



Le Sueur County, MN

Thursday, May 18, 2017

Regular Session

Item 1

Frederick

Staff Contact: Kathy Brockway or Michelle Mettler

VARIANCE STAFF REPORT

GENERAL INFORMATION

APPLICANT/OWNER: Alan Frederick

911 ADDRESS: 46718 Kimberly Road, Madison Lake MN 56063

VARIANCE REQUEST: Construct a deck 64 feet to the Ordinary High Water Level (OHWL) in a Recreational Residential "RR" District on a Recreational Development Lake, Lake Jefferson.

VARIANCE NUMBER: 17076

PARCEL NUMBER: 13.480.0050

SITE INFORMATION

LOCATION: Lot 6, Harriet Isle Subdivision, Section 3, Washington Township.

ZONING & PURPOSE: 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:

Shoreland, Residential

ACCESS: Existing access off Kimberly Road

LAKE: Recreational Development "RD" Lake, Lake Jefferson

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:

- | <u>1. Variance:</u> | <u>Request:</u> | <u>Required:</u> | <u>Ordinance:</u> |
|---|-----------------|------------------|-------------------|
| a. Structure to OHWL | 64 feet | 100feet | Section 13.2 |
| 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 |

Page 1 of 2

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: ALAN FREDERICK

Variance # 17076

Variance Request: TO ALLOW THE APPLICANT TO CONSTRUCT A DECK 64 FEET 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
☐ ☐ ☐ ☐ ☐

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: _____

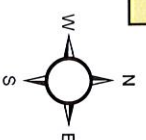
Applicant response to conditions: Agree () Disagree ()

Reasons: _____

Board of Adjustment Chairman

Date _____

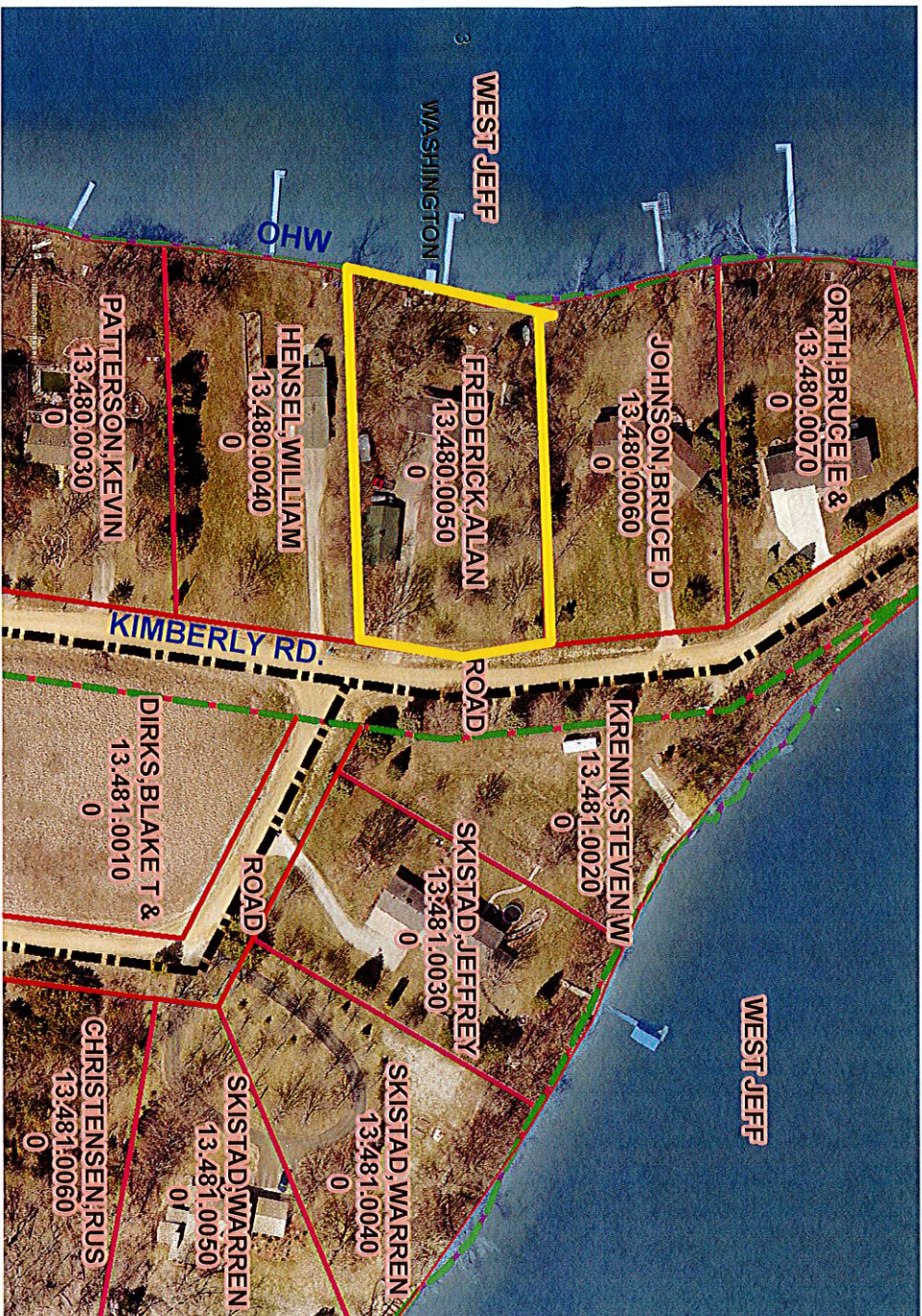
LE SUEUR COUNTY ENVIRONMENTAL SERVICES



NAME: Alan Frederick

PID: 01.500.0200

ZONING DISTRICT: "RR"



30.7 82.8
Feet

MAP DISCLAIMER

*Reasonable efforts have been made by the Le Sueur County GIS Department to verify that these maps accurately interpret the source data used in their preparation; however, a degree of error is inherent in all maps, and these maps may contain omissions and errors in scale, resolution, rectification, positional accuracy, development methodology, interpretation of source data, and other circumstances.

*The maps are date specific and are intended for use only at the published scale.

*These maps should not be used for navigational, engineering, legal, or any other site-specific use.

Legend

Townships

Cities

Sections

Coordinate System: NAD 1983 HARN Adj MN Le Sueur Feet

Photo from April 2005

LE SUEUR COUNTY
PLANNING & ZONING
507-357-8538

CREATED BY: KMB

Variance Application

I. Applicant:

Name Alan Frederick
 Mailing Address 46718 Kimberly Rd
 City Madison Lake State MN Zip 56063
 Phone # 507-381-6195 Phone # _____

II. Landowner:

Name Alan & Kathleen Frederick
 Property Address 46718 Kimberly Rd
 City Madison Lake State MN Zip 56063
 Phone # 507-381-6195 Phone # 507-381-8574

III. Parcel Information:

Parcel Number 213.480.0050 Parcel Acreage 1.0
 Township Washington Section 3
 Subdivision Harriets Isle Lot 0060 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).

Request variance to set backs for existing building
Site deck
64' to OHWL
mm

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.)

Washington Township notified on 4/9/2017
 (Township Name) (Date)

Board Member Robert Kaveney 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.

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.

House and existing deck was built in 1978 in accordance with set back requirement of the day

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

Existing deck does not match current set back requirement

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

Existing deck was built prior to current owner's purchase of this property in 1991.

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

Proposed deck dimension will enhance the safety of the existing structure with no impact to the essential character of the locality.

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

Yes safety concerns exist. Existing deck is dangerously narrow with railing non-compliant to current building codes

- 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 request impacts goal: objective / action 3: objective 3
Action 2 in relationship to set back controls

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

Current sewage is a soil treatment trench drainage field
plan for change to mound system in progress

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

the enhanced deck dimension request will alleviate current safety concerns

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 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 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.

[Signature]
Applicant signature

4/10/2017
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.

[Signature]
Landowner signature

4/10/2017
Date

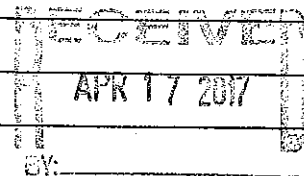
<u>(ISDDL 4-28-17)</u>		OFFICE USE ONLY	
Date received <u>4-10-17</u>	Present Zoning Classification <u>RR/FF</u>	Feedlot within 500' 1000' <u>(N)</u>	
Meeting date <u>5-18-17</u>	Lake Classification <u>RD</u>	Erosion Control Plan <u>(Y)</u> N	
60 Day <u>6-16-17</u>	Lake <u>Jefferson</u>	Water courses Y <u>(N)</u>	
RFPE <u>1022.80</u>	FEMA Panel # <u>265</u>	Bluff Y <u>(N)</u>	
<input checked="" type="checkbox"/> Site Plan -survey	Flood Zone <u>1A</u>	Other _____	
<input checked="" type="checkbox"/> Surveyor Certificate	<input checked="" type="checkbox"/> Full legal description	<input checked="" type="checkbox"/> Septic _____	<u>(COC)</u>
<input checked="" type="checkbox"/> Floor plans/blue prints	<input type="checkbox"/> Access approval		NONC/Waiver Design
<input checked="" type="checkbox"/> Description of Request	Blue Prints	<input type="checkbox"/> Fee \$ <u>6460</u>	ATF / SPEC MTG
<input checked="" type="checkbox"/> Application complete	<u>Michelle R. Mittle</u> Planning & Zoning Department Signature	<u>4-17-17</u> Date	<u>ND70</u> Permit #

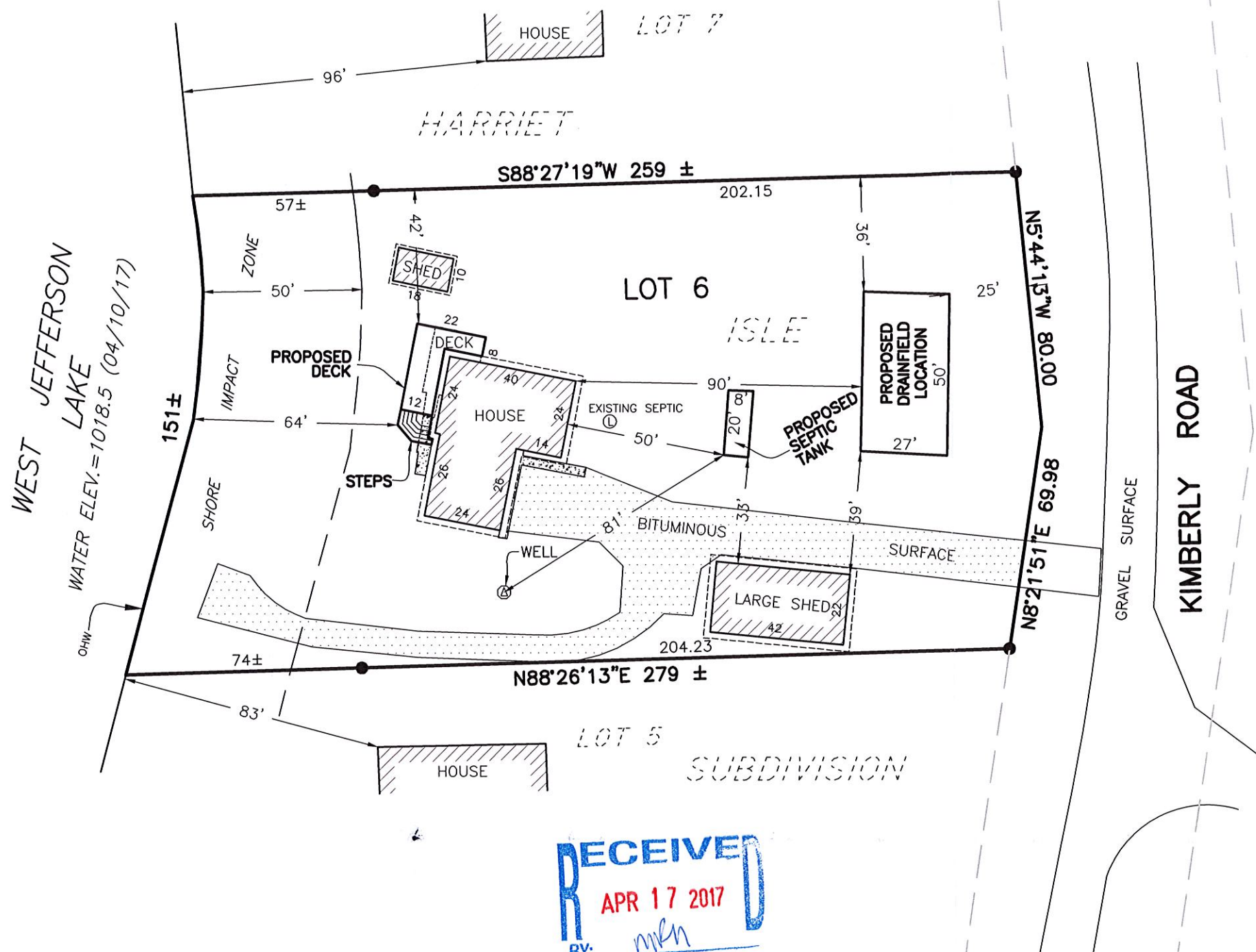
01-15-16

Our deck was built in 1979 and is in need of repair the railing is not up to code in today's laws for safety. The deck boards are rotten, the deck is also narrow creating a trip hazard, when sitting (facing the lake) there is not enough room for a table and ~~beer~~ umbrella. Thank you for reading this and I hope you understand my plans, Thanks again,

Law Henderson 4/17/2017

507 381 0195





LOT AREAS
39,807 SQ FT

EXISTING IMPERVIOUS AREA
HOUSE 1997 SQ FT
CONCRETE 127 SQ FT
BIT 4475 SQ FT
SMALL SHED 246 SQ FT
NEW SHED 1196 SQ FT
TOTAL 8041

PROPOSED IMPERVIOUS AREA
HOUSE 1997 SQ FT
CONCRETE 102 SQ FT
BIT 4475 SQ FT
SMALL SHED 246 SQ FT
LARGE SHED 1196 SQ FT
DECK 431 SQ FT
TOTAL 8447 SQ FT (21.2%)

NOTES:
-25 SQ FT CONCRETE TO BE COVERED WITH PROPOSED DECK
-THERE IS NO BLUFF ON THIS LOT

LEGEND

- 3/4" IRON PIPE MONUMENT SET
MARKED BY REG. NO. 19789
- MONUMENT FOUND

LEGAL DESCRIPTION
LOT 6, HARRIET ISLE SUBDIVISION, LE SUEUR COUNTY, MINNESOTA.

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

04/13/17
Date

RECEIVED
APR 17 2017
BY: *mfh*

CERTIFICATE OF SURVEY LE SUEUR COUNTY, MINNESOTA		LOT 6, HARRIET ISLE SUBDIVISION
BOLTON & MENK, INC. Consulting Engineers & Surveyors 1960 PREMIER DRIVE, MANKATO, MN 56001 (507) 625-4171 MANKATO, MN FAIRMONT, MN SLEEPY EYE, MN BURNSVILLE, MN WILLMAR, MN CHASKA, MN RAMSEY, MN MAPLEWOOD, MN BRAINERD, MN AMES, IA		FOR: ALLEN FREDERICK

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H:\AFRED_PR\M33113565\CAD\C3D\113565_BD1.DWG 04/11/17 H:\AFRED_PR\M33113565\Survey\Transfer Files JOB NUMBER: M33.113565 FIELD BOOK: MISC 1018 PG 3 DRAWN BY: JDZ/ASL 4.0 SEC 3-109-25 (31)

Surveyor Certification

I. **Applicant:**
 Name ALLEN FREDERICK

II. **Landowner:**
 Name ALLEN FREDERICK
 Property Address 46718 KIMBERLY ROAD
 City MADISON LAKE State MN Zip 56063

III. **Parcel Information:**
 Parcel Number 13.480.6050

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:**

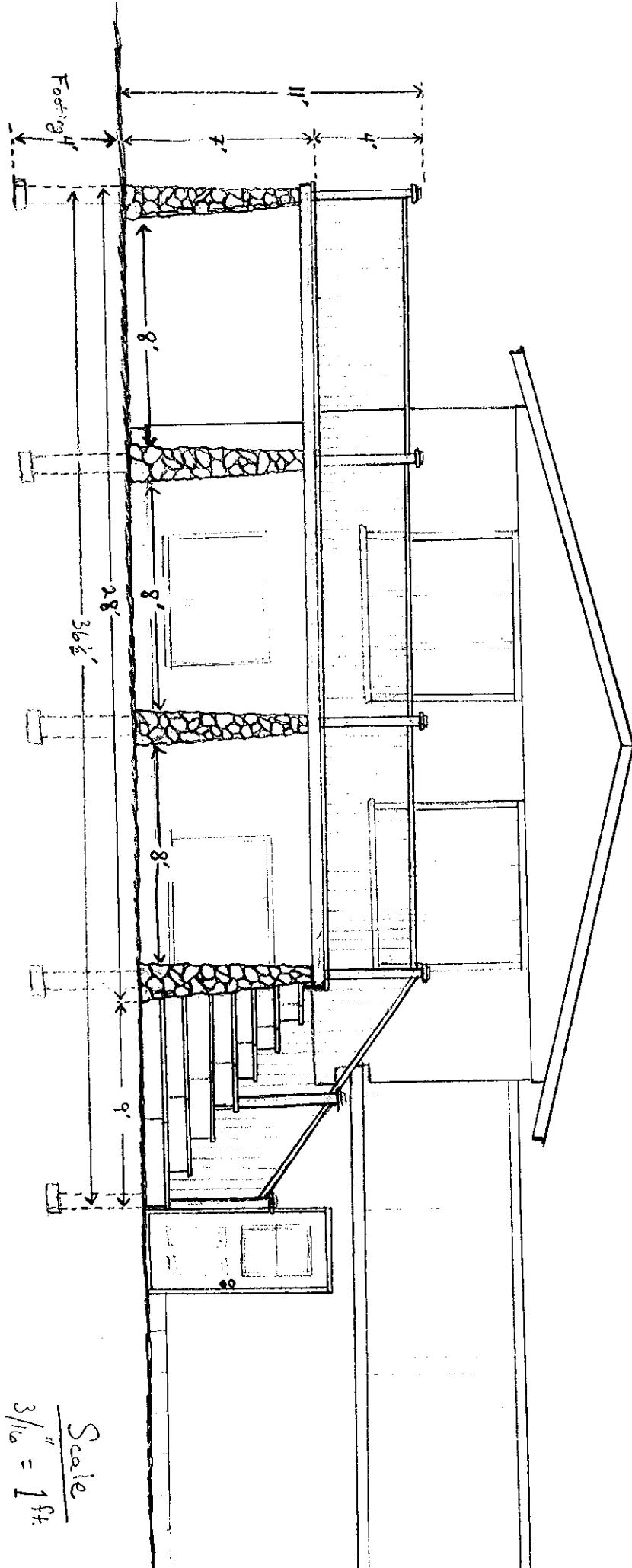
The proposed improvements have been physically staked onsite then surveyed on 4/6/17, to reflect an accurate account of current and proposed conditions of the property identified above.

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.

Ross Jensen 4/14/17 19789
 Surveyor Signature Date Lic #

OFFICE USE ONLY

4-17-17 *MRM*
 Date Received Planning & Zoning Department Signature



Scale
3/16" = 1 ft.

Scale
3/16" = 1 ft

