



Le Sueur County, MN

Thursday, December 15, 2016

Regular Session

Item 2

Gutoske Packet

Staff Contact: Kathy Brockway or Michelle Mettler

VARIANCE STAFF REPORT

GENERAL INFORMATION

APPLICANT: Curt Gutoske
OWNER: Duane & Carol Gutoske
911 ADDRESS: 24159 Blue Marina Road, Cleveland, MN
VARIANCE REQUEST: To install a holding tank 42 feet from the Ordinary High Water Level (OHWL), 5 feet from the dwelling, and 4 feet from the property line.
VARIANCE NUMBER: 16360
PARCEL NUMBER: 02.650.0030

SITE INFORMATION

LOCATION: Lot 3, Roemer's Blue Marina, Section 31, Cordova Township
ZONING & PURPOSE: Recreational Residential & Flood Plain-Flood Fringe Overlay

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.

Floodplain Overlay District. It is the purpose of this Section to designate an overlay district that will maintain the County's eligibility in the National Flood Insurance Program and to minimize potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare of the County.

Flood Fringe (FF) District: The Flood Fringe District shall include those areas designated as floodway fringe, which shall include the areas shown on the Flood Insurance Rate Map, adopted in this Section as being within Zone AE but being located outside of the floodway. For lakes, wetlands and other basins (that do not have a floodway designated), the Flood Fringe District shall include those areas designated as Zone A and Zone AE on the Flood Insurance Rate Map panels adopted in this Section that are below the one percent (1%) annual chance flood elevation (100-year flood elevation) but above the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14, as amended from time to time.

GOALS AND POLICIES: The current Land Use Plan as adopted in 2009 makes reference to water quality in **Goal #3**.

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: Shoreland, residential.
ACCESS: Existing off Blue Marina Road
LAKE: Lake Jefferson

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.

FEMA Flood Zone: Zone A-100 year flood zone.

ATTACHMENTS

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> | <u>Page:</u> |
|------------------------------------|-----------------|------------------|--|--------------|
| a. Septic tank to OHWL: | 42 feet | 75 feet | Section 17, Subdiv. 4. D. 5.b.2 | 17-9 |
| b. Septic tank to dwelling: | 5 feet | 10 feet | Section 17, Subdiv. 4. D. 1.b. | 17-9 |
| c. Septic tank to road ROW: | 4 feet | 10 feet | Section 17, Subdiv. 4. D. 4. | 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
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.
2. **Considerations For the Flood Plain Overlay District:** No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law. The following additional variance criteria of FEMA must be satisfied:
- a. Variances shall not be issued by the County within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
 - b. Variances shall only be issued by the County upon the following:
 - 1. A showing of good and sufficient cause.
 - 2. A determination that failure to grant the variance would result in exceptional hardship to the applicant.
 - 3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - c. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

2. **Additional Considerations:**

- a. Property is part of the German Jefferson Sewer District.

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: CURT GUTOSKE

Variance # 16360

Variance Request: TO ALLOW THE APPLICANT TO INSTALL A HOLDING TANK 42 FEET FROM THE OHWL; 5 FEET FROM THE DWELLING; 4 FEET TO THE PROP LINE.

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

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

Explain _____ JM JW JD CH FC

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

Explain _____ JM JW JD CH FC

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

Explain _____ JM JW JD CH FC

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

Explain _____ JM JW JD CH FC

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

Explain _____ JM JW JD CH FC

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

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

Explain _____ JM JW JD CH FC

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

Explain _____ JM JW JD CH FC

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

() APPROVED () DENIED

CONDITIONS: _____

Applicant response to conditions: Agree () Disagree ()

Reasons: _____

Board of Adjustment Chairman _____

Date _____

Variance Application

I. **Applicant:**
 Name CURT GUTOSKE
 Mailing Address 4940-10TH AV. S.
 City MINNEAPOLIS State MN Zip 55417
 Phone # 612-298-4425 Phone # _____

II. **Landowner:**
 Name DUANE & CAROL GUTOSKE
 Property Address 12738 MONTEREY AVE. S.
 City SAVASE State MN Zip 55378
 Phone # 952-890-1959 Phone # _____

III. **Parcel Information:**
 Parcel Number 02.650.0030 Parcel Acreage _____
 Township CORDOVA (24W) Section 31
 Subdivision ROEMERS BLUE MARINA Lot 3 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).
Septic Tank to Lake - 42 FEET
Septic Tank to House - 5 FEET
Septic Tank to Property Line - 4 FEET

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.)

CORDOVA Township notified on 10/17/2016
 (Township Name) (Date)

Board Member Bon Schmitt 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.

only available option

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

smaller lake lot with no options

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

County mandated septic compliance

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

will be visually appealing

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

no other reasonable option

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.

the objective will remain the same

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

Water is from off site water well
sewage is currently being treated
and disposed of on-site

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

No other options



IX. Attachments shall include but not limited to:

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

The Department may request additional information regarding the application.

X. Quantities and Submittal Formats:

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

XI. Fees:

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



Additional Fees:

Special Meeting:	\$1,200
After-The-Fact meeting fee:	<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.

[Signature] _____ Date 9/19/16 _____

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.

* [Signature] _____ Date 9-16-2016 _____

OFFICE USE ONLY

Date received <u>10-18-16</u>	Present Zoning Classification <u>RR/FF</u>	Feedlot within 500' 1000' <u>N</u> <u>(NA)</u>
Meeting date <u>12-15-16</u>	Lake Classification <u>RD</u>	Erosion Control Plan <u>Y</u> <u>N</u> <u>Part of SSTS Dec.</u>
60 Day <u>12-30-16</u> <u>1-6-17</u>	Lake <u>Jefferson</u>	Water courses <u>Y</u> <u>(N)</u>
RFPE _____	FEMA Panel # <u>270790.300D</u>	Bluff <u>Y</u> <u>(N)</u>
<input checked="" type="checkbox"/> Site Plan -survey	Flood Zone <u>A-100 VR FP</u>	Other _____
<input checked="" type="checkbox"/> Surveyor Certificate	<input checked="" type="checkbox"/> Full legal description <u>10-28-16</u>	<input checked="" type="checkbox"/> Septic <u>7-6-15</u> <u>10-18-16</u>
<input type="checkbox"/> Floor plans/blue prints	<input type="checkbox"/> Access approval	COC NONC/Waiver Design
<input checked="" type="checkbox"/> Description of Request <u>10-28-16</u>	<input type="checkbox"/> Blue Prints	<input checked="" type="checkbox"/> Fee \$ <u>600</u> ATF / SPEC MTG
<input checked="" type="checkbox"/> Application complete	<u>Michelle R. Mittler</u> Planning & Zoning Department Signature	Date <u>10-31-16</u> Permit # <u>116300</u>

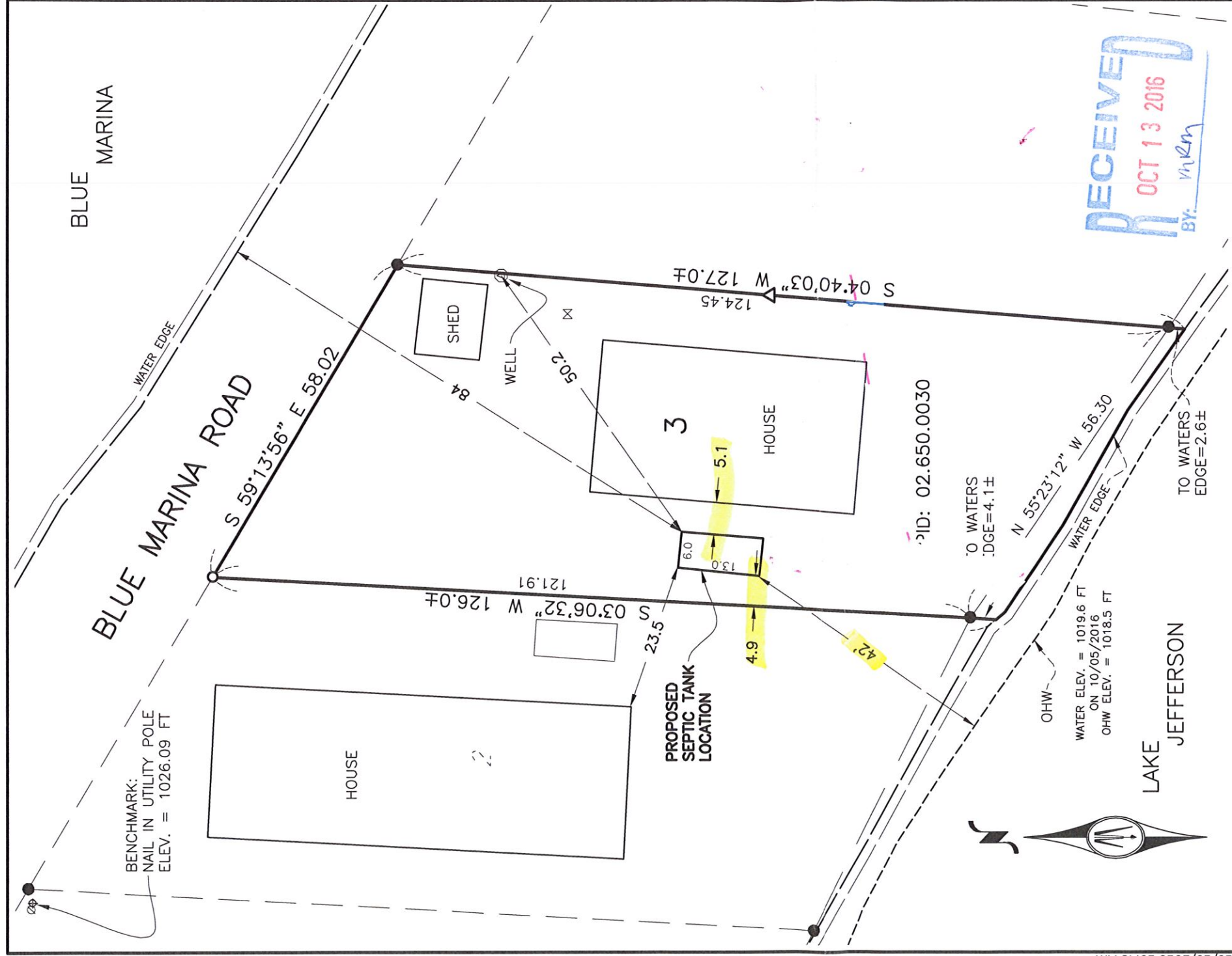
15-Day DL 10-7-16 Hold top notification

RECEIVED
OCT 18 2016
BY: mlm

Description of request

I'm requesting a variance to install a holding tank on Blue Marina road. I'm unable to meet the required setbacks from the property line, house, and lake.

RECEIVED
OCT 28 2016
BY: mlm



LEGEND

- 3/4" IRON PIPE MONUMENT SET MARKED BY REG. NO. 19789
 - MONUMENT FOUND
 - ▲ LATH ON PROPERTY LINE
- Vertical Datum: NGVD 1929
- Horizontal Datum: LeSueur County Coordinate System, NAD83 (1996 Adjustment)
- © Bolton & Menk, Inc. 2016. All Rights Reserved

SURVEYOR'S CERTIFICATION

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.

Rory Jensen
Rory Jensen
License Number 19789

Date: 10/13/2016

CERTIFICATE OF SURVEY
LE SUEUR COUNTY, MINNESOTA



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

LOT 3, ROEMER'S BLUE MARINA
SITE ADDRESS: 24129 BLUE MARINA ROAD
CLEVELAND, MN

FOR: CAROL GUTOSKE

SDB112492H FIELD BOOK: 90A-1, PG-5 DRAWN BY: DPR 4.0 S31-T110-R24-(44)

JOB NUMBER: M33.112492

H:\GUTOSKDU PR\M33112493\CAD\C3D\112493BD1.dwg 10/10/2016 10:43 AM

Surveyor Certification

I. Applicant:
 Name Seppmann & Sons / CAROL GUTOSKE

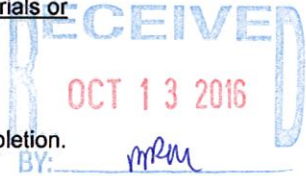
II. Landowner:
 Name CAROL GUTOSKE
 Property Address 24129 BLUE MARINA ROAD
 City CLEVELAND State MN Zip 56017

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 Oct 5, 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.

[Signature] _____ Date 10/10/16 Lic # 19789
 Surveyor Signature

OFFICE USE ONLY

10-13-16 _____ Date Received
[Signature] _____ Planning & Zoning Department Signature