

# Le Sueur County, MN

Thursday, September 21, 2017 Regular Session

Item 1

Theleman / Smith Packet

Staff Contact: Kathy Brockway or Michelle Mettler

# **VARIANCE STAFF REPORT**

### **GENERAL INFORMATION**

APPLICANT/OWNER:

Helen Thelemann; Sue Smith

911 ADDRESS:

23933 Scotch Lake Rd, Cleveland, MN

VARIANCE REQUEST:

To allow the applicants to install a pump tank 0 feet from the shared property line; install a septic tank 5 feet from the property line, and 5 feet from the detached garage; install a Cluster septic system drainfield 5 feet from the detached garage, 7 feet from the road Right-Of-Way, and 0 feet

from the shared property line.

VARIANCE NUMBER:

17245

PARCEL NUMBER:

04.440.0100 & 04.440.0090

### SITE INFORMATION

LOCATION:

Lots 6-8, Beaver Dam Plat, Section 4, Elysian Township

ZONING & PURPOSE:

Recreational Residential & Flood Fringe, Flood Plain

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.

Floodplain Overlay District. It is the purpose of this Section to designate an overlay district that will maintain the County's eligibility in the National Flood Insurance Program and to minimize potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare of the County.

<u>Flood Fringe (FF) District:</u> The Flood Fringe District shall include those areas designated as floodway fringe, which shall include the areas shown on the Flood Insurance Rate Map, adopted in this Section as being within Zone AE but being located outside of the floodway. For lakes, wetlands and other basins (that do not have a floodway designated), the Flood Fringe District shall include those areas designated as Zone A and Zone AE on the Flood Insurance Rate Map panels adopted in this Section that are below the one percent (1%) annual chance flood elevation (100-year flood elevation) but above the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14, as amended from time to time.

**GOALS AND POLICIES:** 

The current Land Use Plan as adopted in 2007 does make 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.

b. Cluster and community collection for areas in which space and proper soils characteristics are available for large

drainfield.

**GENERAL SITE** 

**DESCRIPTION:** 

Shoreland, residential

ACCESS:

na

LAKE:

Lake Jefferson, Recreational Development Lake

Page 1 of 3

**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.

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.	<u>Variance:</u>		Request:	Required:	Ordinance:	Page:
	a.	Pump tank to prop line:	0 feet	10 feet	Section 17, Subdiv. 4. D. 2.	17-9
	b.	Septic tank to prop line:	5 feet	10 feet	Section 17, Subdiv. 4. D. 2.	17-9
	c.	Septic tank to structure:	5 feet	10 feet	Section 17, Subdiv. 4. D. 1. b.	17-9
	d.	Septic drainfield to prop line:	0 feet	10 feet	Section 17, Subdiv. 4. D.2.	17-9
	e.	Septic drainfield to structure:	5 feet	20 feet	Section 17, Subdiv. 4. D.1. a.	17-9
	f.	Septic drainfield to road ROW:	7 feet	10 feet	Section 17, Subdiv. 4. D. 4.	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 <u>practical difficulty exists</u> 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.
- b. <u>Considerations For the Flood Plain Overlay District:</u> No Variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law. The following additional variance criteria of FEMA must be satisfied:

Page 2 of 3

- d. Variances shall not be issued by the County within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- e. Variances shall only be issued by the County upon the following:
  - 1. A showing of good and sufficient cause.
  - 2. A determination that failure to grant the variance would result in exceptional hardship to the applicant.
  - 3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- f. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

### CONDITIONS

- 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: HELEN K THELEMANN/SUE SMITH

Variance # 17245

Variance Request: TO ALLOW THE APPLICANTS TO INSTALL A SEPTIC TANK 0 FT TO THE PROPERTY LINE, 5 FT TO THE PROPERTY LINE, AND 5 FT TO A STRUCTURE, INSTALL A SEPTIC DRAINFIELD 5 FT TO THE STRUCTURE, 7 FT TO THE ROAD RIGHT OF WAY AND 0 FT. TO THE PROPERTY LINE.

- 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.

	Υ	N	1.	Does the property owner propose to use the property in reasonable manner?	
				Explain	JM JW JD CH FC
	Υ	N	2.	Is the alleged practical difficulty unique to the property?	
					JM JW JD CH FC
	Υ	N	3	Explain  Were the circumstances causing the practical difficulty created by someone other	
	ā	••	٠.	than the applicant / landowner?	JM JW JD CH FC
				Explain	
	Υ	N	4.	Will the issuance of the Variance maintain the essential character of the locality?	JM JW JD CH FC
				Explain	
	Υ	N	5.	Does the alleged practical difficulty involve more than economic considerations?	
				Explain	JM JW JD CH FC
F.	Var	iance	es s	shall only be permitted when they are in harmony with the general purposes and	intent of the official controls.
	Υ	N	6.	Is the Variance consistent with and supported by the statement of purposes, policies the Ordinance?	, goal and objectives in
				Explain	JM JW JD CH FC
	Υ	N	7.	Is the Variance consistent with the Comprehensive Plan?	
				·	JM JW JD CH FC
G.	IF	ALL		Explain	E HAVE BEEN MET.
	,				
	C .			PROVED () DENIED  DNS:	
	J				
		!			
				t response to conditions: Agree ( ) Disagree ( )	
		Reas	sons		
		Board	of A	Adjustment Chairman Date	
				Date	





Va	riance Application Susan BYM Smith
I.	Applicant: Name Helen K. Thelemann / Sue Smith Mailing Address 23937 Scotch lake Rd. 29927 Scotch Lake Road City Cleveland State MN Zip 56017 Phone # 507 931-9334 Phone # 507 319-6566
II.	Landowner: Name Helen K. Thelemann Susan M. Smith Property Address 23933 Scotch Lake Rd 23927 Scotch Lake Rd City Cleveland State MN Zip 56017 Phone # 507 931-9334 Phone # 507 319-6566
III.	Parcel Information: Parcel Number 04:440.0100 /04.440.0090 Parcel Acreage 30 and .44 Township Elysian 109N 24W Section 5 Subdivision Beaver Dam Plat Lot Block 3
	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).  Because our septics were found non-compliant we need to update our system. Because of land restrictions we need to have a variance to accomposate a septic system.
V.	Description of Request:
	A <u>full written description</u> of the proposed variance request with detailed information must be attached.
VI.	Township Notification:
ef	Township must be notified prior to application. (County Commissioners are <u>not</u> the Township Board.)
	Elysian Township notified on July 18, 2017 (Township Name) (Voice mail) (Date)
	Board Member Kathy Peints regarding the proposed request.  (Name) (507) 267-4554
VII.	Site Plan - Shall be a Certificate of Survey to include, but not limited to:  North point Setbacks Rivers Property lines Road Right-Of-Way Lot Dimensions  Certificate of Survey to include, but not limited to:  Roccess Septic System Septic System Proposed Structures Set Septic System Proposed Structures Existing structures - Within and adjacent to project area. Location of trees to be removed - Shoreland Districts.
	<ul> <li>Impervious Surface         <ul> <li>Required for Shoreland, Business, &amp; Industrial Districts.</li> <li>Itemized current &amp; proposed impervious surfaces to include total percentages.</li> <li>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.</li> </ul> </li> </ul>
	*Site shall be physically staked, then surveyed.

<sup>\*</sup>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:

- oses and intent-of 4 2017

  BY:
- a. Variances shall only be permitted when they are in harmony with the general purposes and intent-or 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:

and a process and a process aport the consideration of the following criteria.
1. Describe how the Variance request is reasonable compared to the ordinance requirements being varied from.  We need a new septic system and need to utilize both properties.
2. What are the unique circumstances of this property that prevent compliance with the Zoning Ordinance that will result in a practical difficulty?  We are limited in land area and need to help each other by doing the septic together and closer to road.
3. Describe how the unique circumstances causing the practical difficulty were created by someone other than the applicant/landowner.  The property was located close to the road and property is too small to accomidate a full septic.
4. How will the request maintain the essential character of the locality?  There will be a workable / Sale septic for
5. Does the alleged practical difficulty involve more than economic considerations?  It involves the amount of area we have to work with to install a septic system.
6. Is the request consistent with and supported by the statement of purposes, policies, goals and objectives in the Ordinance?  Yes it is consistent with ordinance of Installing a Septic by Dec. 2017.
7. Describe how the request is consistent with the Comprehensive Land Use Plan.  We need to help eachother to be in compliance with the LeSueur Co. plan.
B. Describe the properties current, and any proposed, onsite sewage treatment and water capabilities.  We both have a septic system where the drainfield was deemed non-compliant. We also share a well with 4 properties and the well is upty
D. Explain why this request is the minimum variance amount to afford relief.  If we don't get the variance to help us to install a compliant system. If we are granted the variance we can in stall a compliant septic.

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IX.	Attachments shall include but not limited to:			
	a. Site Plan <b>-survey</b>	e. Floor plans and/or blue prints	(For structures)	
	b. Surveyor Certification	f. Septic System Compliance In	spection	
	c. Access approval	☐ g. Erosion control plan ☐ Jan	nes Bros,	
hux	d. Full legal description	h. Description of request	PECEIVE	
House	The Department may request addition	nal information regarding the applica	tion. JUL 2 4 2017	
Χ.	Quantities and Submittal Formats:		BY:	

- 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 <u>at the time of application</u>, 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.

- 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.
- 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.
- 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.

July 18, 2017

I hereby certify with i true and correct to th	my signature that all data containe e best of my knowledge.	ed herein as well as all su	ipporting dat	ta are
Landowner signature	Thleman	Tuly 18,	2017	ř
	OFFICE USE ONLY	<u>Y</u>		
Date received 12417	Present Zoning Classification	Feedlot within 500'	1000' N	
Meeting date 9.21.11	Lake Classification	Erosion Control Plan	Y N	
60 Day 9.21.17	Lake Julian	Water courses	Y N	
RFPE	FEMA Panel # 21019C0 300	Bluff	Y N	
☐ Site Plan -survey	Flood Zone VIISIA	Other		_
Surveyor Certificate	Full legal description	Septic	coc	
☐ Floor plans/blue prints	☐ Access approval		NONC/Wa Design	aiver
Description of Request	☐ Blue Prints	Fee \$ Letter	ATF / SPEC	MTG
Application complete Planni	ng & Zoning Department Signature	<u>1-24-11</u> Date	Permit #	5
01-15-16	4	JUL 2 4	2017	

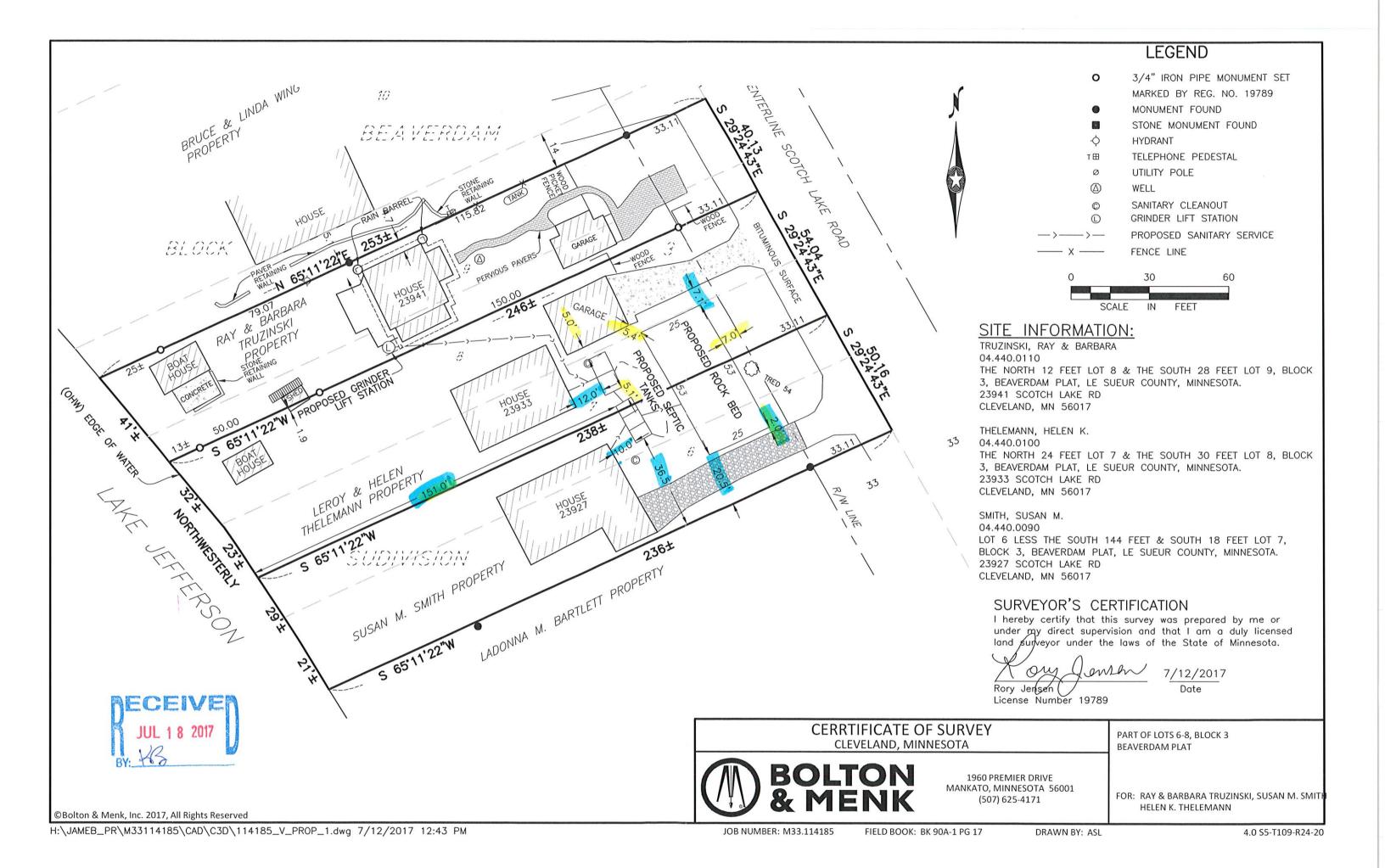
# To whom it may concern,

In 1984, I bought the lake property of property next to the lake property of my parents. It had a working septic at that time and we haven't changed the system until now.

My mother, Helen Thelemann, is a perminant resident and my husband, Rick and I use the property as a seasonal cabin.

Our properties are not large enough to support 2 septic systems, so we need to work together to have a compliant septic system. We need a variance to accomplish this goal. That is why we are asking for the variance to have a septic installed.

Susan M. Smith



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$\mathfrak{S}u$	TVE	eyor Certification
I.	Ap	Name JAMES Bes.
II.	Ī	Name LEROY HELEN THELEMANN & SUSAN SMITH  Property Address Z 3 9 3 3 4 23927 Scotch LAKE ROAD  City CLEVERAND State MN Zip 56017
III.		arcel Information:
IV.		te Plan - Shall be a Certificate of Survey to include, but not limited to:  North point  Lakes  Rivers  Setbacks  Property lines  Road Right-Of-Way  Company to include, but not limited to:  Access  Septic System  Proposed Structures  Proposed Structures  Existing structures - Within and adjacent to project area.  Location of trees to be removed - Shoreland Districts
		<ul> <li>Impervious Surface         <ul> <li>Required for Shoreland, Business, &amp; Industrial Districts.</li> <li>Itemized current &amp; proposed impervious surfaces to include total percentages.</li> <li>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.</li> </ul> </li> </ul>
	*St	ite shall be physically staked, <i>then</i> surveyed. takes shall be in place at the time of onsite visit/meeting, or the application will be tabled. takes must remain in place until construction commences.
V.	<b>Q</b> ι a.	uantities and Submittal Formats:  One (1) reproducible copy of the request and all other supporting documents.
	b.	Ten (10) copies must be submitted for documents <u>larger than 11 x 17</u> , documents in <u>color</u> , <u>aerials or photographs</u> .
	C.	Electronic version of any supporting documents if available.
	d.	Pre-application meeting is recommended prior to making application to ensure submittal completion. <u>Appointment is necessary</u> .
	e.	Application must be made in person by the applicant and/or landowner prior to 12 P.M. on the date of application deadline. <b>Appointment is necessary</b> .
	f.	All required information must be correct and submitted <u>at the time of application</u> , or the application will not be accepted.
VI.	The	gnatures: e proposed improvements have been physically staked onsite <u>then</u> surveyed on
		ereby certify with my signature that all data contained herein as well as all supporting data are true and rect to the best of my knowledge.
	Sú	rveyor Signature Date Lic#
	Date	OFFICE USE ONLY  Society Planning & Zoning Department Signature
01-15	-16	

LeSueur County Environmental Services Septic System Record Drawing

Direct Dial: 507 - 357 - 8538

Fax: 507 - 357 - 8541

Email: environmentalservices@co.le-sueur.mn.us

Property Owner: Property Address:

Parcel Number:

Smith, Thelemann, Truzinski

23927, 23933, 2394). Scotch Lake Road 04.440.0090, 04.440.0100, 04.440.0110

Lake

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I hereby certify as a State of Minnesota Licensed Septic Contractor that the subsurface sewage treatment system diagramed above was designed/installed in accordance with all applicable requirements of MN Rules Chapters 7080 &/or 7081 and the LeSueur County Zoning Ordinance. The drawing is accurate as of the date at the bottom of this form for the site identified at the top of this form. No determination of the future hydraulic performance can be made due to future water usage over the life of the system.

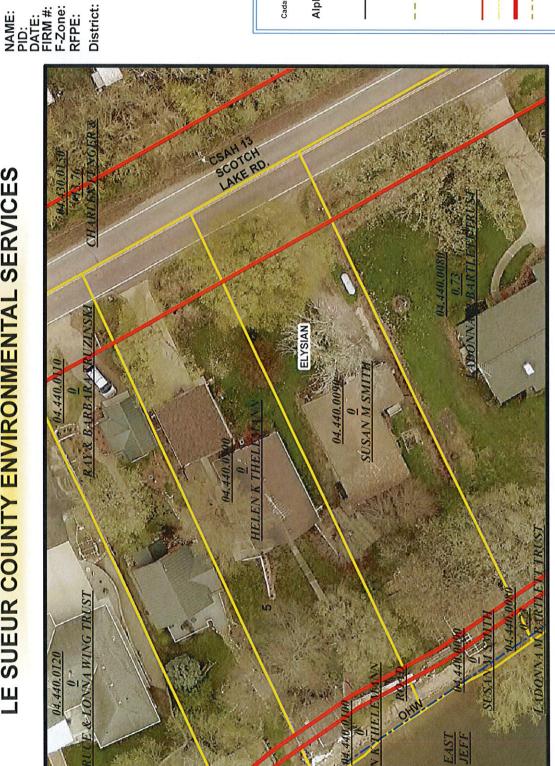
Septic Designer Signature:	Waye Ofmer		
Septic Designer Company:	James Brothers Construction, Inc.		
License Number: 73	Certification Number: 855	Date:	
	<u> </u>		
Septic Installer Signature:	* F		
Septic Installer Company:	James Brothers Construction, Inc.	· 2	

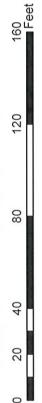
License Number: 73

Certification Number:

Mailing: 88 South Park Avenue LeCenter, MN 56057 Physical: 515 South Maple Avenue LeCenter, MN 56057 RECEIVED
06/07/2017

#### Railroad Centerline all other values> Road Centerline Road ROW Vac Easement Line Railroad ROW Geo Twp Line Pol Twp Line Sub Line 400 Road ROW Section Line County Line Incorporated Parcel Line Corp Line **Townships** Misc Line Gov Lot Sections Water Parcel Cadastral\_Line **AlphaTag**





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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, Reasonable efforts have been made by the Le Sueur County GIS Department to verify that these maps 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

Le Sueur County

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