



Le Sueur County, MN

Thursday, August 18, 2016

Regular Session

Item 3

DeMars / Appel Packet

Staff Contact: Kathy Brockway or Michelle Mettler

VARIANCE STAFF REPORT

GENERAL INFORMATION

APPLICANT: Demars Construction
OWNER: Randy and Patty Appel

911 ADDRESS: 22243 Lake Francis Road, Elysian MN 56028

VARIANCE REQUEST: To allow the applicants to construct a single-family dwelling 73 ft. to the OHWL and 40 ft. to the township road right of way (ROW) in a Recreational Residential "RR" District on a Recreational Development "RD" lake, Lake Francis. **VARIANCE IS FOR OHWL AND ROW SETBACKS.**

VARIANCE NUMBER: 16219

PARCEL NUMBER: 4.830.0010

SITE INFORMATION

LOCATION: Property is located at Lot 1, Block 1, Han's Hideaway Subdivision, Section 28, 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:

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

GENERAL SITE
DESCRIPTION: Residential

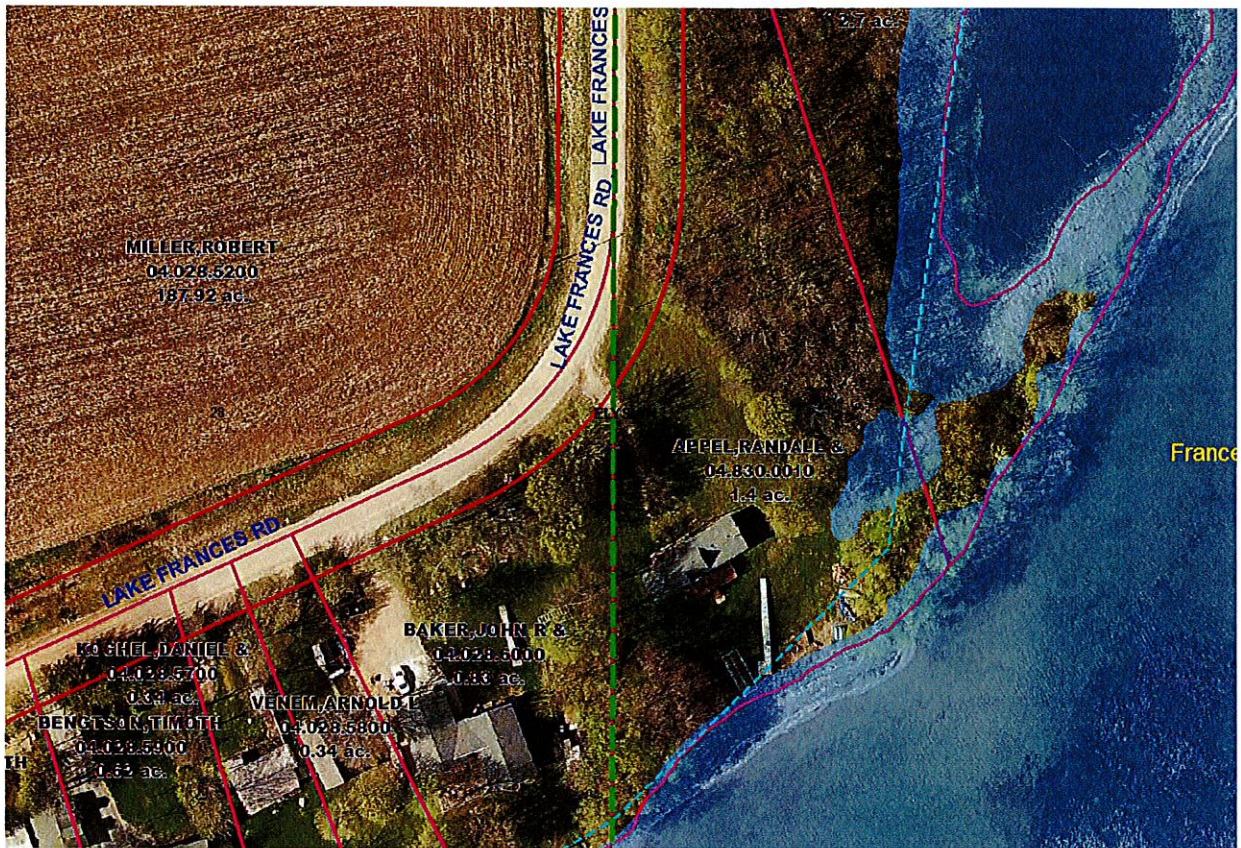
ACCESS: Existing

LAKE: Lake Francis

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:

1. Variance:

	<u>Request:</u>	<u>Required:</u>
a. Structure to OHWL	67 feet	100 feet
b. Structure to ROW	40 feet	65 feet
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**.
- 7.

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: DEMARS CONSTRUCTION

Variance # 16219

Variance Request: TO ALLOW THE APPLICANT TO CONSTRUCT A SFD 73 FT. FROM THE ¹⁶⁷¹ ~~OWN~~ LAND AND 40 FT FROM THE ROAD RIGHT OF WAY ^{Other}

- 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 DEMARS Construction - Max DEMARS
Mailing Address 327 N. Riverfront Dr.
City Mankato State MN Zip 56001
Phone # 507-387-5933 Phone # 507-327-7119

II. Landowner:

Name Randy and Patty Appel (husband and wife)
Property Address 22243 Lake Francis Road
City Elysian State MN Zip 56028
Phone # 507-380-9030 Phone # 507-327-9267

III. Parcel Information:

Parcel Number 04.830.0010 Parcel Acreage 1.4
Township Elysian Section N/A
Subdivision Han's Hideaway Lot 001 Block 001

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).

Landowners are requesting a variance for front (lake) setback and
back (road) setback to build a permanent home on the property *let's meet*

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 7-5-16
(Township Name) (Date)

Board Member Mr. Lin Hebl 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: *For All Questions See Exhibit C*

- 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.

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

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

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

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

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

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

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

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

IX. Attachments shall include but not limited to:

- | | |
|---|---|
| <input checked="" 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 checked="" type="checkbox"/> f. Septic System Compliance Inspection |
| <input checked="" type="checkbox"/> c. Access approval | <input checked="" type="checkbox"/> g. Erosion control plan |
| <input checked="" type="checkbox"/> d. Full legal description | <input checked="" type="checkbox"/> h. Description of request |

The Department may request additional information regarding the application.

X. Quantities and Submittal Formats:

- One (1) reproducible copy of the request and all other supporting documents.
- Ten (10)** copies must be submitted for documents larger than 11 x 17, documents in color, aerials or photographs.
- Electronic version of any supporting documents if available.
- 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.*

- Pre-application meeting is recommended prior to making application to ensure submittal completion. **Appointment is necessary.**
- 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.**
- All required information must be correct and submitted **at the time of application,** or the application will not be accepted.
- Fees **will not** be accepted by mail and must be paid at the time of application.
- 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.
- 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.




Applicant signature

7.18.16

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.



Landowner signature

7-18-16

Date

OFFICE USE ONLY

Date received <u>7/18</u>	Present Zoning Classification <u>RD</u>	Feedlot within 500' 1000' <u>(N)</u>
Meeting date <u>8/18</u>	Lake Classification <u>RD</u>	Erosion Control Plan <u>(Y)</u> N
60 Day <u>9/1</u>	Lake <u>Francis</u>	Water courses <u>(Y)</u> N
RFPE _____	FEMA Panel # <u>27070425</u>	Bluff Y <u>(N)</u>
<input checked="" type="checkbox"/> Site Plan -survey	Flood Zone <u>Xoutside</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 type="checkbox"/> Access approval <u>Ext</u>	<u>COC</u> NONC/Waiver Design
<input checked="" type="checkbox"/> Description of Request	<input type="checkbox"/> Blue Prints	<input checked="" type="checkbox"/> Fee \$ <u>646</u>
<input checked="" type="checkbox"/> Application complete	<u>K Brockway</u> Planning & Zoning Department Signature	<u>7/18/16</u> Date
		<u>16219</u> Permit #

01-15-16

V. Description of Request:

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

To Whom it May Concern:

On October 24, 2010, we received a phone call that our 23 year old daughter, Kandyce, was involved in an accident, and we needed to get to Hennepin County Medical Center as soon as possible. It was a parent's worst nightmare. Unfortunately, our daughter had been hit and killed by a drunk driver. Needless to say, our family was devastated and broken. Finding happiness was a struggle after this horrific event.

In 2012, we purchased a cabin at 22243 Lake Francis Road in Elysian, MN. We knew by purchasing this lake property, it would be helpful for our family to continue to heal and bond together by spending time with our other daughter, Karissa, her husband, Chris, along with our grandchildren. This was, and is, our little heaven on earth.

The existing seasonal cabin was in rough shape when we purchased it, but we thought we could try to extend the life of it until we could build a permanent home on the lot. We cleaned and painted the cabin hoping to get a few years out of it before we would build a year round home on the lot. The current cabin is deteriorating rapidly as the foundation is sloping along with the roof leaking.

We sold our home in North Mankato in May, 2016, therefore wanting to seek a permanent year round residence on our dream lot on Lake Francis. We started working with an architect, surveyor, and builder to secure a floor plan that would be in harmony with the existing homes/cabins in the area near our cabin. Due to the parcel's irregular size, we had the architect come up with a floor plan that would fit as closely as possible in the "buildable" area of the plat. Since the lot isn't very deep, we will need to secure a variance for the front (lake side) and back (road side) setback.

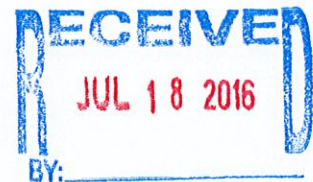
We look forward to working with LeSueur County in making our dream come true along with adding to the tax base of LeSueur County. Due to this practical difficulty, we are seeking this variance.

Please let us know if you have any additional questions.

Respectfully submitted,

Randy and Patty Appel

Karissa and Chris Baukol (Beau, Brooks, Bryanna, and Braxton)





July 12, 2016

Le Sueur County
C/o Michelle R. Mettler, Assistant Planning & Zoning Admin.
Le Sueur County Environmental Services
515 South Maple Avenue
Le Center, Minnesota 56057

Re: Attachment 1 to Variance Application for Randy & Patty Appel, 22243 Lake Francis Road

Dear Michelle:

On behalf of Randy and Patty Appel, please find below responses relative to the questions asked on the "Le Sueur County Variance Form" (VIII. Practical Difficulty)

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

Reasonable manner: 22243 Lake Francis Road has unique to itself property configurations that inhibit and prevent reasonable use under present day ordinance requirements.

a. Property Configuration: (see survey)

The property is an irregular size, and cannot be changed.

b. Continued use:

Despite these challenges, the landowner believes the property developed to a reasonable use and simply wishes to redevelop the property and make better the buildable area.

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

The unique circumstances that result in the "practical difficulty" is not of the landowners making. The landowner has no opportunity to increase the area or length of their property to lessen the difficulties of the buildable area.

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

All existing non conformities, and structural defectiveness were in place at the time of the purchase.

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

The property will undergo additional development with a replacement structure including a new home & garage structure which replaces the existing seasonal cabin. The proposed new construction will be essentially located in the area as the existing cabin in preserving and improving the essential character of the locality.

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

Economic consideration are not any significant reason for re-development and the granting of variances. The primary reason for this request are:

- a. Deteriorated structure, energy efficiency, construction and functional obsolescence.

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

The lot area, lot width, and variance requested is in harmony of the general intent and purpose of the ordinance.

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

Granting of the variance request is consistent with the Comprehensive Land Use Plan by not impairing but improving the owner's and neighborhood's health, safety, comfort, quality of lake experience life, and qualitatively improve Le Sueur County's Housing Stock.

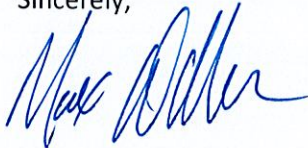
8. **"Describe the properties current, and any proposed, onsite sewage treatment and water capabilities."**

The landowner's septic system was updated in 2012 when purchase and is complaint for a four bedroom home.

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

Granting of the variance request has nothing to do with convenience or relief to the applicant. As demonstrated above variance are required due to unique physical aspects of the property and the owner's health, safety, welfare and improvement due to current structural conditions and minimal buildable lot and its physical characteristics.

Sincerely,



Max DeMars
DeMars Construction Company
On Behalf of Randy & Patty Appel

Surveyor Certification

I. **Applicant:**
Name MAX DEMARS

II. **Landowner:**
Name RANDY & PATTY APPEL
Property Address 22243 LAKE FRANCIS ROAD
City ELYSIAN State MA Zip 56028

III. **Parcel Information:**
Parcel Number _____

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 7/19/16, 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.

Rory Jamer
Surveyor Signature

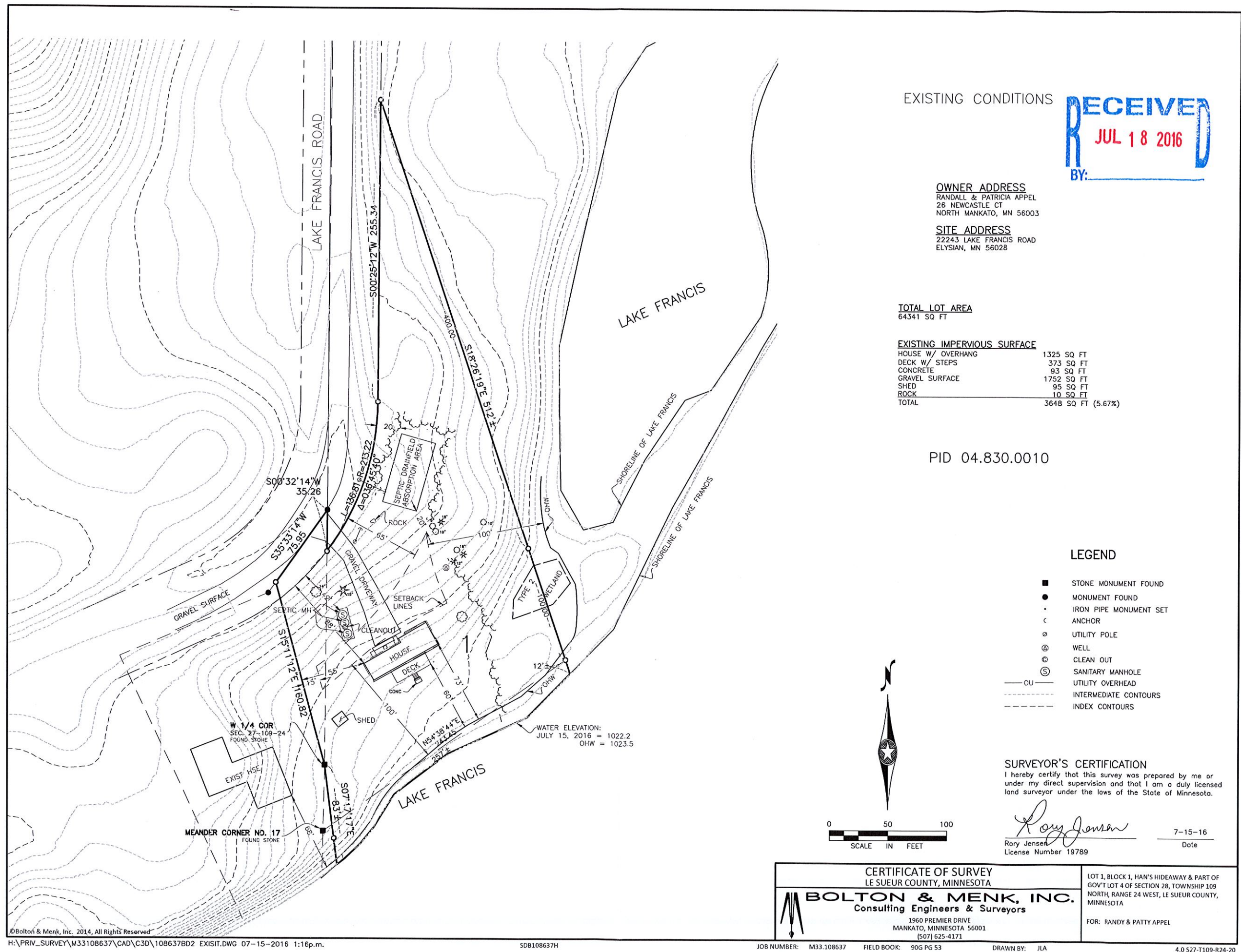
7/15/16
Date

19789
Lic #

OFFICE USE ONLY

Date Received

Planning & Zoning Department Signature



RECEIVED
JUL 18 2016
BY: _____



SECOND FLOOR
110' - 1 1/8"

FIRST FLOOR
100' - 0"

30' - 2"

① NORTH ELEVATION
1/8" = 1'-0"



② WEST ELEVATION
1/8" = 1'-0"

PRIVATE RESIDENCE LAKE FRANCIS