



# **Le Sueur County, MN**

**Thursday, September 21, 2017**

**Regular Session**

## **Item 2**

**Thorn Packet**

Staff Contact: Kathy Brockway or Michelle Mettler

# VARIANCE STAFF REPORT

## GENERAL INFORMATION

**APPLICANT/OWNER:** BEVERLY THORN

**911 ADDRESS:** 24779 French Drive, Cleveland MN 56017

**VARIANCE REQUEST:** Allow the applicant to install a holding tank 6 feet from the road Right-Of-Way (ROW) and 8 feet from the dwelling in a Recreational Residential "RR" District on a Recreational Development "RD" lake, Lake Jefferson.

**VARIANCE NUMBER:** 17246

**PARCEL NUMBER:** 04.510.0220

## SITE INFORMATION

**LOCATION:** Lot 30, French Addition & Lot 27, Auditor Subdivision of Government Lot 1, Section 6, Elysian 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 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.

## GENERAL SITE DESCRIPTION:

Shoreland, residential

**ACCESS:** Existing off French Drive

**LAKE:** Lake Jefferson, Recreational Development

**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, Aerial photo, Findings of Fact,

## STAFF FINDINGS

**Staff findings per Le Sueur County Ordinance**, the following findings have been developed for this request:

Page 1 of 2

<u>Variance:</u>	<u>Request:</u>	<u>Required:</u>	<u>Ordinance:</u>	<u>Page:</u>
a. Structure to septic tank:	8 feet	10 feet	Section 17, Subdiv. 4. D. a. b.	17-9
b. Structure to Road right of way	6 feet	10 feet	Section 17, Subdiv. 4. D. 4.	17-9
 2. <b>Refer to DNR Guidance Letters:</b>				
a. The Role of the Variances in Shoreland Management Ordinances				pg. 9
b. Non-conforming Lots of Record in Shoreland Areas				pg. 19
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 <b>only</b> where the strict enforcement of the official controls will result in a <b>practical difficulty</b> .				
5. It is the responsibility of the <b>applicant</b> and/or landowner to prove evidence that a practical difficulty exists.				
6. A determination that a <b>practical difficulty exists</b> upon the consideration of the <b>findings of fact</b> .				

### CONSIDERATIONS

1. Variance # 16044 was approved by the Board of Adjustment on May 19, 2016 and has since expired.
2. 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: BEVERLY THORN

Variance # 17246

Variance Request: TO ALLOW THE APPLIANT TO INSTALL A HOLDING RANK 6 FEET FROM THE ROAD ROW AND 8 FEET FROM THE DWELLING.

- 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 Beverly Thorn  
 Mailing Address 50297-405 ave  
 City Maunkato State Minn Zip 56003  
 Phone # 507-340-4826 Phone # 507-720-5186

**II. Landowner:**  
 Name Beverly Thorn  
 Property Address 24779 - French Pr  
 City Cleveland State Mn Zip 56017  
 Phone # 507-340-4826 Phone # 507-720-5186

**III. Parcel Information:**  
 Parcel Number 04.510.0220 Parcel Acreage \_\_\_\_\_  
 Township Elysian Section \_\_\_\_\_  
 Subdivision French addition Lot 30 Block \_\_\_\_\_  
 + Lot 27 Auditor's Subdiv. mem

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).  
I need about a 25 ft. variance on the sides of the holding tank holding tank 6' to road - row & 8' to house

**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.)

Elysian Township notified on 4/5/16  
 (Township Name) (Date)

Board Member Linus Hebel 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
- Existing structures - *Within and adjacent to project area.*
- Road Right-Of-Way
- Streams
- Location of trees to be removed - *Shoreland Districts.*
- Lot Dimensions
- Ponds

• 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.

RECEIVED  
APR 19 2016

RECEIVED  
JUL 24 2017



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.

I d St Peter Tried To meet requirements but just didn't have enough room, because of well, cabin & garage

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

cabin, garage, & well

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

Location ~~are~~ of cabin, garage & well are the same when I bought the place about 15 yrs. ago

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

The tank will be covered by lawn and land

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

~~#~~ Because There wasn't enough room

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

The variance will bring septic system into compliance

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

The holding Tank, will no longer let septic water getting into ground water

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

I now have septic Tank with field, I plan on putting a 2000 gal holding tank and as needed

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

because NOT enough room, road, cabin, garage well all add to problem

RECEIVED  
JUL 24 2017

RECEIVED  
APR 19 2016  
BY: mmm

**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 *Res*
- 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.



- 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.*

\_\_\_\_\_  
Applicant signature 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.*

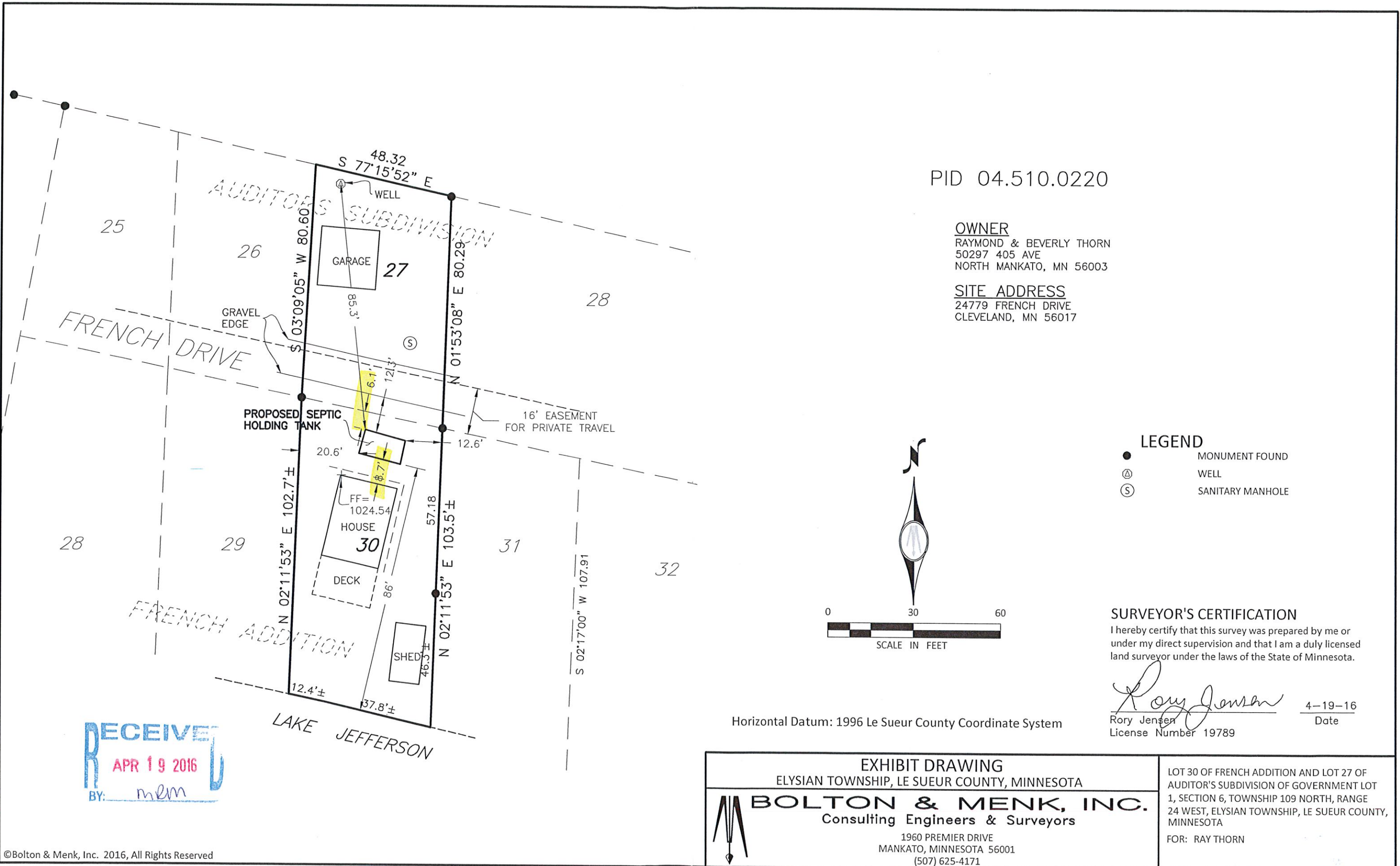
\_\_\_\_\_  
Landowner signature Date

**OFFICE USE ONLY**

Date received <u>7-24-17</u>	Present Zoning Classification <u>RR</u>	Feedlot within 500' 1000' <u>(N)</u>
Meeting date <u>9-21-17</u>	Lake Classification <u>RP</u>	Erosion Control Plan <u>(Y)</u> <u>(N)</u>
60 Day <u>9-22-17</u>	Lake <u>Jefferson</u>	Water courses <u>Y</u> <u>(N)</u>
RFPE <u>1022.80</u>	FEMA Panel # <u>2707900 2700</u>	Bluff <u>Y</u> <u>(N)</u>
<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 _____
<input type="checkbox"/> Floor plans/blue prints	<input type="checkbox"/> Access approval	_____ <u>(COC NONC/Waiver Design)</u>
<input checked="" type="checkbox"/> Description of Request	<input type="checkbox"/> Blue Prints	<input checked="" type="checkbox"/> Fee \$ <u>640</u>
<input type="checkbox"/> Application complete	<u>Michelle R. Mattles</u> Planning & Zoning Department Signature	ATF / SPEC MTG <u>17246</u>
		Date <u>9-24-17</u> Permit # _____

01-15-16



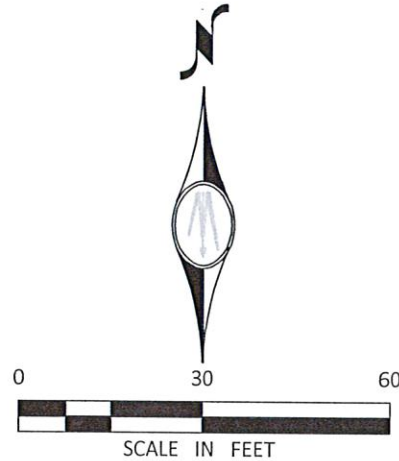


PID 04.510.0220

**OWNER**  
 RAYMOND & BEVERLY THORN  
 50297 405 AVE  
 NORTH MANKATO, MN 56003

**SITE ADDRESS**  
 24779 FRENCH DRIVE  
 CLEVELAND, MN 56017

- LEGEND**
- MONUMENT FOUND
  - ⊙ WELL
  - Ⓢ SANITARY MANHOLE



**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

4-19-16  
 Date

Horizontal Datum: 1996 Le Sueur County Coordinate System

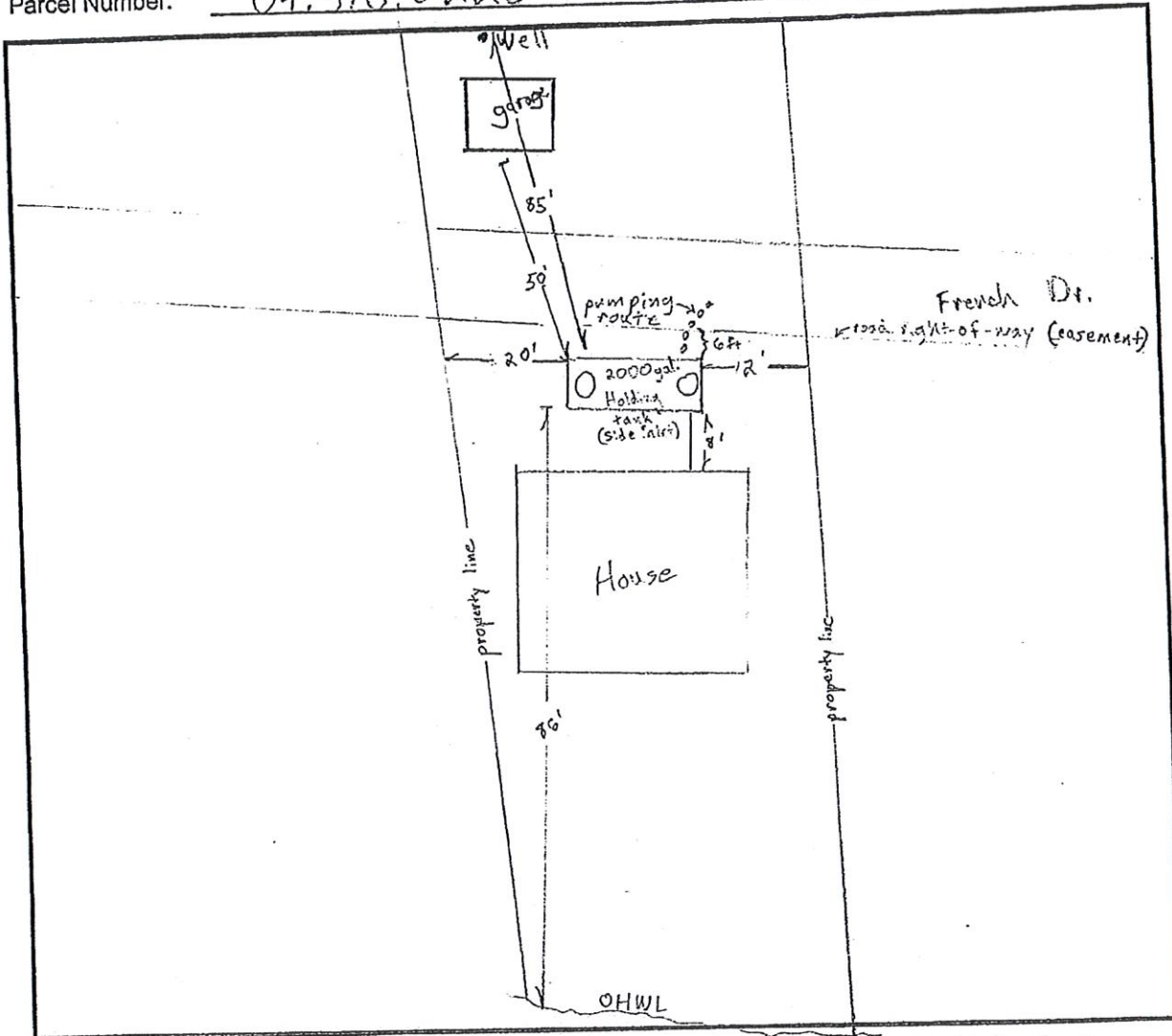
RECEIVED  
 APR 19 2016  
 BY: mem

<b>EXHIBIT DRAWING</b> ELYSIAN TOWNSHIP, LE SUEUR COUNTY, MINNESOTA		LOT 30 OF FRENCH ADDITION AND LOT 27 OF AUDITOR'S SUBDIVISION OF GOVERNMENT LOT 1, SECTION 6, TOWNSHIP 109 NORTH, RANGE 24 WEST, ELYSIAN TOWNSHIP, LE SUEUR COUNTY, MINNESOTA  FOR: RAY THORN
<b>BOLTON &amp; MENK, INC.</b> Consulting Engineers & Surveyors 1960 PREMIER DRIVE MANKATO, MINNESOTA 56001 (507) 625-4171		





Property Owner: Raymond Thork  
Property Address: 24779 French Dr.  
Parcel Number: 04.510.0220



I hereby certify as a State of Minnesota Licensed Septic Contractor that the subsurface sewage treatment system diagrammed above was designed/installed in accordance with all applicable requirements of MN Rules Chapters 7080 &/or 7081 and the Le Sueur 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: Glen Holliman  
Septic Designer Company: St. Peter Well  
License Number: 3467 Certification Number: 3218 Date: 4-20-16

Septic Installer Signature: \_\_\_\_\_  
Septic Installer Company: St. Peter Well  
License Number: 3467 Certification Number: 3218 Date: \_\_\_\_\_

Mailing: 88 South Park Avenue  
Le Center, MN 56057

Physical: 515 South Maple Avenue  
Le Center MN 56057

**APPROVED**

RECEIVED  
FEB 10 2017  
Revised: 3/2016

**LE SUEUR COUNTY ENVIRONMENTAL SERVICES**  
**88 SOUTH PARK AVE.**  
**LE CENTER MN 56057-1620**  
**(507) - 357-8538**  
**Fax (507) - 357-8541**

May 20, 2016

Ray and Beverly Thorn  
50297 405<sup>th</sup> Ave  
North Mankato MN 56003

Parcel No: 04.510.0220

**RE: Variance Approval**

Dear Mr. & Mrs. Thorn:

The Le Sueur County Board of Adjustment approved your application for Variance # 16044 on May 19, 2016 as written:

The Department is required to notify all property owners of record within 500 ft of the affected property, regarding the decisions made by the Board of Adjustment in granting the variances or in hearing appeals from any administrative order, requirements, decision or determination shall be final except that any aggrieved person or persons, or any department, board of commission of the jurisdiction or of the state shall have the right to appeal the Board's decision within 30 days, after notice of the decision, to the district court.

The Variance will lapse within one year from the date of the approval. Construction must be completed prior to the expiration of the Variance. A zoning permit is required prior to starting any construction on your project.

If the work permitted by the Variance has not been completed, a petition for extension may be requested thirty (30) days prior to the Variance expiration. The request for extension shall state facts showing a good faith attempt to complete the work permitted in the Variance. The petition for extension shall be filed with the Planning & Zoning Administrator. Such petition shall be presented to the Board of Adjustment for a decision.

If you have any questions, please contact this office at the above-listed number.

Thank you.



Michelle R. Mettler  
Le Sueur County  
Assistant Planning and Zoning Administrator

CC: **file**  
Le Sueur County Assessor's Office



**LE SUEUR COUNTY PLANNING AND ZONING COMMISSION  
BOARD OF ADJUSTMENT  
88 SOUTH PARK AVE.  
LE CENTER, MINNESOTA 56057  
May 19, 2016**

**MEMBERS PRESENT:** Jeanne Doheny, Jim Mladek, John Wolf, Francis Cummins

**MEMBERS ABSENT:** Colin Harris

**OTHERS PRESENT:** Michelle R. Mettler

**ITEM #1: RUSSELL BRIX, CLEVELAND, MN (APPLICANT/OWNER):** Requests that the County grant a Variance from the Le Sueur County Zoning Ordinance to allow the applicant to construct a 10 x 18 four-season porch & a 10 x 12 deck 47 feet from the Ordinary High Water Level (OHWL) & create impervious surface within the shore impact zone in a Recreational Residential "RR" District, on a Recreational Development "RD" lake, Lake Jefferson. Property is located at Lot 20, Jefferson Highlands, Section 2, Cleveland Township. **VARIANCE IS FOR OHWL SETBACK AND IMPERVIOUS SURFACE.**

Russell Brix was present for application. Township: None. DNR: None. Letters submitted: Josh Mankowski, Le Sueur County Environmental Resource Specialist.

Discussion was held regarding replacing 10 x 18 porch and adding 10 x 12 deck. Deck construction will be a step down from the porch. Cedar flooring. Creating additional impervious surface within the shore impact zone with the deck that wasn't there before. Deck is sitting area. Impervious surface within the shore impact zone. Can build a deck to meet setbacks and be out of the shore impact zone.

Motion was made by Jim Mladek to table the application so applicant can come back at next meeting with a revised plan, can check with contractor for other ways of reducing impervious surface for the deck. Motion failed for a lack of a second.

Motion was made by John Wolf to approve only the proposed porch portion of the application. Conditions: Deck portion of the variance request denied, can bring into compliance. Meet conditions of Environmental Resource Specialist, no deck and work with Josh Mankowski to install an approved BMP to mitigate the impervious surface within the shore impact zone. Seconded by Francis Cummins. Motion approved. Motion carried.

**ITEM #2: THOMAS VEILLEUX & DEBRA TAYLOR, MADISON LAKE, MN, (APPLICANT/(OWNER):** Request that the County grant a Variance from the Le Sueur County Zoning Ordinance to allow the applicant to construct a dwelling addition 41 feet from the road Right-Of-Way (ROW) and a total of 25.5% impervious surface in a Recreational Residential "RR" District, on a Recreational Development "RD" lake, Lake Washington. Property is located at Lot 3, Block 4, Connors Point Subdivision, Section 17, Washington Township. **VARIANCE IS FOR ROAD ROW SETBACK & IMPERVIOUS SURFACE.**

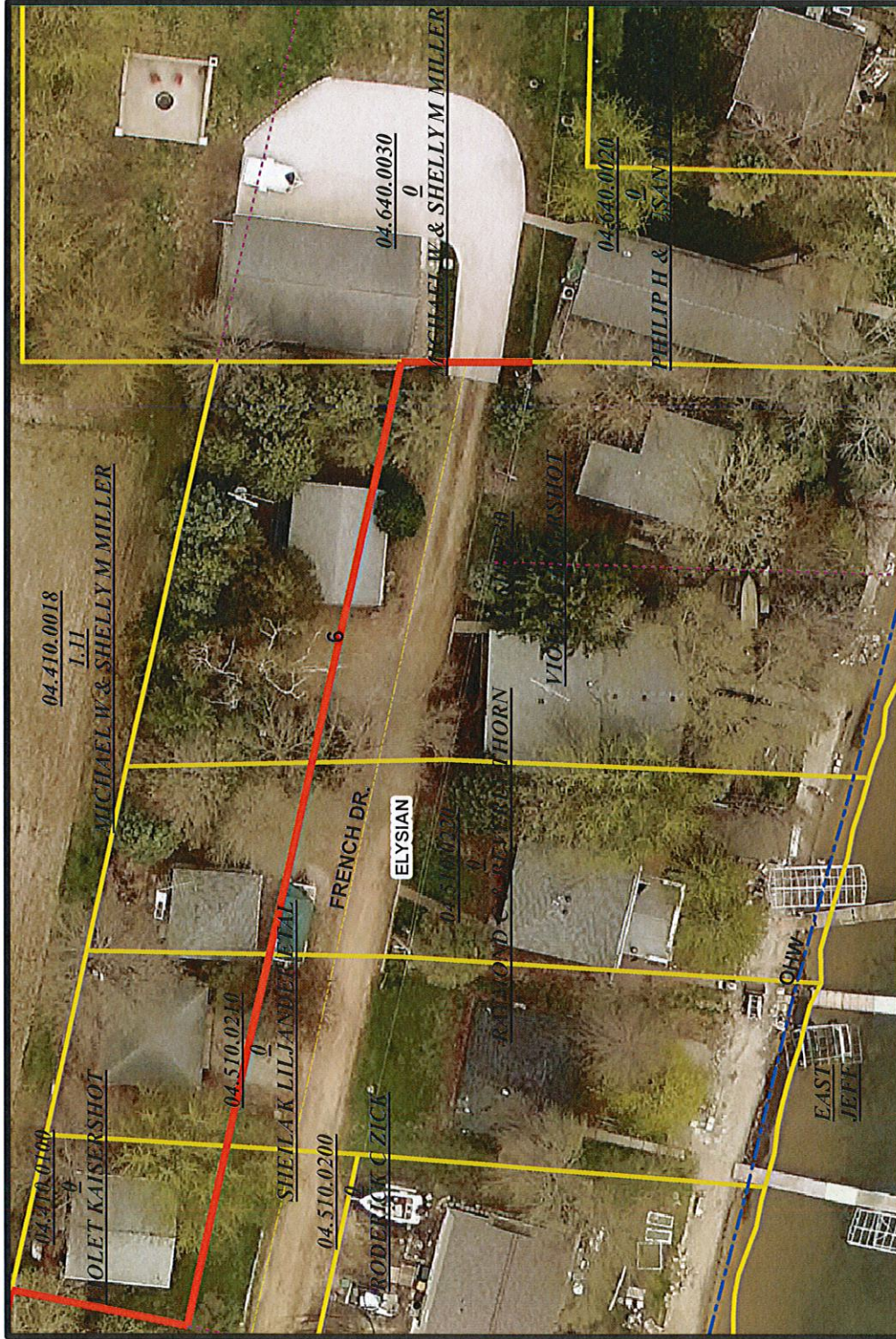
Tom Veilleux and Debra Taylor were present for application. Township: In favor of the proposal. DNR: None. Letters submitted: Josh Mankowski, Le Sueur County Environmental Resource Specialist.

Discussion was held regarding: Bought house 4 years ago, beautiful lot with a small house, currently a 2 bedroom dwelling, didn't want to build up and didn't want to build closer to the lake. Removing impervious surface, reduced total impervious, less impervious surface with the proposal than currently have. Dealing with runoff with rain garden and/or rain barrel. Timeframe summer or fall.



# LE SUEUR COUNTY ENVIRONMENTAL SERVICES

NAME: Thorn  
 PID: 04.510.0220  
 DATE: 9-8-17  
 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

Cadastral_Line	<all other values>
<b>AlphaTag</b>	
Corp Line	—
County Line	—
Easement Line	—
Geo Twp Line	—
Gov Lot	—
Misc Line	—
Parcel Line	—
Pol Twp Line	—
Railroad Centerline	—
Railroad ROW	—
Road Centerline	—
Road ROW	—
Road ROW Vac	—
Section Line	—
Sub Line 400	—
Water	—
Incorporated	—
Townships	—
Sections	—
Parcel	—

LE SUEUR COUNTY  
 ENVIRONMENTAL SERVICES  
 507-357-8538