



Le Sueur County, MN

Thursday, June 15, 2017

Regular Session

Item 4

Letts Packet

Staff Contact: Kathy Brockway or Michelle Mettler

VARIANCE STAFF REPORT

GENERAL INFORMATION

APPLICANT/OWNER: Thomas & Jennifer Letts
911 ADDRESS: 33041 State Highway 99, St Peter, MN
VARIANCE REQUEST: To allow the applicant to separate an existing nonconforming lot from an existing contiguous conforming lot under the same ownership for the purposes of sale and development and to make the nonconforming lot more nonconforming for lot size.
VARIANCE NUMBER: 17136
PARCEL NUMBER: 05.023.8700

SITE INFORMATION

LOCATION: NW 1/4 of the SW 1/4, Section 23, Kasota Township.
ZONING & PURPOSE: Conservancy

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: The current Land Use Plan as adopted in 2007 does make reference to lot size in the Conservancy District.

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.

Objective #1: The County should continue its preservation of significant bluff areas and river valleys through its use of a Conservancy Zone.

Action #2: The County should continue using a lot size requirement of five (5) acres, however, the 'buildable land' requirement in this district for the 5 acre lot will be 1 ½ acres.

GENERAL SITE DESCRIPTION: Scattered residential, ravine, bluff

ACCESS: Existing off state highway 99

RFPE: na

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:	Ordinance:	Page:
a. Nonconforming Lot:	Separate contiguous lots under the same ownership.	Section 24; Subdiv. 9.C.	24-3
b. Nonconforming Lot:	Make the nonconforming lot <u>more</u> nonconforming.	Section 24; Subdiv. 9.C.	24-3

2. 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.
3. A Variance may be granted **only** where the strict enforcement of the official controls will result in a **practical difficulty**.
4. It is the responsibility of the **applicant** and/or landowner to prove evidence that a practical difficulty exists.
5. 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: Section 24; Subdiv. 9. C:**

In a group of two (2) or more contiguous lots or parcels of land under the same ownership, any individual lot or parcel of land does not meet the requirements of this Ordinance, the lot or parcel of land must not be considered as a separate lot or parcel of land for the purposes of sale or development. ***The lot shall be considered combined with the one or more contiguous lots or parcels of land so they equal one or more lots or parcels of land, each meeting the requirements of this Ordinance as much as possible.***

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: THOMAS LETTS

Variance # 17136

Variance Request: TO ALLOW THE APPLICANT TO SEPARATE A CONTIGUOUS NON-CONFORMING LOT AND MAKE IT MORE NON-CONFORMING UNDER THE SAME OWNERSHIP FOR THE PURPOSES OF SALE AND DEVELOPMENT.

- 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 Thomas / Jennifer Letts
Mailing Address 32967 Hwy 99
City St. Peter State MN Zip 56082
Phone # 507.934.9083 Phone # _____

II. Landowner:

Name Thomas / Jennifer Letts
Property Address 32967 Hwy 99
City St. Peter State MN Zip 56082
Phone # 507.934.9083 Phone # 612.991.4966

III. Parcel Information:

Parcel Number 05.023.8700 Parcel Acreage 2.87
Township Kasota Section 23
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).

- Separate contiguous non-conforming lots under same ownership & make 1 parcel more non-conforming in lot size

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.)

Kasota Township notified on 5/12/17
(Township Name) (Date)

Board Member Joe Kienlen 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.

See Attach.

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

"

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

"

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

"

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

"

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

"

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

"

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

"

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

"

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
- 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.

May 16, 2017



Description of Request:

This letter is to request a variance to sell the above property as a single-family home with a non-conforming lot. Since we own contiguous lots (32967 Hwy 99) in a conservancy district, we are required to get a variance from the County for a lot that is less than five acres. The proposed single family home would be sold off with 2.34 acres.

We acquired the property at 33041 Hwy 99 in November 2017. It was operating as a non-conforming lot and four-plex apartment. We are in the process of remodeling the dwelling into a single-family home that would meet the permitted use for the district. The lot size for the re-sale of the property would be 2.34 acres. The original apartment included 1.2 acres with no garage for parking. In 1998, an additional 1.67 acres were added with septic changes. We would be reducing the 1.67 acre parcel by .53 acres of bluff property to conserve the bluff area and still meet any set-back requirements. In the process of remodeling the apartment to a single-family home, we are also adding a two-car tuck-under garage to provide parking and eliminate past property disputes with adjoining property owners.

While the 2.34 acres is still non-conforming for a conservancy district, we believe it will be a much-improved use of the land that fits with the purpose of a conservancy district. We provide the following descriptions of the listed criteria:

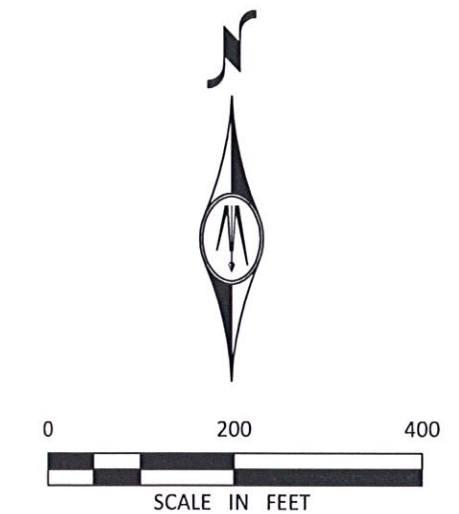
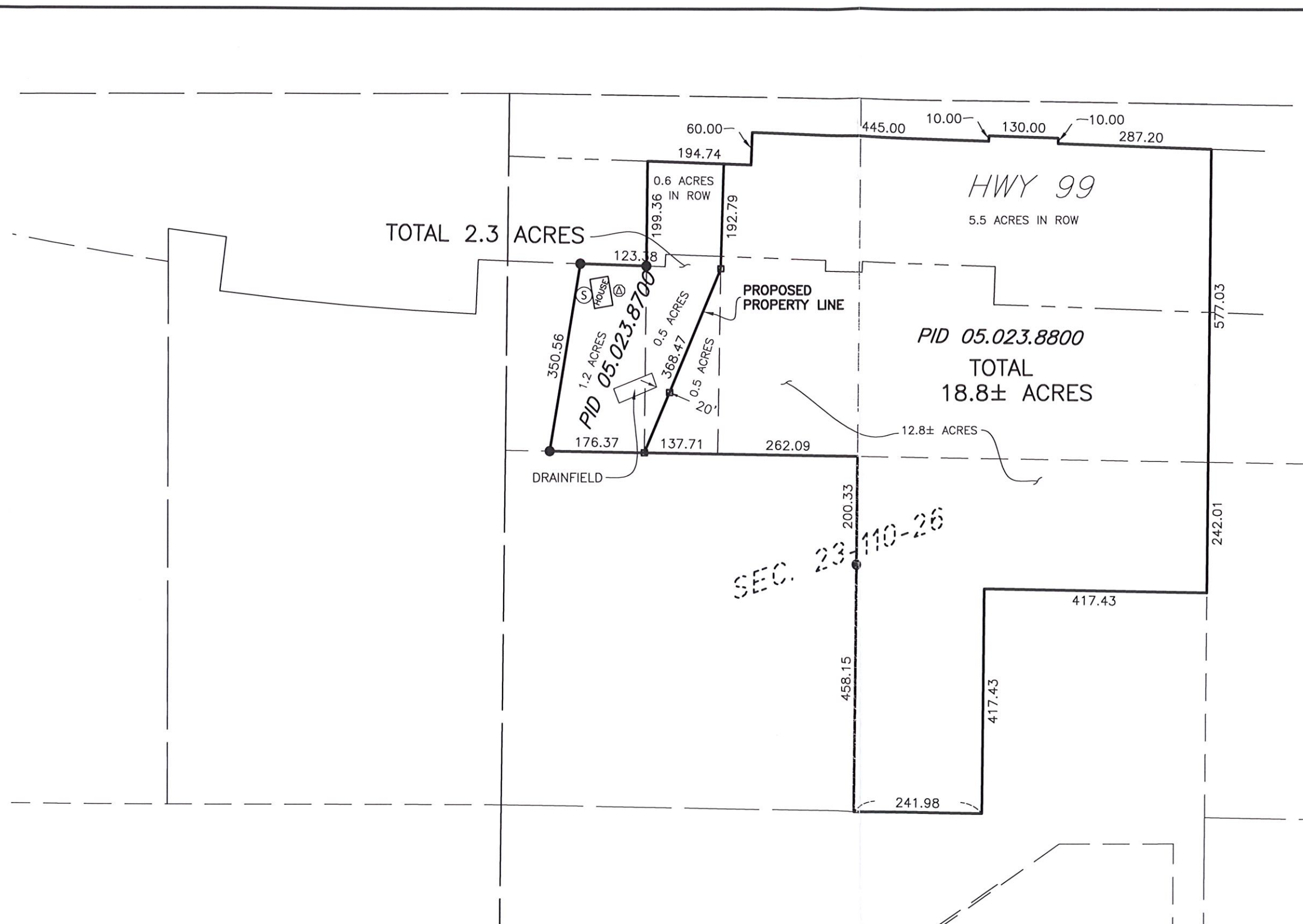
1. We feel this is a reasonable request since the lot was previously non-compliant and since purchasing it, we have made significant improvements to the property to more closely align with its permitted use.
2. There are unique circumstances of this property that prevent zoning ordinance compliance. First, the lot was originally only 1.2 acres. Second, when an additional 1.67 acres were added in 1998, there were still no designated parking areas for the lot. Thus, creating ongoing disputes with adjacent property owners. We believe with this variance, we are addressing the parking concerns association with this property.
3. The circumstances causing practical difficulty were created before we purchased the property by other owners.
4. This request will maintain the essential character of the locality by making it a single-family home that will be a permitted use and the acreage will be conserved as a property buffer.
5. Due to the history of this property, the 2.34-acre lot will be a better property for all neighbors and is more than an economic consideration.
6. We feel this request is supported by the purpose and objectives of the ordinance and is much improved from the past use.
7. It is also more consistent with the Land use plan than the original use.
8. The on-site septic system was inspected and made compliant on November 3, 2017, shortly after we purchased the property.
9. We believe this is the minimum variance amount needed to afford relief. And we have made major changes to the property to make a non-compliant lot size and use in a conservancy district as compliant as possible with the pre-existing limitations.

Survey materials and documents in support of the requested variance are attached hereto.

Thank you for your time and consideration.

Respectfully submitted,
Tom and Jen Letts

RECEIVED
MAY 17 2017
BY: _____



- LEGEND**
- Ⓢ SANITARY MANHOLE
 - Ⓐ WELL
 - MONUMENT FOUND
 - LATHE ONLINE

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.

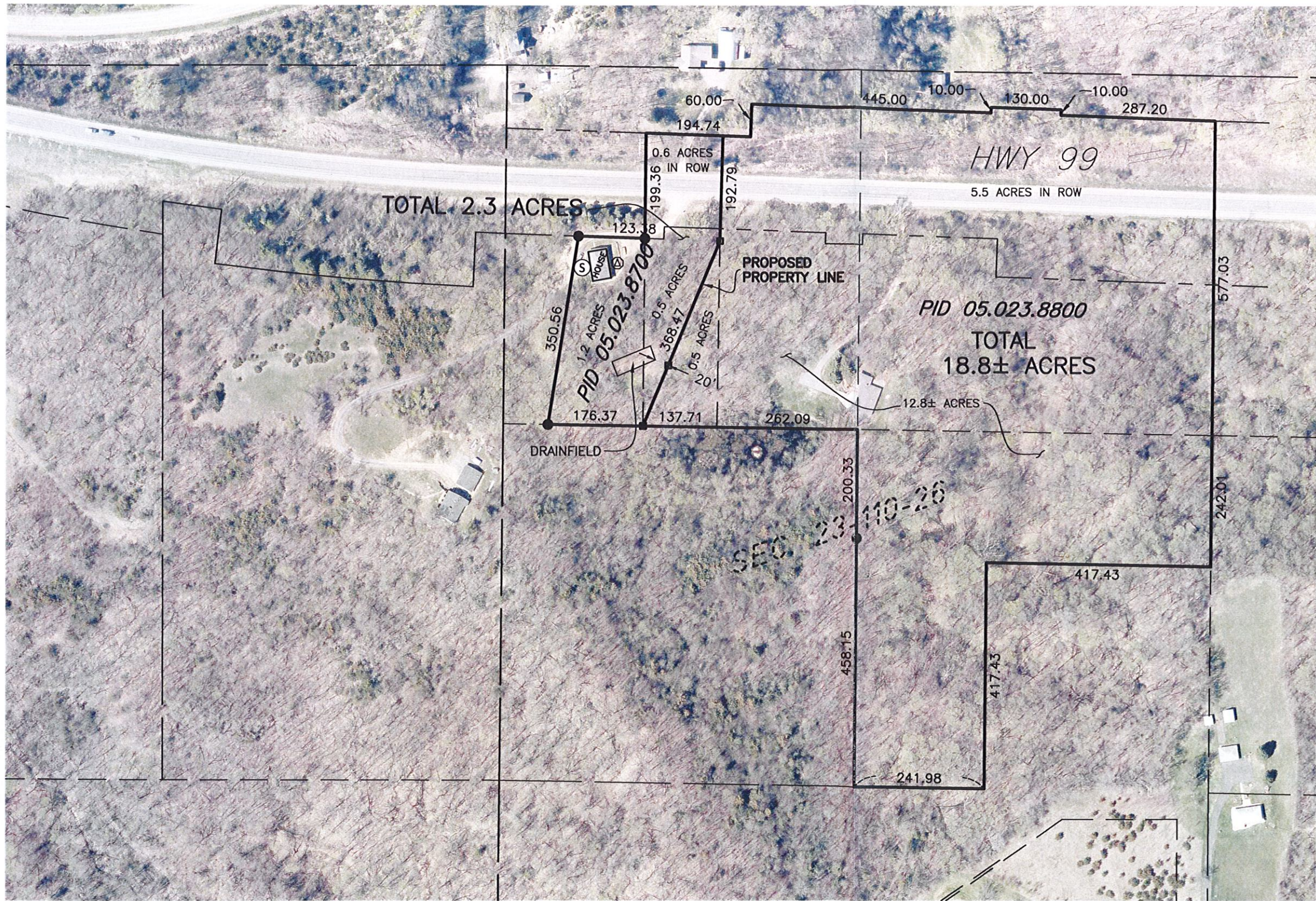
Rory Jensen
Rory Jensen
License Number 19789

05/17/2017
Date

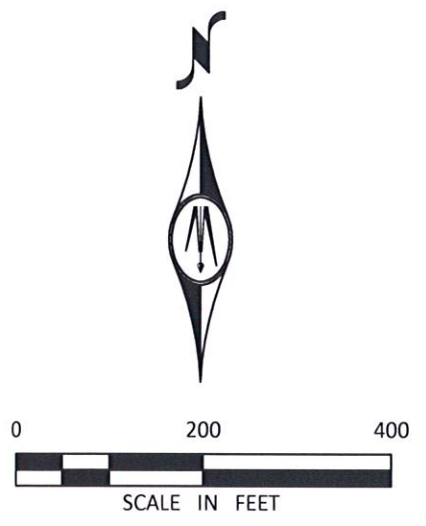
EXHIBIT SKETCH LE SUEUR COUNTY, MINNESOTA		PART OF SECTION 23, TOWNSHIP 110 NORTH, RANGE 26 WEST, NORTH KASOTA TOWNSHIP, LE SUEUR COUNTY, MINNESOTA
 BOLTON & MENK	1960 PREMIER DRIVE MANKATO, MINNESOTA 56001 (507) 625-4171	
FOR: TOM LETTS		

©Bolton & Menk, Inc. 2017, All Rights Reserved
L:\Tom Letts 5-16-17.dwg 5/17/2017 7:50 AM

JOB NUMBER: FIELD BOOK: DRAWN BY: JLA 4.0 S23-T110N-R26W



RECEIVED
MAY 17 2017
BY: _____



LEGEND

- ⊙ SANITARY MANHOLE
- ⊕ WELL
- MONUMENT FOUND
- LATHE ONLINE

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

05/17/2017
Date

EXHIBIT SKETCH
LE SUEUR COUNTY, MINNESOTA



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

PART OF SECTION 23, TOWNSHIP 110 NORTH,
RANGE 26 WEST, NORTH KASOTA TOWNSHIP,
LE SUEUR COUNTY, MINNESOTA

FOR: TOM LETTS

Surveyor Certification

I. Applicant:

Name Thomas / Jennifer Letts

II. Landowner:

Name Thomas / Jennifer Letts

Property Address 33041 Hwy 99

City St. Peter State MN Zip 56082

III. Parcel Information:

Parcel Number 05.023.8700

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- North point
- Lakes
- Well
- Access
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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, 2017 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.

Roy Jansa
Surveyor Signature

May 17, 2017
Date

19789
Lic #

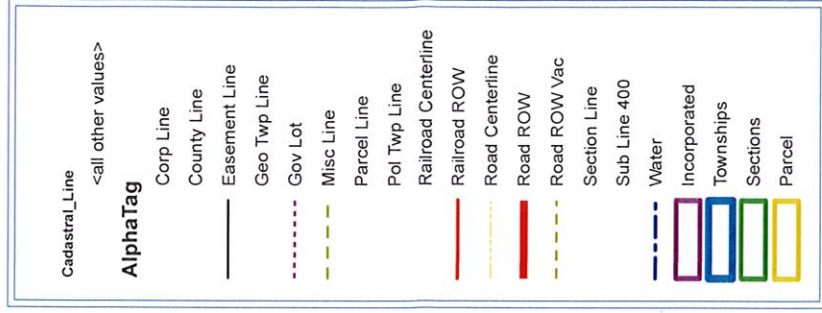
OFFICE USE ONLY

Date Received

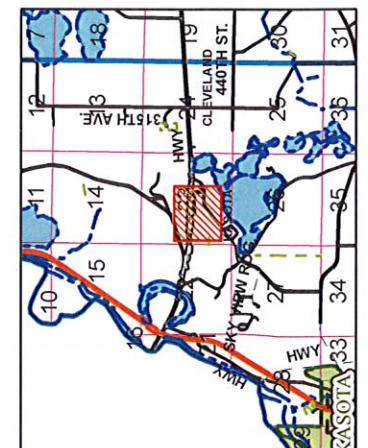
Planning & Zoning Department Signature

LE SUEUR COUNTY ENVIRONMENTAL SERVICES

NAME: Letts
PID: 05.023.8700
DATE: 05-25-17
FIRM #: 27079C0235D
F-Zone: X-Outside
RFPE: na
District: Conservancy



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 dated April/May 2013

Created By: MRM

LE SUEUR COUNTY
ENVIRONMENTAL SERVICES
 507-357-8538