



Le Sueur County, MN

Thursday, May 18, 2017

Regular Session

Item 2

Blue Sky Dairy, LLC

Staff Contact: Kathy Brockway or Michelle Mettler

VARIANCE STAFF REPORT

GENERAL INFORMATION

APPLICANT/OWNER: Blue Sky Dairy, LLC

911 ADDRESS: 44625 267th Ave. Cleveland MN

VARIANCE REQUEST: Expand a legal non-conforming feedlot by 6 animal units (AU) from 1493.8 AU to 1499.8 AU in the Conservancy "C" Special Protection "SP" and Agriculture "A" Districts.

VARIANCE NUMBER: 17082

PARCEL NUMBER: 01.026.7800

SITE INFORMATION

LOCATION: SW1/4 of Section 26, Cleveland Township.

ZONING & PURPOSE:

The intent of the Special Protection (SP) District is to guide the wise development and utilization of shorelands of public waters for the preservation of water quality, natural characteristics, economic values and the general health, safety and welfare of all public waters in the unincorporated areas of the County. Further, the purpose of this district is to manage areas unsuitable for development due to wet soils, steep slopes or large areas of exposed bedrock; and to manage areas of unique natural and biological characteristics in accordance with compatible uses.

The Agriculture (A) District is established for areas where agriculture uses are seen as the best and highest long term use of the land. The land itself needs to be preserved for primarily agricultural activities. These areas should avoid existing cities, residential zones and subdivisions. They should be large contiguous land areas with mostly prime soils.

The Conservancy (C) District is established for areas that typically contain significant water courses and associated features such as bluffs, woods and flood plain that are best left mostly in existing natural ground cover. Dwellings, livestock production, and other intense land uses should be kept to a minimum. Housing density should be the same as in the Agriculture (A) District.

GOALS AND POLICIES:

Goal 1: Le Sueur County contains some of the most productive agricultural soils in Minnesota and should adopt and enforce land use goals and policies that conserve and protect agricultural resources and uses.

Policy: The County will protect the best of its agricultural land as a resource for long term agricultural use.

Policy: An adequate supply of healthy livestock is essential to the well being of Le Sueur County. The location of livestock feedlots and non-feedlot uses too close to one another can cause conflicts. An effort to combine local needs with state feedlot regulations will ensure local involvement in this issue, help provide minimal disruption to existing agricultural businesses, and help provide rules to protect the environment.

GENERAL SITE

DESCRIPTION: Existing Feedlot

ACCESS: Existing Access

STREAM: Cherry Creek

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:
 - a. Non-conformities shall not be enlarged Section 24, Subd.1.

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**.

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.



Use Variance Application

I. Applicant:

Name Blue Sky Dairy, LLC
Mailing Address PO Box 51
City Courtland State MN Zip 56021
Phone # 507-382-3837 Phone # _____

II. Land Owner:

Name Blue Sky Dairy, LLC
Property Address 44625 267th Ave
City Cleveland State MN Zip 56021
Phone # 507-382-3837 Phone # _____

III. Parcel Information:

Parcel Number 01.0267800 Parcel Acreage 38.8
Township Cleveland Section 26
Subdivision _____ Lot _____ 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).

Applicant requests a Variance for adding 6 animal units to a permitted site with a portion of the site in a Conservancy District which has a 500 AU cap. The site is permitted for 1499.8 AU.

There are currently 433 AU in components in the Conservancy District and 1066.8 AU in an Ag District on the site.

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.)

Cleveland Township Township notified on April 10, 2017
(Township Name) (Date)

Board Member Susan Ely regarding the proposed request.

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.

There are currently 433 AU in components on the site that are in the Conservancy District. The request is to add 6 AU to the components in the Conservancy District. The components are shown as 1,5 & 14 on the site plan. There are a total of 1499.8 AU permitted for the site. 1066.8 AU are in an Ag District.

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

Only a portion of the farm is in a Conservancy District. NPDES permits require zero discharge from the sites. The siting of the calf hutches in the Conservancy District allow for potential runoff to be collected in a feed pad runoff collection area that is already in place.

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

The Conservancy District was created by county government and only a portion of the site is located in the Conservancy District.

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

The existing site is an operating dairy. The request is to add 30 dairy calves (6 AU) to the permit in a Conservancy District. There will be no change in the essential character of the locality.

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

Yes. NPDES permits do not allow for any discharge from the site. Placing the calf hutches in another area of the site would not allow for or make for difficulty in locating a runoff containment area.

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

Expansion of a feedlot up to 500 AU is a conditional use in a Conservancy District. The number of AU at this site in the Conservancy District will be 439.

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

The first sentence in Objective 2 in Land Use Goals and Policies states "An adequate supply of healthy livestock is essential to the well being of Le Sueur Co."

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

There is a current septic system and private well on site. No additional septic system or well is planned.

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

The site now under new ownership is proposing to add 30 dairy calves that potentially will be selected for herd replacements. The calf raising site under the previous owner is not available

RECEIVED
APR 11 2017

- 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.

Steph J. Smith For Blue Sky Dairy
Applicant signature

4-10-17
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.

Steph J. Smith
Landowner signature

4-10-17
Date

OFFICE USE ONLY

Date received <u>4-11-17</u>	Present Zoning Classification <u>C/A'KSP</u>	Feedlot within 500' 1000' <u>N</u> <u>NA</u>
Meeting date <u>5/18/17</u>	Lake Classification <u>✓</u>	Erosion Control Plan <u>Y</u> <u>N</u>
60 Day <u>6-9-17</u>	Lake <u>Stream</u>	Water courses <u>Y</u> <u>N</u>
RFPE <u>✓</u>	FEMA Panel # <u>27079C0270D</u>	Bluff <u>Y</u> <u>N</u>
<input checked="" type="checkbox"/> Site Plan -survey	Flood Zone <u>X-outside</u>	Other <u> </u>
<input checked="" type="checkbox"/> Surveyor Certificate	<input checked="" type="checkbox"/> Full legal description	<input checked="" type="checkbox"/> Septic <u>4/18/17</u> <u>COC</u>
<input checked="" type="checkbox"/> Floor plans/blue prints	<input checked="" type="checkbox"/> Access approval <u>See file</u>	<u>NONC/Waiver Design</u>
<input checked="" type="checkbox"/> Description of Request	<input checked="" type="checkbox"/> Blue Prints	<input checked="" type="checkbox"/> Fee \$ <u>1046</u> <u>ATF / SPEC MTG</u>
<input checked="" type="checkbox"/> Application complete	<u>Brookway</u> Planning & Zoning Department Signature	<u>4/18/17</u> Date
		<u> </u> Permit #

01-15-16



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IX. Attachments shall include but not limited to:

- | | |
|--|--|
| <input type="checkbox"/> a. Site Plan- survey | <input type="checkbox"/> e. Floor plans and/or blue prints (<i>For structures</i>) |
| <input type="checkbox"/> b. Surveyor Certification | <input type="checkbox"/> f. Septic System Compliance Inspection |
| <input type="checkbox"/> c. Access approval | <input type="checkbox"/> g. Erosion control plan |
| <input 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: Doubled + After-The-Fact Penalty.
After-The-Fact Penalty: \$1,500 OR 10% of the improvement, whichever is greater.

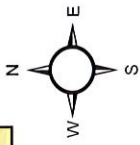
Fees must be paid at the time of application, cannot be accepted by mail, and are non-refundable. Cash or check. Credit cards will not be accepted.

XII. Procedure: See Section 22 of the Zoning Ordinance for full details.

- 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.



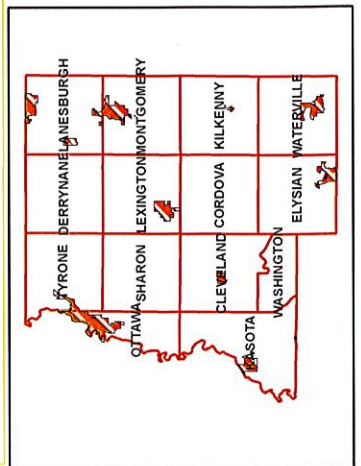
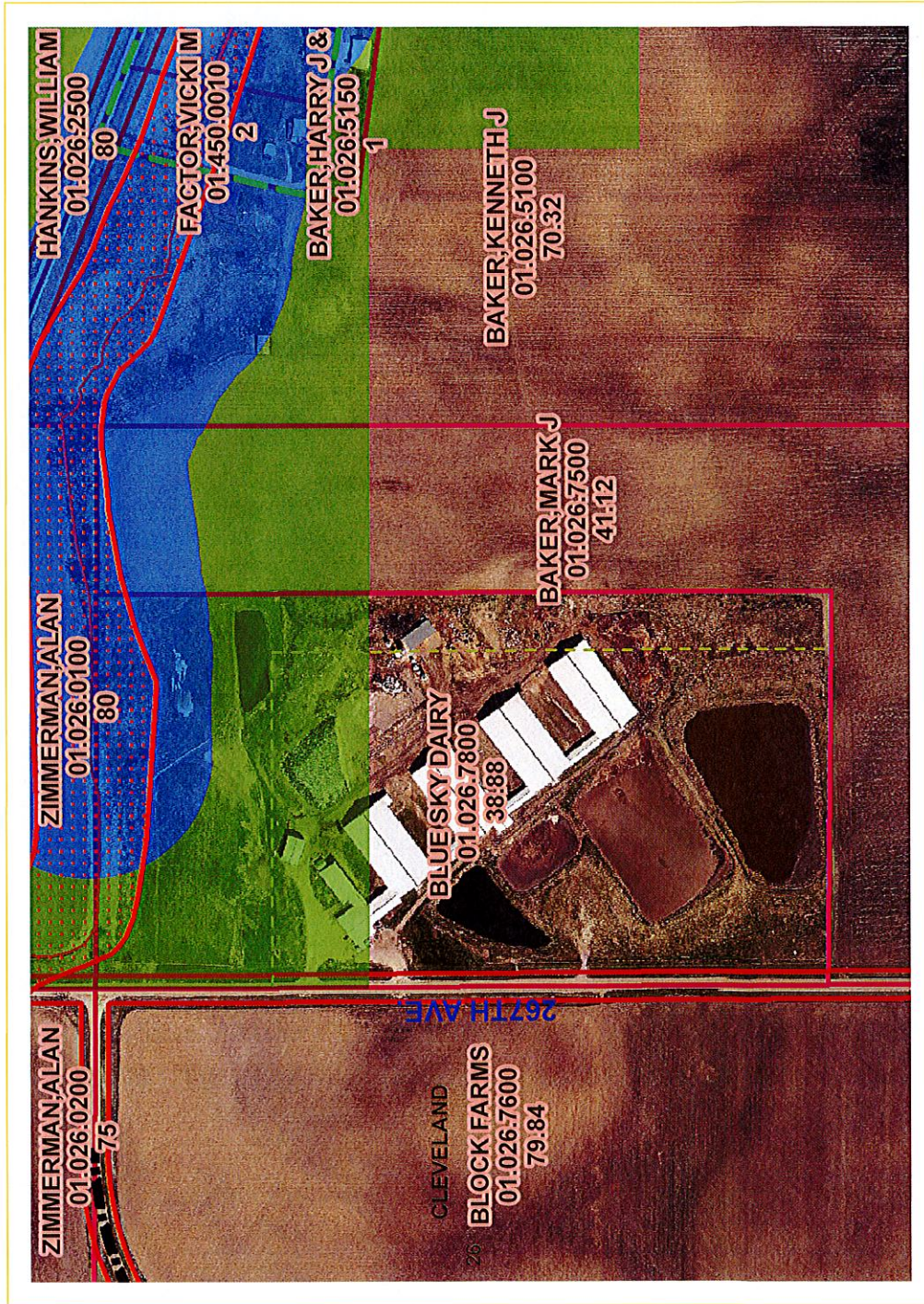
LE SUEUR COUNTY ENVIRONMENTAL SERVICES



NAME: BLUE SKY DAIRY LLC

PID: _01.026.7800 ____

ZONING DISTRICT: A/C/SP



0 660 Feet

MAP DISCLAIMER

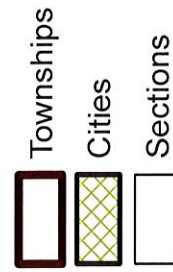
*Reasonable efforts have been made by the Le Sueur County GIS Department to verify that these maps accurately interpret the source data used in their preparation; however, a degree of error is inherent in all maps, and these maps may contain omissions and errors in scale, resolution, rectification, positional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

Coordinate System: NAD 1983 HARN Adj MN Le Sueur Feet
Photo from April 2005

Legend



LE SUEUR COUNTY
PLANNING & ZONING
507-357-8538

CREATED BY: KMB

USE VARIANCE FINDINGS OF FACT

Name of Applicant: BLUE SKY DAIRY LLC

Variance # 17082

Variance Request: TO ALLOW THE APPLICANT TO EXPAND A LEGAL NON-CONFORMING FEEDLOT 6 AU FROM 1493.8 TOTAL AU TO 1499.8 TOTAL AU.

- 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 hardship 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 hardship 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 hardship 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 hardship 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

Blue Sky Dairy, LLC is requesting a Variance and proposes to add 30 dairy calves (6 AU) in a Conservancy District. Only a portion of the farm is in the Conservancy District. The remainder of the farm is in an Agriculture District. The property is located in the E ½ of the SW ¼, section 26, Cleveland Township. The site is bordered by 267th Ave on the west side.

The site is currently permitted for 1499.8 AU. Currently there are 305 head of dairy cows over 1000 lbs and 30 dairy calves in facilities that are in the Conservancy District portion of the site for a total of 433 AU in the Conservancy District. Animal Holding Areas 1, 5 and 14 are the components from the site map in the Conservancy District. With the expansion of 30 head of dairy calves (6 AU) the total AU will be 439 in the Conservancy District and 1505.8 total AU on the site.

The placing of the calves in this area allows for the use of the feed pad runoff containment area to collect any potential runoff from the calf hutch area. Other areas of the site are not as manageable as the site chosen. NPDES permits do not allow for any discharge from the site.

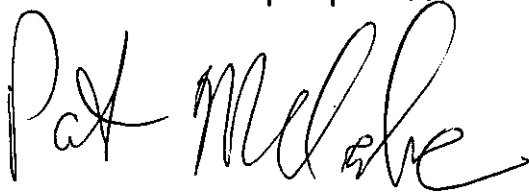
Blue Sky Dairy, LLC came under new ownership in October 2016. The new owners are committed to operating under the MPCA 7020 rules and Le Sueur County ordinances.



Blue Sky Dairy has permission to continue to use the access driveways for their site located on 267th Ave.

Pat McCabe

Cleveland Township Supervisor

A handwritten signature in black ink that reads "Pat McCabe". The signature is written in a cursive, flowing style. The first name "Pat" is written with a large, looped 'P' and a small 'at'. The last name "McCabe" is written with a large, looped 'M' and a cursive 'cabe'.

