



Le Sueur County, MN

Thursday, August 18, 2016

Regular Session

Item 2

Elias Packet

Staff Contact: Kathy Brockway or Michelle Mettler

VARIANCE STAFF REPORT

GENERAL INFORMATION

APPLICANT/OWNER: Jason and Angie Elias

911 ADDRESS: 46493 Cape Horn Road, Cleveland MN 56017

VARIANCE REQUEST: To allow the applicants to install a holding tank 3 ft. to the deck, 4 ft. to the property line and 56 ft. to the ordinary high water level (OHWL) in a Recreational Residential "RR" District on a Recreational Development "RD" lake, Lake Jefferson. **VARIANCE IS FOR STRUCTURE, PROPERTY LINE, & OHWL SETBACKS.**

VARIANCE NUMBER: 16215

PARCEL NUMBER: 01.500.0120

SITE INFORMATION

LOCATION: Property is located at Lot 14, Cape Horn Subdivision, Section 1, Cleveland 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:

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.

GENERAL SITE

DESCRIPTION: **Residential**

ACCESS: **Existing**

LAKE: **Lake Jefferson**

ATTACHMENTS

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

AERIAL PHOTO



STAFF FINDINGS

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

- | <u>1. Variance:</u> | <u>Request:</u> | <u>Required:</u> | <u>Ordinance:</u> |
|----------------------------------|-----------------|------------------|-------------------|
| a. Structure to septic tank: | 3 feet | 10 feet | Section 17 |
| b. Septic Tank to OHWL: | 56 feet | 75 feet | Section 17 |
| c. Septic tank to Property Line: | 4 feet | 10 feet | Section 17 |
2. Refer to DNR Guidance Letters:
 - a. The Role of the Variances in Shoreland Management Ordinances pg. 9
 - b. Bluffs and Steep Slopes pg. 11
 - c. Limiting Impervious Surface pg. 15
 - d. Non-conforming Lots of Record in Shoreland Areas pg. 19
 - e. Structure Setback Requirements pg. 21
 3. 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.
 4. A Variance may be granted **only** where the strict enforcement of the official controls will result in a **practical difficulty**.
 5. It is the responsibility of the **applicant** and/or landowner to prove evidence that a practical difficulty exists.
 6. 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.

CONDITIONS

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.

VARIANCE FINDINGS OF FACT

Name of Applicant: JASON & ANGIE ELIAS

Variance # 16215

Variance Request: TO ALLOW THE APPLICANT TO INSTALL A HOLDING TANK 3 FT FROM THE DECK, 4 FT TO THE PROPERTY LINE AND 56 FT TO THE OHWL.

- 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 Jason Elias
 Mailing Address 13068 Aryfield Court
 City Rosemount State MN Zip 55068
 Phone # 612-618-8649 Phone # 651-344-8685

II. Landowner:

Name Jason Elias
 Property Address 46493 Cape Horn Road
 City Cleveland State MN Zip 56017
 Phone # 612-618-8649 Phone # 651-344-8685

III. Parcel Information:

Parcel Number 01.500.0120 Parcel Acreage _____
 Township Cleveland Section 3
 Subdivision _____ Lot 14 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).

Install a holding tank 3' from the deck.
4' from property line + 56' from the OHWL.

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.)

Cleveland Township notified on 7/12/2016
 (Township Name) (Date)

Board Member Susan Ely 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.

V. Description of Request

Request for a variance on the placement of a holding tank to meet new septic requirements for properties surrounding Jefferson-German Lakes. Due to size of lot and position of house we are limited to the holding tank on our property.

placement of a

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.

Due to size of our lot and position of house this
variance request is reasonable due to the limitations
of the property size.

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

The size of our lot and position of house doesn't
allow us to meet ordinance requirements.

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

We purchased the home in November 2012

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

We expect the holding tank to be buried and not
cause disruption to the locality.

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

No

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

Yes

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

By installing a holding tank, replacing an outdated septic
system, we are protecting the lake and environment.

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

We share a well with the neighboring
properties for our water.

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

This will allow us to meet the new septic requirements
for properties surrounding Jefferson-Berman lakes.

IX. Attachments shall include but not limited to:

- | | |
|---|---|
| <input type="checkbox"/> a. Site Plan- survey | <input checked="" type="checkbox"/> e. Floor plans and/or blue prints (<i>For structures</i>) |
| <input checked="" type="checkbox"/> b. Surveyor Certification | <input type="checkbox"/> f. Septic System Compliance Inspection <i>Waiver</i> |
| <input checked="" type="checkbox"/> c. Access approval | <input checked="" type="checkbox"/> g. Erosion control plan |
| <input checked="" 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, aerals 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.

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.

Tom Ellis
Applicant signature

7/15/16
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.

Tom Ellis
Landowner signature

7/15/16
Date

OFFICE USE ONLY

Date received 7/15/16 Present Zoning Classification RR Feedlot within 500' 1000' (N)
Meeting date 8/18/16 Lake Classification RD Erosion Control Plan Y (N)
60 Day 9/9/16 Lake Jefferson Water courses (Y) N
RFPE — FEMA Panel # 27070C0270D Bluff Y N

☒ Site Plan -survey

Flood Zone X outside

Other _____

☒ Surveyor Certificate

☒ Full legal description

☒ Septic X

COC
NONC/Waiver
Design

☐ Floor plans/blue prints

☐ Access approval

☒ Fee \$ 646

ATF / SPEC MTG

☐ Description of Request

☐ Blue Prints

☐ Fee \$ 646

☒ Application complete

K Brownway
Planning & Zoning Department Signature

7/15/16
Date

Permit # _____

01-15-16

Surveyor Certification

I. Applicant: Jason Elias
Name

II. Landowner: Name Jason Elias
Property Address 46493 Cape Horn Rd
City Cleveland State MN Zip 56017

III. **Parcel Information:**
Parcel Number 01.500.0120

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*
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- Easements
- Impervious Surface
 - Required for *Shoreland, Business, & Industrial Districts.*
 - Itemized current & proposed impervious surfaces to include total percentages.
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***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 4/22/16, 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.


 Surveyor Signature

5/6/16
 Date

43110
 Lic #

OFFICE USE ONLY

7-5-10
Date Received

Michelle R. Miller
Planning & Zoning Department Signature

01-15-16





Le Sueur
COUNTY

WAIVER FOR COMPLIANCE INSPECTION OF AN EXISTING SEPTIC SYSTEM

Mailing Address: 88 South Park Avenue • Le Center • MN • 56057

Physical Address: 515 South Maple Avenue • Le Center • MN • 56057

Direct Dial: 507-357-8538 • Fax: 507-357-8541 • Email: environmentalservices@co.le-sueur.mn.us

Landowner(s):

Name: <u>Jason and Angela Elias</u>		
Mailing Address: <u>13068 Ayrfield Ct</u>		
City: <u>Rosemount</u>	State: <u>MN</u>	Zip: <u>55068</u>
Telephone Number: <u>612-618-8649</u>		

Parcel Information: (this information can be found on your tax statement, Beacon, or contact Environmental Services)

Parcel Number: <u>01.500.0120</u>	Township Name: <u>Cleveland</u>	
Section: <u>3</u>	Township: <u>Cleveland</u>	Range: <u>25</u>
Property Address: <u>46493 Cape Horn Rd</u>		
City: <u>Cleveland</u>	State: <u>MN</u>	Zip: <u>55017</u>

Per the Le Sueur County Zoning Ordinance – Section 17, a compliance inspection on an existing septic system or subsurface sewage treatment system (SSTS) shall be required when any of the following conditions occur:

- Prior to issuance of a zoning permit within Shoreland Zoning Districts.
- Prior to issuance of a zoning permit requested for all single-family dwellings or change in the principal structure for all non-shoreland Zoning districts.
- Upon receipt of a variance and/or conditional use permit application.
- When a construction permit is required to repair, modify, or upgrade an existing system.
- Any time there is a change in use of the property and/or expansion of the structure being served by an existing SSTS, which may impact the performance of the system.
- Prior to property sale or transfer.
- At any time as required by this Section or the Department deems appropriate such as upon receipt of a complaint or other notice of a system malfunction.

This waiver allows the landowner to forgo a compliance inspection and disclose any known information about the existing septic system servicing the above listed property.

As the landowner of the above listed property **(please initial the following)**:

- ☒ I understand that I am disclosing, without inspection, that the septic system does not meet MN Rules, Chapters 7080-7083 Requirements.
- ☒ I understand that I am required to have a compliant septic system servicing the above listed property per regulations set forth in Section 17 of the Le Sueur County Zoning Ordinance.

This NOTARIZED waiver shall be submitted to:

Le Sueur County Environmental Services Department
88 South Park Avenue Le Center, MN 56057

Email: environmentalservices@co.le-sueur.mn.us Fax: 507-357-8541

I understand that I will face legal penalties and will be turned over to the Le Sueur County Attorney and/or Minnesota Pollution Control Agency for enforcement if the work is not completed as agreed.

STATE OF MINNESOTA

COUNTY OF Le Sueur ^{SS}

Signature of Landowner(s)

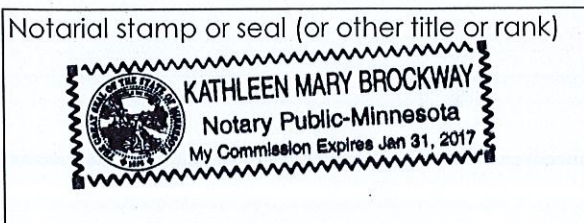
Date

Signature of Landowner(s)

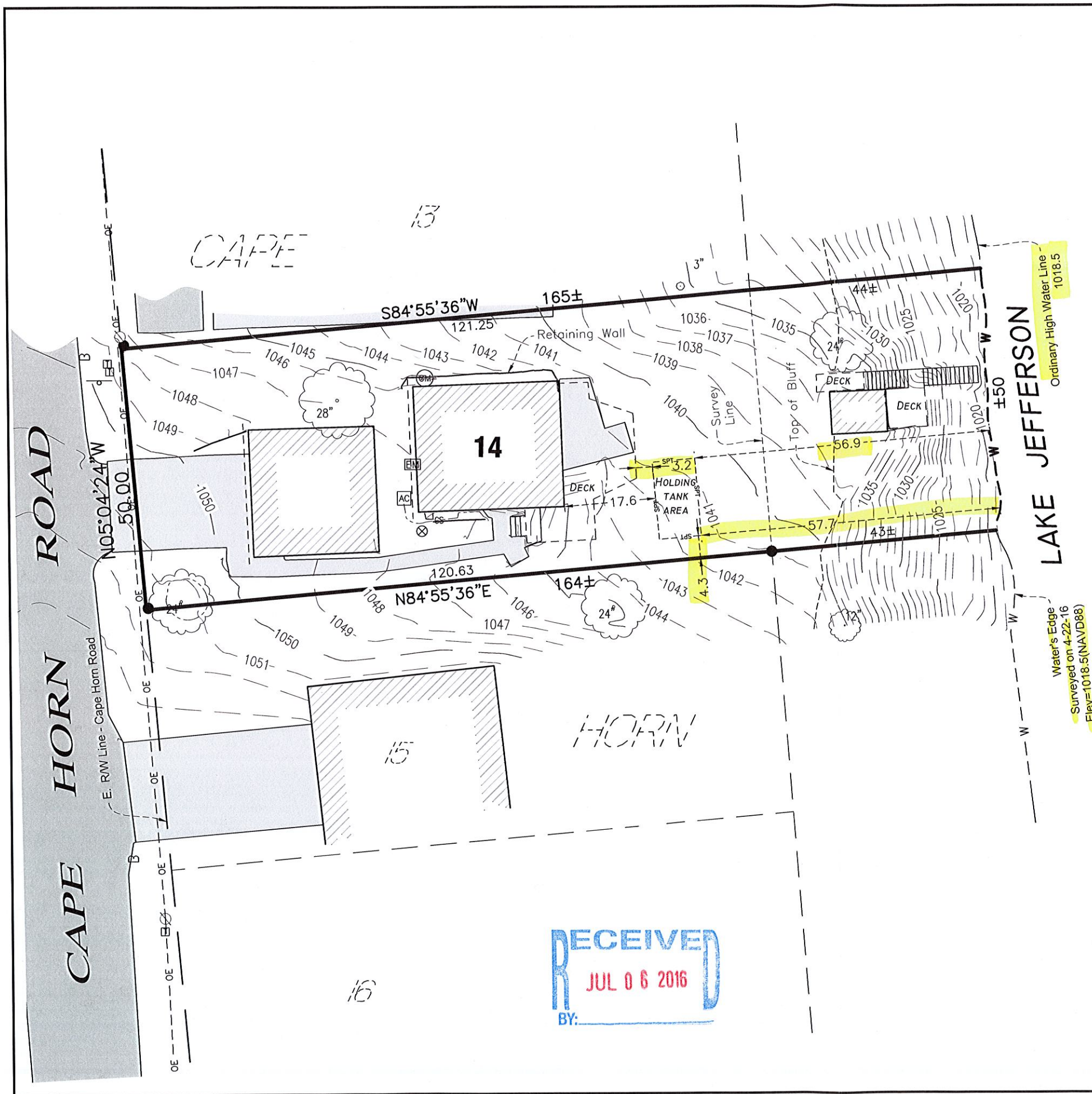
Date

Signed or attested before me on July 15, 2016

by Jason Elias



Kathleen Mary Brockway
SIGNATURE OF PERSON TAKING ACKNOWLEDGMENT



LEGAL DESCRIPTION:
(Per Client)

Lot Fourteen (1) of CAPE HORN, Part of Government Lots Two (2) and Three (3) of Section Numbered One (1) in Township Numbered One Hundred Nine (109), North, Range Numbered Twenty-five (25) West, in Le Sueur County, Minnesota.

BEARING NOTE:

The orientation of this bearing system is based on the east right-of-way line of Cape Horn Road. Said line bears North 05 degrees 04 minutes 24 seconds West.

BENCHMARK:

MnDot Monument CLEVELAND SE
Elevation - 1060.79 (NAVD88)

NOTES:

1. This lot is considered a non-conforming lot per Le Sueur County Zoning Department.
2. OHWL for Lake Jefferson=1018.5

LEGEND

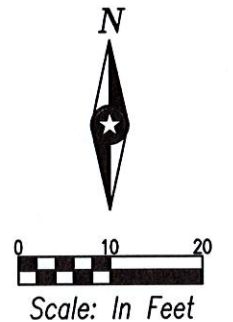
	Existing Building
	Existing Bituminous Surface
	Existing Concrete Surface
---	SPT
---	OE
---	W
●	Iron Monument Found
□	Telephone Pedestal
○	Power Pole
□	Mailbox
⊙	Gas Meter
⊕	Electric Meter
⊗	Deciduous Tree
⊕	Air Conditioner
⊗	Curb Stop

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KEY PLAN

I HEREBY CERTIFY THAT THIS SURVEY, PLAN, OR REPORT 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.

DANIEL L. STUEBER

DATE 7-6-16 LIC. NO. 43110

THIS DOCUMENT IS THE PROPERTY OF ISG AND MAY NOT BE USED, COPIED OR DUPLICATED WITHOUT PRIOR WRITTEN CONSENT.

PROJECT

CAPE HORN ROAD

Lot 14, Cape Horn
Part of Gov't Lots 2 and 3, Section
1-109-25, Le Sueur County, Minnesota

REVISION SCHEDULE		
NO	DATE	DESCRIPTION
1	7-6-16	Per County Comments

PROJECT NO. 16-19055
FILE NAME 19055 BNDY
DRAWN BY JW
DESIGNED BY -
REVIEWED BY -
ISSUE DATE 5/6/16
CLIENT PROJECT NO. -

TITLE

CERTIFICATE OF SURVEY

SHEET

1

OF 1