



Le Sueur County, MN

Thursday, August 17, 2017

Regular Session

Item 3

Thilges Packet

Staff Contact: Kathy Brockway or Michelle Mettler

VARIANCE STAFF REPORT

GENERAL INFORMATION

APPLICANT/OWNER: Brian Thilges
911 ADDRESS: 46487 Cape Horn Rd, Cleveland
VARIANCE REQUEST: To allow the applicant to install a new pump tank 5 feet from a structure; construct a septic drainfield 0 feet from the property line and 0 feet from the road Right-Of-Way (ROW); existing tank under impervious surface.
VARIANCE NUMBER: 17235
PARCEL NUMBER: 01.500.0100

SITE INFORMATION

LOCATION: Lots 12 & 13, Cape Horn Subdivision, Section 1, Cleveland Township
ZONING & PURPOSE: Recreational Residential

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 makes reference to water quality.

Goal #3: Improve Water Quality in Le Sueur County.

Objective 1: The County will undertake actions to help protect groundwater as well as surface water features.

Action 2: The County will take leadership in initiating a wastewater or septic replacement program.

Strategy #2.

a. Septic replacement program in areas with space to accommodate this type of improvement program.

GENERAL SITE DESCRIPTION: Shoreland, residential
ACCESS: Existing off Cape Horn Road
LAKE: Lake Jefferson, Recreational Development 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. <u>Variance:</u>	<u>Request:</u>	<u>Required:</u>	<u>Ordinance:</u>	<u>Page:</u>
a. Pump tank to structure:	5 feet	10 feet	Section 17, Subdiv. 4. D. 1. b.	17-9

Page 1 of 2

b. Septic drainfield to ROW:	0 feet	10 feet	Section 17, Subdiv. 4. D. 4.	17-9
c. Septic drainfield to prop line:	0 feet	10 feet	Section 17, Subdiv. 4. D. 2.	17-9
d. Septic tank under impervious surface:			Section 17, Subdiv. 4. B. 1. r.	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
- c. 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.
- 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: BRIAN THILGES

Variance # 17235

Variance Request: TO ALLOW THE APPLICANT TO INSTALL A NEW PUMP TANK 5 FEET FROM A STRUCTURE;
CONSTRUCT A SEPTIC DRAINFIELD 0 FEET FROM THE PROPERTY LINE AND 0 FEET FROM
THE ROAD ROW. *Existing tank under impervious surface. -mm*

- 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 Brian Thilges
 Mailing Address 46487 Capehorn Rd
 City Cleveland State MN Zip 56017
 Phone # 507-381-9990 (C) Phone # 507-931-5300 (H)

II. **Landowner:**
 Name Same
 Property Address _____
 City _____ State _____ Zip _____
 Phone # _____ Phone # _____

III. **Parcel Information:**
 Parcel Number 01.500.0100 Parcel Acreage _____
 Township Cleveland Section _____
 Subdivision Capehorn Lot 12 & 13 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 Drain Field 0 FEET to pro 1.0 or AND 0 FEET
to ROAD ROW Install new pump tank slot to
storage Building, Entry tank under impervious - m/m
Surface.

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 notified on 7-15-17
 (Township Name) (Date)

Board Member John Kluntz 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.

cannot meet property line setback due to limited space available for drainfield and additional space for filterator pump tank with 6 foot setback from building

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

Need variance to construct proper size drainage field and filterator pump tank to meet Lesueur County requirements

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

Being required by Lesueur County to update septic system due to being in the swim area - diffusion Lake area for better water quality

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

Will not change the character of locality

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

Yes, we were required by Lesueur County to update our septic due to failure of the drainage field being non-compliant

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

Yes, to protect and improve ground water as well as surface water from leaching into the lake

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

Yes, by updating the system, it will help improve water quality of the lake

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

Existing tank is compliant. Need variance to add additional 540 filterator pump tank and new drainage field

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

Need variance for zero sideline setback and 6 foot road setback to install new drainage field within block retaining wall and to install 540 filterator pump tank, within 6 feet of storage shed

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.

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.

Brian Tulger
Applicant signature

7-7-17
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.

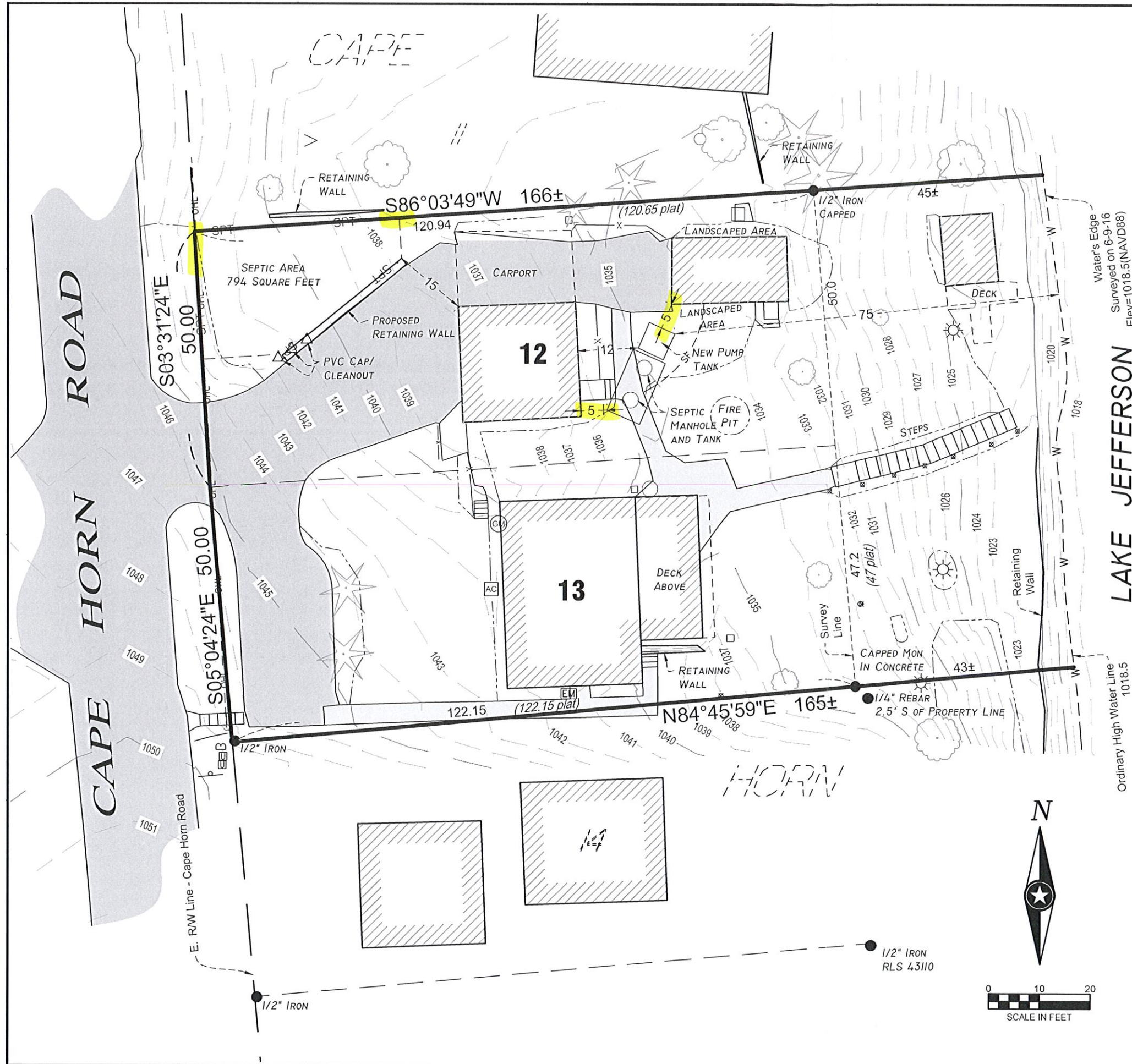
Brian Tulger
Landowner signature

7-7-17
Date

OFFICE USE ONLY

Date received <u>7-17-17</u>	Present Zoning Classification <u>RMU PR</u>	Feedlot within 500' 1000' <input type="radio"/> N
Meeting date <u>8-17-17</u>	Lake Classification <u>Jefferson Rd</u>	Erosion Control Plan <input checked="" type="radio"/> Y <input type="radio"/> N
60 Day <u>9-15-17</u>	Lake <u>Jefferson</u>	Water courses Y <input type="radio"/> N
RFPE <u>1022.86</u>	FEMA Panel # <u>27079002900</u>	Bluff Y <input type="radio"/> N
<input checked="" type="checkbox"/> Site Plan -survey	Flood Zone <u>X-outside</u>	Other _____
<input checked="" type="checkbox"/> Surveyor Certificate	<input checked="" type="checkbox"/> Full legal description	<input checked="" type="checkbox"/> Septic <u>600</u>
<input type="checkbox"/> Floor plans/blue prints	<input type="checkbox"/> Access approval	<u>5-4-17</u> NONC/Waiver Design
<input checked="" type="checkbox"/> Description of Request	<input type="checkbox"/> Blue Prints	<input type="checkbox"/> Fee \$ <u>646-</u> ATF / SPEC MTG
<input checked="" type="checkbox"/> Application complete	<u>Michelle R. Mettles</u> Planning & Zoning Department Signature	<u>7-17-17</u> 17235 Date Permit #

01-15-16



LEGAL DESCRIPTION:
(Per Client)

Lots 12 and 13 of CAPE HORN, Part of Government Lots Two (2) and Three (3) of Section Numbered One (1) in Township Numbered One Hundred Nine (109), North, Range Numbered Twenty-five (25) West, in Le Sueur County, Minnesota.

BEARING NOTE:

The orientation of this bearing system is based on the east right-of-way line of Cape Horn Road. Said line bears North 05 degrees 04 minutes 24 seconds West.

BENCHMARK:

MnDot Monument CLEVELAND SE
Elevation - 1060.79 (NAVD88)

NOTES:

1. This lot is considered a non-conforming lot per Le Sueur County Zoning Department.
2. OHWL for Lake Jefferson=1018.5

LEGEND

- Existing Building
- Existing Bituminous Surface
- Existing Concrete Surface
- SF Silt Fence
- OHL Overhead Utility Line
- W Water's Edge
- Landscape Edge
- Iron Monument Found
- Utility Pedestal
- Power Pole
- Mailbox
- Gas Meter
- Electric Meter
- Air Conditioner
- Deciduous Tree
- Coniferous Tree



RECEIVED
JUL 17 2017
BY: *mcm*

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.

DANIEL L. STUEBER
DLS
DATE: 07/17/2017 LIC. NO. 43110

THIS DOCUMENT IS THE PROPERTY OF I & S GROUP, INC. AND MAY NOT BE USED, COPIED OR DUPLICATED WITHOUT PRIOR WRITTEN CONSENT.

PROJECT
BRIAN THILGES
Lots 12 and 13, Cape Horn, Le Sueur County, Minnesota.

REVISION SCHEDULE		
DATE	DESCRIPTION	BY

PROJECT NO.	17-20616
CAD FILE NAME	20616 BNDY
DRAWN BY	KH
DESIGNED BY	-
REVIEWED BY	-
ORIGINAL ISSUE DATE	6/20/17
CLIENT PROJECT NO.	-

TITLE
CERTIFICATE OF SURVEY

SHEET
1 OF 1

Le Sueur County

Surveyor Certification

- I. Applicant: Name BRIAN THILGES
- II. Property Owner (s), if different from above:
Name _____
Property Address 46487 CAPE HORN ROAD
City CLEVELAND State MN Zip 56017
- III. Parcel Information:
Parcel Number 01.500.0100
- IV. Quantities and Submittal Formats:
a. One reproducible 8.5" x 11" copy of the request and all other supporting documents.
b. If in color, an aerial, or larger than 8.5" x 11" in size, 10 copies must be submitted.
c. Electronic version of any supporting documents, if available.
d. Additional copies may be requested as deemed necessary by the Planning & Zoning Department.
e. All required information must be correct and submitted at the time of application, or the application will not be accepted.
- V. Site Plan-must be a survey:

BUILDING SITE SHALL BE PHYSICALLY STAKED BY THE SURVEYOR OR THE APPLICATION WILL BE TABLED.


Site plan shall include but not limited to:

- North point
- lakes
- existing structures (within and adjacent to project area)
- setbacks
- rivers
- proposed structures
- property lines
- wetlands, ponds
- lot dimensions
- road right-of-way
- streams
- septic system
- easements
- well
- access
- current & proposed impervious surface-Itemized with percentages (if in shoreland)
- landscape, screening and buffering (if applicable)
- location of significant trees to be removed (if applicable)
- note how disturbed areas will be restored (if applicable)

- VI. The proposed improvements have been physically staked onsite then surveyed on 7/17/17 to reflect an accurate account of current and proposed conditions of the property identified above.

VII. 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.



Surveyor's signature

7/17/17

Date

43110

Lic #

OFFICE USE ONLY

7-17-17
Date received

MRM
Planning & Zoning Authority signature

10-01-11

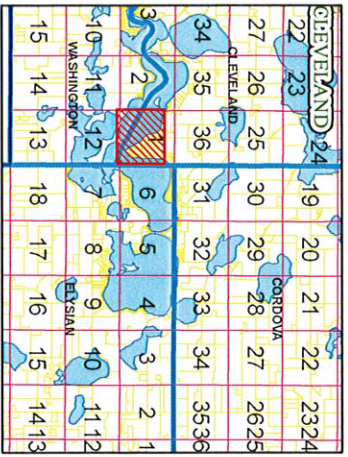


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LE SUEUR COUNTY ENVIRONMENTAL SERVICES



NAME: Brian Thilges
PID: 01.500.0100
DATE: 08-04-17
FIRM #: 27079C0270D
F-Zone: X-Outside
RFPE: na
District: Recreational Residential



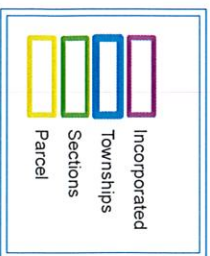
Map Disclaimer

*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