (Date)

Board Member Keith Lammers regarding the proposed request.  
 (Name)

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

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

Existing Grain Drying and Storage was built when  
67' setback from edge of 66' road right of way was  
allowed Per County ordinance rules

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

Existing Placement of Dyer and Storage bins as  
well as electrical does not provide room for  
a 75' setback from edge of Road Right of way

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

Dad did it.

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

There already is a 48' storage bin on site  
built in early 1980's at 67' setback

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

wouldn't fit with overall efficiency of Bin  
Storage drying site

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

It is Ag Use in an ag district

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

it is Agricultural use in an ag district

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

I will sign waiver

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

because of the established of the  
existing Bin right location



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

- |  |  |
|--|--|
| <input type="checkbox"/> a. Site Plan- <b>survey</b> | <input type="checkbox"/> e. Floor plans and/or blue prints ( <i>For structures</i> ) |
| <input type="checkbox"/> b. Surveyor Certification   | <input type="checkbox"/> f. Septic System Compliance Inspection                      |
| <input type="checkbox"/> c. Access approval          | <input type="checkbox"/> g. Erosion control plan                                     |
| <input type="checkbox"/> d. Full legal description   | <input type="checkbox"/> 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, aeriels 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:	<u>Doubled</u> + 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.

Charles Rotos  
Applicant signature

6-20-16  
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.

Chal Rotos  
Landowner signature

6-20-16  
Date

#### OFFICE USE ONLY

Date received <u>6/20/16</u>	Present Zoning Classification <u>AG</u>	Feedlot within 500' 1000' <u>(N)</u>
Meeting date <u>7/21/16</u>	Lake Classification <u>/</u>	Erosion Control Plan Y <u>(N)</u>
60 Day <u>8/18/16</u>	Lake <u>/</u>	Water courses Y <u>(N)</u>
RFPE <u>/</u>	FEMA Panel # <u>27079C00450</u>	Bluff Y <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 type="checkbox"/> Floor plans/blue prints	<input type="checkbox"/> Access approval <u>Ext</u>	<input type="checkbox"/> Septic _____
<input checked="" type="checkbox"/> Description of Request	<input type="checkbox"/> Blue Prints	<input type="checkbox"/> Fee \$ <u>644</u>
<input checked="" type="checkbox"/> Application complete	<u>K Brockway</u> Planning & Zoning Department Signature	<u>4/20/16</u> Date
		COC NONC/Waiver Design <u>(N)</u>
		ATF / SPEC MTG <u>16172</u> Permit #

01-15-16

RECEIVED  
JUN 20 2016  
BY: \_\_\_\_\_



#### LEGEND

- 3/4" IRON PIPE MONUMENT SET  
MARKED BY REG. NO. 19789
- MONUMENT FOUND

#### 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

6-17-16  
Date

Horizontal Datum: 1996 Le Sueur County Coordinate System

VARIANCE EXHIBIT DRAWING  
TYRONE TOWNSHIP, LE SUEUR COUNTY, MINNESOTA



**BOLTON & MENK, INC.**  
Consulting Engineers & Surveyors

1960 PREMIER DRIVE  
MANKATO, MINNESOTA 56001  
(507) 625-4171

PART OF THE N 1/2 - SE 1/4 OF SECTION 12,  
TOWNSHIP 112 NORTH, RANGE 25 WEST, TYRONE  
TOWNSHIP, LE SUEUR COUNTY, MINNESOTA

FOR: CHUCK RETKA

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H:\RETKACHU\_PR\M33111981\CAD\C3D\111981BD1.DWG 06-17-2016 9:00a.m. SDB111981H

JOB NUMBER: M33.111981

FIELD BOOK: 90J PG 43

DRAWN BY: JLA

4.0 S12-T112N-R25W

## Surveyor Certification

I. Applicant: W Farms Inc Charles Retka  
Name

II. Landowner: Charles Retka  
Name  
Property Address 25331 296 St  
City LeSueur State MN Zip 56058

III. Parcel Information:  
Parcel Number 12.012.7500

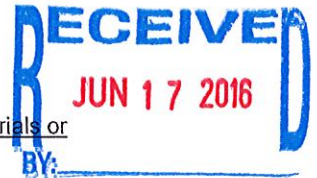
IV. Site Plan - Shall be a Certificate of Survey to include, but not limited to:

- 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.*
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- \*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 6/14/16 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.*

Roy Juma 6/16/16 19789  
Surveyor Signature Date Lic #

6/20/16 Kathy Brockway  
Date Received Planning & Zoning Department Signature

22

Individual(s) to Individuals(s)

264151

12-012-750

No delinquent taxes and transfer entered; Certificate of Real Estate Value ( ) filed ( ) not required Certificate of Real Estate Value No. **018070**

FEB 23 '98

19

*[Signature]*  
County Auditor

by \_\_\_\_\_ Deputy

Document No. 264151

OFFICE OF COUNTY RECORDER  
County of Le Sueur, MN



No. of Pages: ☒ Well Certificate NOT REQ'd  
☐ Well Certificate Rec'd

I hereby certify that the within instrument was filed in this office for record on 02-23-1998 at 9:00 ☒ AM ☐ PM



02231998

*[Signature]*  
DAVID A. SEXE,  
COUNTY RECORDER

STATE DEED TAX DUE HEREON: \$660.00

Date: February 17, 1998

(reserved for recording data)

FOR VALUABLE CONSIDERATION, Jerome H. Retka and Catherine L. Retka, husband and wife,  
(marital status), Grantor(s),

hereby convey(s) and warrant(s) to Charles J. Retka, Grantee (s)  
real property in Le Sueur County, Minnesota, described as follows:

The North One-half of the Southwest Quarter (N $\frac{1}{2}$  of SW $\frac{1}{4}$ ) and the North One-half of the Southeast Quarter (N $\frac{1}{2}$  of SE $\frac{1}{4}$ ) of Section 12, Township 112 North, Range 25 West, Le Sueur County, Minnesota. Subject to the terms and conditions of that certain Severance Agreement dated January 2, 1983. Subject to all easements and agreements of record.

This deed is given in full satisfaction of a Contract for Deed dated December 30, 1985, filed January 2, 1986, as Document Number 199725, in the Office of the County Recorder, Le Sueur County, Minnesota.

Subject to Option Agreement dated December 30, 1985.

(if more space is needed, continue on back)

together with all hereditaments and appurtenances belonging thereto, subject to the following exceptions:

The Grantee certifies that the Grantee does not know of any wells on the above described real property.

LeSueur County	15048
Deed Tax \$	660.00
Date	2-23-98

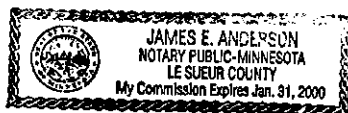
*[Signature]*  
Grantee

*[Signature]*  
*[Signature]*

STATE OF MINNESOTA }  
COUNTY OF LE SUEUR } ss.

The foregoing instrument was acknowledged before me this 17th day of February, 1998, by Jerome H. Retka and Catherine L. Retka, husband and wife, Grantor(s).

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK):



SIGNATURE OF PERSON TAKING ACKNOWLEDGMENT

Tax Statements for the real property described in this instrument should be sent to (include name and address of Grantee):

Charles J. Retka  
RR 3  
Le Sueur, MN 56058

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS):

Anderson Law Office  
108 South Main Street  
Le Sueur, MN 56058  
(507) 665-3349



4/20/16

I would like a variance to build a 48' Dia Grain Storage bin 68' From the edge of road right of Way alongside an existing 48' Bin which is 68' From The edge of our road right of ways. This bin was built in the early 80's when the ordinance allowed a 68' setback. This would allow for the most efficient use of my Grain Drying and Storage site.

Thank you

Chuck Letko

