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# **Le Sueur County, MN**

**Thursday, September 15, 2016**

**Regular Session**

## **Item 2**

**Jessen Packet**

Staff Contact: Kathy Brockway or Michelle Mettler

# VARIANCE STAFF REPORT

## GENERAL INFORMATION

APPLICANT/OWNER: Arne & Meryl Jessen

911 ADDRESS: 46256 Beaver Dam Road, Cleveland, MN

VARIANCE REQUEST: To allow the applicant to install a septic system drainfield 59 feet from the Ordinary High Water Level (OHWL).

VARIANCE NUMBER: 16258

PARCEL NUMBER: 04.430.0110

## SITE INFORMATION

LOCATION: Lots 9 & 29, Auditor's Subdivision, Section 5, 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: The current Land Use Plan as adopted in 2009 makes reference to improve water quality in Le Sueur County under Goal #3.

GENERAL SITE DESCRIPTION: Shoreland, residential

ACCESS: Existing access off Beaver Dam Road

LAKE: Lake Jefferson, Recreational Development Lake

**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 be at or above RFPE.

## 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. Variance:	Request:	Required:	Ordinance:	Page:
a. Septic system to OHWL:	59 feet	75 feet	Section 17; Subdiv. 4.D.5.b.2.	17-9
2. Refer to DNR Guidance Letters:				
a. The Role of the Variances in Shoreland Management Ordinances				pg. 9
b. Non-conforming Lots of Record in Shoreland Areas				pg. 19

Page 1 of 2

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

LE SUEUR COUNTY PLANNING AND ZONING  
BOARD OF ADJUSTMENT  
88 SOUTH PARK AVENUE  
LE CENTER MN 56057

Direct Dial (507) 357-8538 Fax (507) 357-8541

APPLICATION DATE: 8/10/2016 PERMIT NUMBER 16258 FEE: \$646.00  
60 DAY RULING DATE: 10/10/2016

APPLICANT: ARNE & MERYL JESSEN PROPERTY OWNER: ARNE & MERYL JESSEN  
ADDRESS: 46256 BEAVER DAM RD ADDRESS: 46256 BEAVER DAM RD  
CITY: CLEVELAND CITY: CLEVELAND  
STATE: MN ZIP: 56017 STATE: MN ZIP: 56017  
PHONE: PHONE:

PARCEL NO: 04.430.0110 TOWNSHIP: ELYSIAN 911: 46256 BEAVER DAM RD, CLEVELAND  
SEC: 5 SUBDIV: AUD SUBDIV  
TWP: 109 LOT: 9 & 19 ZONE: RR/FF  
RANGE: 24 BLOCK: 1 FEMA PANEL #: 27079C0300D  
Q/Q: ROAD: CR FLOOD ZONE: X OUTSIDE

I (We), the undersigned, owner(s) and/or applicant of the property described herein, do hereby respectfully petition your Honorable Bodies to grant a variance, as hereinafter designated, and in support thereof, the following facts are presented:

**1.) Reason for Requested Variance:**

TO ALLOW THE APPLICANT TO INSTALL A SEPTIC SYSTEM DRAINFIELD 59 FEET FROM THE ORDINARY HIGH WATER LEVEL.

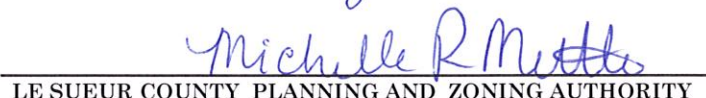
**2.) Reasons for Approval or Denial of Request as Listed in Findings.**

**3.) Special Conditions of Variance:**

RECORDED LEGAL DESCRIPTION OF PROPERTY MUST BE SUBMITTED PRIOR TO  
ISSUANCE OF ZONING PERMITS. ADDITIONAL CONDITIONS AS STATED IN  
RECORD:

  
APPLICANT/PROPERTY OWNER

8-10-2016  
DATE

  
LE SUEUR COUNTY PLANNING AND ZONING AUTHORITY

8-10-16  
DATE

**\*\* FEES ARE NON-REFUNDABLE \*\***

ON-SITE TOUR DATE: _____	
PUBLIC HEARING DATE: 9/15/2016	ACTION: _____
<input type="checkbox"/> AS WRITTEN	<input type="checkbox"/> WITH CONDITIONS

BOARD OF ADJUSTMENT CHAIRMAN

DATE

BUILDING SITE MUST BE STAKED OUT THE MONDAY PRIOR TO THE MEETING  
OR THE APPLICATION WILL BE TABLED.

# VARIANCE FINDINGS OF FACT

Name of Applicant: ARNE & MERYL JESSEN

Variance # 16258

**Variance Request:** TO ALLOW THE APPLICANT TO INSTALL A SEPTIC SYSTEM DRAINFIELD 59 FEET FROM THE ORDINARY HIGH WATER LEVEL.

- 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 ARNE K. JESSEN and MERYL C. JESSEN  
 Mailing Address 7623rd Beaver Dam Road  
 City Cleveland State MN Zip 56017  
 Phone # 507-931-6408 Phone # Cell - 507-420-2174

II. **Landowner:**  
 Name Same persons as above  
 Property Address \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
 Phone # \_\_\_\_\_ Phone # \_\_\_\_\_

III. **Parcel Information:** [Document #] Lots 9 and 19, Block 1, Auditor's Subdivision of  
 Parcel Number [247196] [a part of Government Lot 1] Parcel Acreage \_\_\_\_\_  
 Township Elysian Section 5-109-24  
 Subdivision Auditor's Subdivision of Government Lot 1 Lot 1 Block 1  
Le Sueur County, Minnesota

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 proposed mound system 59' from ordinary high water level

V. **Description of Request:**

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

VI. **Township Notification:** August 2, 2016, Lynn Hedl, Chairman of the Board

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

Elysian Township notified on August 2, 2016  
 (Township Name) (Date)

Board Member Lynn Hedl regarding the proposed request.  
 (Name)



VII. **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.

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

- |   |  |
|---|--|
| <input checked="" type="checkbox"/> a. Site Plan- <b>survey</b> | <input 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 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.

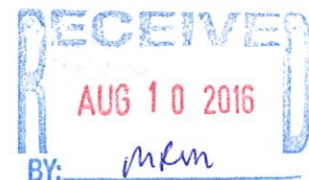
**XI. Fees:**

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.



## V. DESCRIPTION OF REQUEST

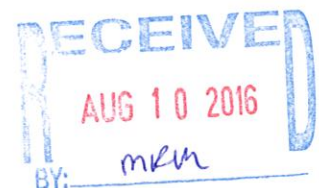
The inspection of my septic system revealed that we lacked an additional 3 inches between the drain field and the high water level. A new system is required because the present system may pose a danger to the ground water.

I am told we cannot put a new system where the present system is, located in the front yard. My understanding from the contractor (James Brothers) and the company that did the survey for the variance (Bolton & Menk) is that the only place the new system can go is in the back/side yard northwest of the house.

I requested a survey for the variance because the ordinance requirements would extend the mound into the driveway that goes back to the garage. I was also told by St Peter Well, who services the well, that I must maintain an access to the well for them. It is the only way for them to bring in a truck or rig to the well as they have done in the past. The garage is in the back yard and was built out of the same granite field stones, and at the same time as the house. The driveway has been there since the house was built in 1919. Although I have planted 15 trees on the property since we purchased it, I have obviously carefully avoided planting any trees, bushes or flowers on that passageway to the garage and well. Without the variance the mound would prevent access to the garage and the well which provides water for the home and for the next door neighbor to the south.

I respectfully request the board's approval of the variance. The new mound will help protect the ground water while also meeting the residents' needs for a safe and healthy septic system for the future. By not blocking the driveway to the garage and well, it will allow for the continuing functionality of the normal family activities on this property that has been there for almost a hundred years.

Arne Jessen





RECEIVED  
AUG 03 2016  
BY: *mm*

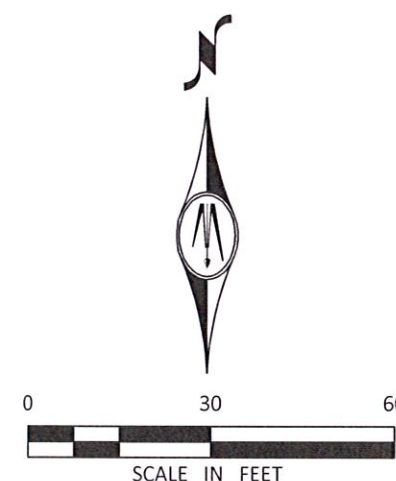
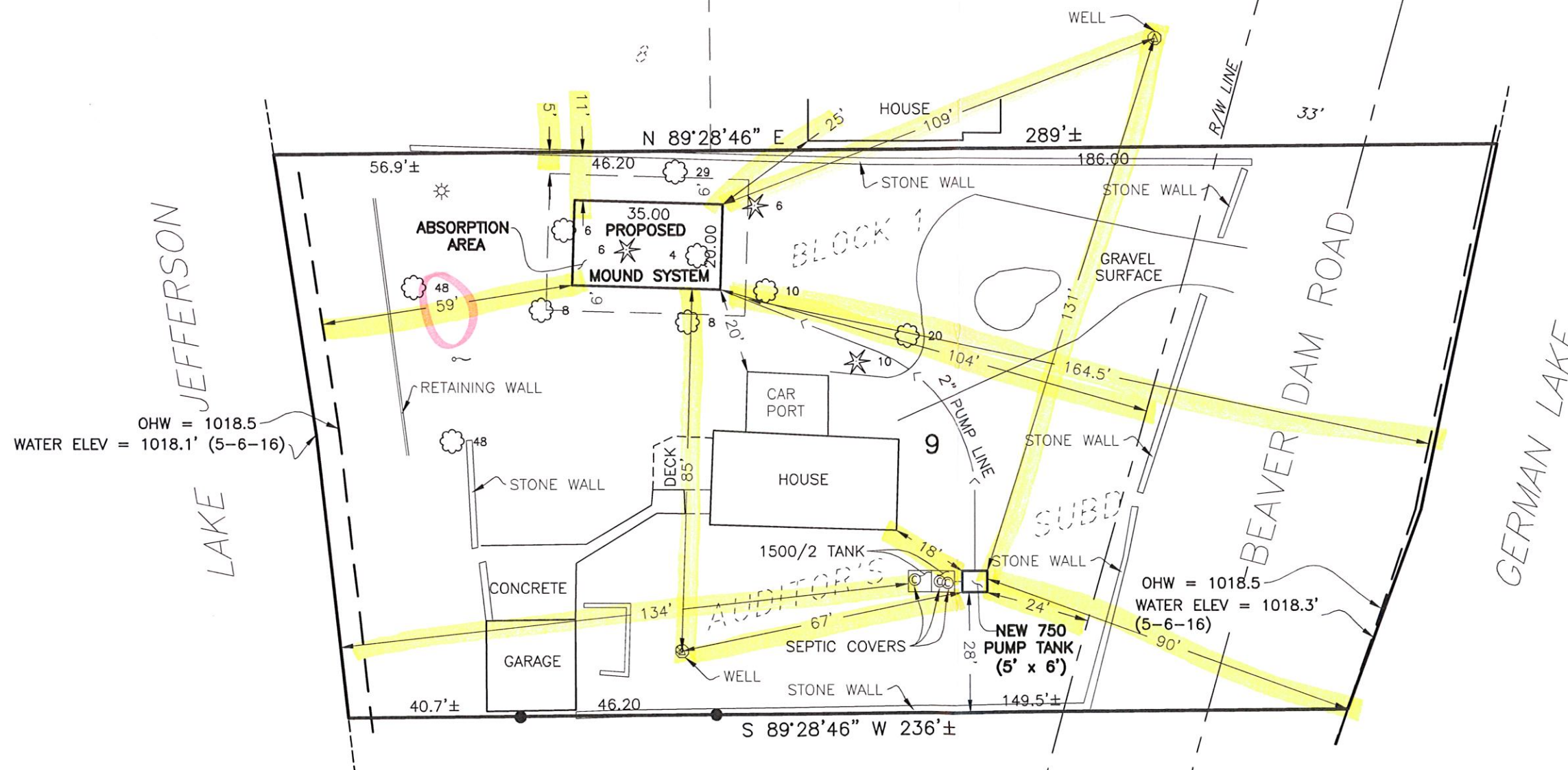
PID 04.430.0110

OWNER  
ARNE JESSEN  
46256 BEAVER DAM ROAD  
CLEVELAND, MN 56017

SITE ADDRESS  
46256 BEAVER DAM ROAD  
CLEVELAND, MN 56017

LEGEND

- MONUMENT FOUND
- ☼ LIGHT POLE
- ⚑ FLAG POLE
- ☁ DECIDUOUS TREE
- ★ CONIFEROUS TREE
- ⊙ WELL
- ⊙ CLEAN OUT / SEPTIC COVERS



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

7-14-16  
Date

Horizontal Datum: 1996 Le Sueur County Coordinate System

REVISED ORIGINAL DRAWING: 8-1-16

CERTIFICATE OF SURVEY  
LE SUEUR COUNTY, MINNESOTA



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

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

LOT 9, BLOCK 1, AUDITOR'S SUBDIVISION, IN  
SECTION 5, TOWNSHIP 109 NORTH, RANGE 24  
WEST, LE SUEUR COUNTY, MINNESOTA

FOR: ARNE JESSEN



**Surveyor Certification**

I. Applicant:  
Name ARNE JESSEN

II. Landowner:  
Name ARNE JESSEN  
Property Address 46256 BEAVER DAM ROAD  
City CLEVELAND State MN Zip 56017

III. Parcel Information:  
Parcel Number 04.430.0110

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
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- Rivers
- Wetlands
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- 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 May 16, 2016, 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 Jensen 7/14/16 19789  
Surveyor Signature Date Lic #

**OFFICE USE ONLY**

**RECEIVED**  
Date Received JUL 14 2016  
BY: mem

mem  
Planning & Zoning Department Signature

01-15-16