



Le Sueur County, MN

Thursday, April 20, 2017

Regular Session

Item 1

Good Packet

Staff Contact: Kathy Brockway or Michelle Mettler

VARIANCE STAFF REPORT

GENERAL INFORMATION

APPLICANT/OWNER: Linda Good

911 ADDRESS: 46509 Cape Horn RD, Cleveland, MN

VARIANCE REQUEST: To install a septic tank 0 feet from the deck and 68 feet from the Ordinary High Water Level (OHWL); install a pump tank 4 feet from the deck and 62 feet from the OHWL; construct the septic drainfield 1 foot from the dwelling, 2 feet from the property line, 50 feet from the OHWL and 2 feet from the deck.

VARIANCE NUMBER: 17024

PARCEL NUMBER: 01.500.0150

SITE INFORMATION

LOCATION: Lot 17 & N ½ Lot 18, Cape Horn Subdivision, Section 1, Cleveland Township

ZONING & PURPOSE: Recreational Residential "RR"

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 2007, Goal #3, Objective 1, Action 2, references septic replacement program.

GENERAL SITE DESCRIPTION: Residential, shoreland

ACCESS: Existing off Cape Horn Road

LAKE: Lake Jefferson, Recreational Development "RD" 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

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 tank to deck:	0 feet	20 feet	Section 17; Subdiv. 4. D.1.b.	17-9
b. Pump tank to deck:	4 feet	20 feet	Section 17; Subdiv. 4. D.1.b.	17-9
c. Drainfield to deck:	2 feet	20 feet	Section 17; Subdiv. 4. D.1.a.	17-9
d. Drainfield to dwelling:	1 foot	20 feet	Section 17; Subdiv. 4. D.1.a.	17-9
e. Septic tank to OHWL:	68 feet	75 feet	Section 17; Subdiv. 4. D.5.b.2.	17-9
f. Pump tank to OHWL:	62 feet	75 feet	Section 17; Subdiv. 4. D.5.b.2.	17-9
g. Drainfield to OHWL:	50 feet	75 feet	Section 17; Subdiv. 4. D.5.b.2.	17-9
h. Drainfield to property line:	2 feet	10 feet	Section 17; Subdiv. 4. D.2.	17-9

Page 1 of 2

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. **Additional Considerations:**
- a. Property is located within the German/Jefferson Sewer District. Installation deadline 12-31-17.

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: LINDA GOOD

Variance # 17024

Variance Request: INSTALL A SEPTIC TANK 0' FROM THE DECK, 68' FROM THE OHWL, PUMP TANK 4' DECK, 62' OHWL, AND THE DRAINFIELD 1' FROM THE SFD, 2' FROM THE PROPERTY LINE, 50' FROM THE OHWL, AND 2' FROM THE DECK.

- 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

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.

no other options available on the property to bring a non-compliant system up to date

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

the lot is sub-standard

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

lot was platted prior to ordinance requirements. No other land available.

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

Improve lot by updating a non-compliant system; does not change the essential character.

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

Yes, updating to be compliant.

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

complying with the ordinance

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

improving water quality

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

no other options available to update a non-compliant system

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

no other options available

IX. Attachments shall include but not limited to:

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

I am applying for a variance for my septic system because there are no other options for me to meet the requirements of the German/Jefferson Sewer District to come into compliance by December, 2017. I am a full-time resident on East Lake Jefferson whose home sets on a very small lot.

Since I was notified about my non-compliance, I have been searching for solutions. I met with Kathy Brockway at LeSueur County Environmental Services shortly after I learned about my non-compliant drain field. She advised me to consider a cluster system or a sewer system or to convert my present tanks to holding tanks. Since I am a full-time resident, I did not want to have the burden of frequent pumping of my septic tanks since I am on a fixed income as a retired person and this seemed like a temporary solution to me. I wanted to pursue a cluster system. Because of the sewer system controversy, action on my part was delayed. After the sewer pipeline was defeated, I pursued a cluster system. I asked my adjoining neighbors if I might join them in a small cluster, but they declined because they were told that their mounds would be greatly increased in size to accommodate me which would affect their property for resale value. I joined with others in the Cape Horn area to form a cluster with John Bruender as the contractor, but land was not readily available at a reasonable price for the number of people who wanted to join the cluster so that option disappeared in late summer, 2016. I continued to seek out options by contacting various septic contractors. In fall, 2016, JRBruender Construction encouraged me to apply for a variance for the system that they would design for my property. I have obtained permission from my adjoining neighbor, Doris Borchardt, to allow access for a system to be installed.

Thank you for your consideration of this request.

Linda Good
46509 Cape Horn Road
Cleveland, Mn. 56017
Linda.good@mnsu.edu
507-931-6471

Steve Bruender <steve@jrbruender.com>

Reply all

Yesterday, 11:39 AM (March 2, 2017)

Good, Linda A

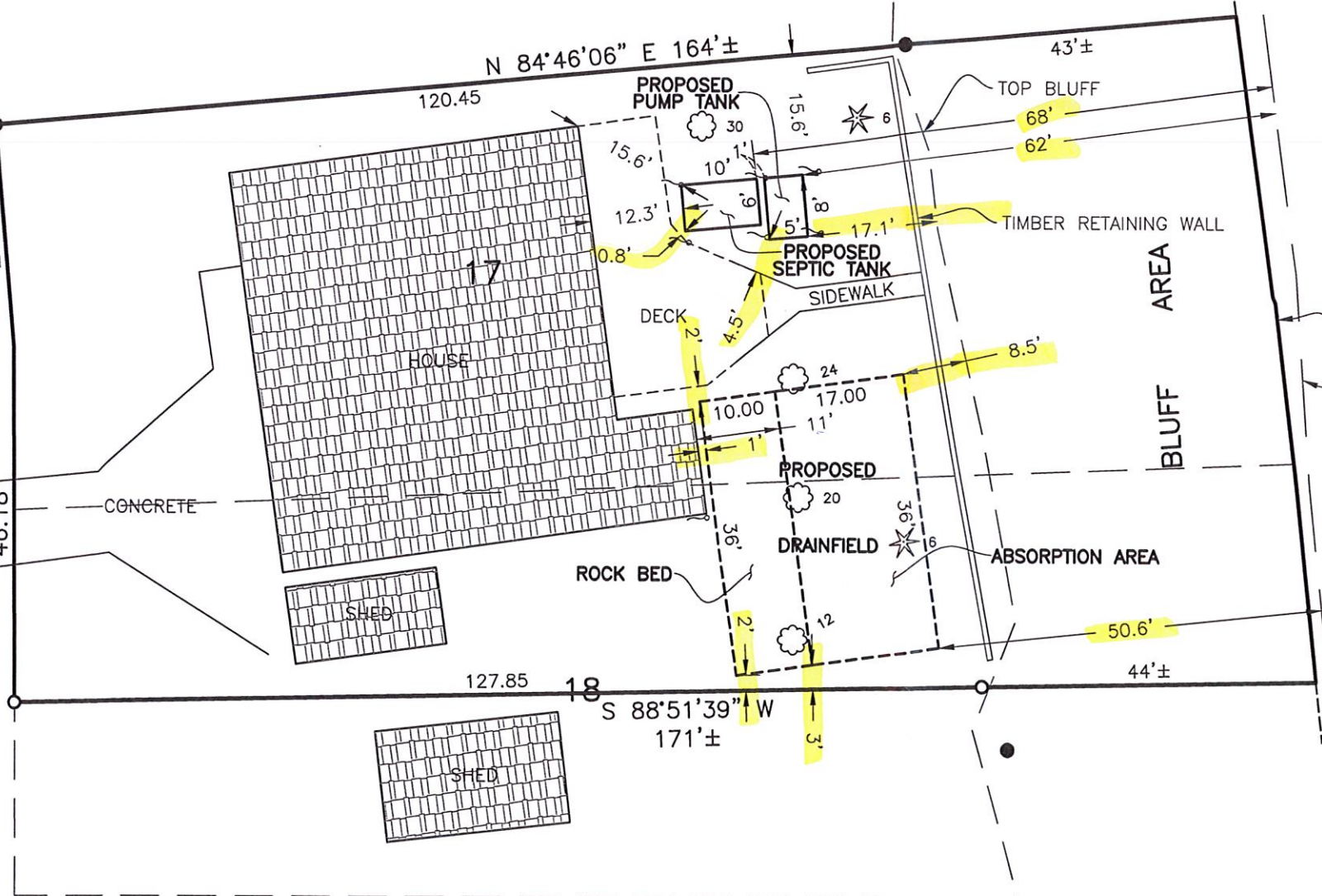
Yes, Please state that erosion control logs will be staked at the top of wall on the lawn area. (at the edge of mound & tanks) Seeding to be done by owner.

PID 01.500.0150

OWNER ADDRESS
LINDA GOOD
46509 CAPE HORN ROAD
CLEVELAND, MN 56017
SITE ADDRESS
46509 CAPE HORN ROAD
CLEVELAND, MN 56017

CAPE HORN ROAD

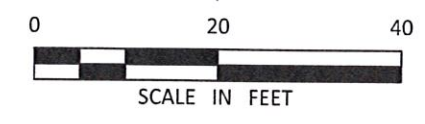
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28.80
N 00°06'09" W
46.18



WATER ELEV = 1018.95'
(11-28-16)
OHW = 1018.5'

LEGEND

- IRON PIPE MONUMENT SET
- MONUMENT FOUND
- ☁ DECIDUOUS TREE
- ★ CONIFEROUS TREE
- ⋈ SEPTIC LOCATION FLAG



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
2-17-17
Date

REVISED: 2-23-17



CERTIFICATE OF SURVEY LE SUEUR COUNTY, MINNESOTA		LOT 17 & THE N 1/2 OF LOT 18, CAPE HORN, SECTION 1, TOWNSHIP 109 NORTH, RANGE 25 WEST, LE SUEUR COUNTY, MINNESOTA
BOLTON & MENK 1960 PREMIER DRIVE MANKATO, MINNESOTA 56001 (507) 625-4171		
FOR: LINDA GOOD		

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JOB NUMBER: M33.112776

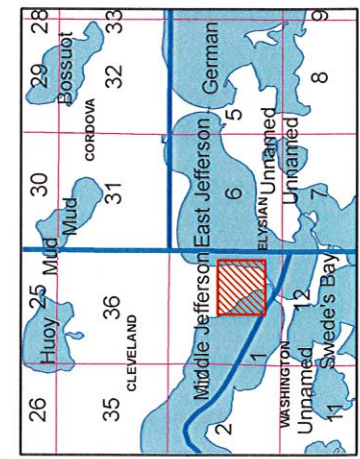
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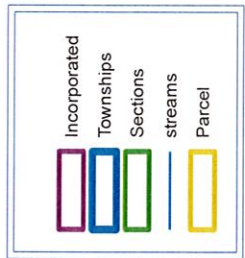
4.0 S1-T109N-R25W-42

LE SUEUR COUNTY ENVIRONMENTAL SERVICES

NAME: Linda Good
PID: 01.500.0150
DATE: 4-7-17
FIRM #: 27079C0270D
F-Zone: X-outside
RFPE: na
District: Recreational Residential



Map Disclaimer
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LE SUEUR COUNTY
ENVIRONMENTAL SERVICES
 507-357-8538

Coordinate System: NAD 1983 HARN Adj MN Le Sueur Feet
 Photo dated April/May 2013
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