



Le Sueur County, MN

Thursday, October 19, 2017

Regular Session

Item 4

Baker Packet

Staff Contact: Kathy Brockway or Michelle Mettler

VARIANCE STAFF REPORT

GENERAL INFORMATION

APPLICANT/OWNER: Steven & Teresa Baker

911 ADDRESS: 47385 271st Ave, Cleveland, MN

VARIANCE REQUEST: To allow the applicant to install a septic tank 82 feet from the Ordinary High Water Level (OHWL)

VARIANCE NUMBER: 17364

PARCEL NUMBER: 13.011.0300

SITE INFORMATION

LOCATION: Part of West 1/2 of the NW 1/4, Section 11, Washington Township

ZONING & PURPOSE: Special Protection

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

GOALS AND POLICIES: The current Land Use Plan as adopted in 2007 makes reference to Natural Environment lake setbacks and water quality.

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 resources areas.

Objective 3: Preserve shorelands on Natural Environment Lakes (NE) and Tributary Rives as open space or wildlife areas.

Action 2: On Natural Environment Lakes where land is zoned residential, continue using the larger lot sizes and water setback standards that were set in the 1996 amendments.

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, scattered residential, agriculture

ACCESS: Existing off County Road 15

LAKE: Un-named Natural Environment Lake

Natural Environment Lake - Lakes that usually have less than one hundred fifty (150) total acres, less than sixty (60) acres per mile of shoreline, and less than three (3) dwellings per mile of shoreline. They may have some winter kill of fish; may have shallow, swampy shoreline; and are less 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:

- | <u>1. Variance:</u> | <u>Request:</u> | <u>Required:</u> | <u>Ordinance:</u> | <u>Page:</u> |
|-------------------------|-----------------|------------------|--------------------------------|--------------|
| a. Septic tank to OHWL: | 82 feet | 200 feet | Section 17, Subdiv. 4.D.5.a.1. | 17-9 |
2. Refer to DNR Guidance Letters:
- a. The Role of the Variances in Shoreland Management Ordinances pg. 9
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: STEVEN & TERESA BAKER

Variance # 17364

Variance Request: TO ALLOW THE APPLICANT TO INSTALL A SEPTIC TANK 82' OHWL OF AN UNNAMED LAKE.

- 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
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Y N 2. Is the alleged practical difficulty unique to the property?

Explain _____

JM	JW	JD	CH	FC
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Y N 3. Were the circumstances causing the practical difficulty created by someone other than the applicant / landowner?

Explain _____

JM	JW	JD	CH	FC
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Y N 4. Will the issuance of the Variance maintain the essential character of the locality?

Explain _____

JM	JW	JD	CH	FC
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

Explain _____

JM	JW	JD	CH	FC
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

F. Variances shall only be permitted when they are in harmony with the general purposes and intent of the official controls.

Y N 6. Is the Variance consistent with and supported by the statement of purposes, policies, goal and objectives in the Ordinance?

Explain _____

JM	JW	JD	CH	FC
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Y N 7. Is the Variance consistent with the Comprehensive Plan?

Explain _____

JM	JW	JD	CH	FC
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

G. IF ALL THE ANSWERS ARE "YES", THE CRITERIA FOR GRANTING THE VARIANCE HAVE BEEN MET.

() APPROVED

() DENIED

CONDITIONS: _____

Applicant response to conditions:

Agree ()

Disagree ()

Reasons: _____

Board of Adjustment Chairman

Date

Variance Application

I. Applicant:

Name Steve & Teresa Baker
Mailing Address 47385 271st Ave
City Madison Lake State MN Zip 56063
Phone # (507) 931-3156 Phone # (507) 327-8910

II. Landowner:

Name Steve & Teresa Baker
Property Address 47385 271st Ave
City Madison Lake State MN Zip 56063
Phone # (507) 931-3156 Phone # (507) 327-8910

III. Parcel Information:

Parcel Number 13-011-0300 Parcel Acreage 5.9 acres
Township Washington Section 11-109-25 Quarter of
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).

Requesting to place the vacuumed sealed tanks
82 ft from unnamed lake (marsh).

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.)

Washington Township notified on 8/22/2017
(Township Name) (Date)

Board Member Sue Ziebarth regarding the proposed request.
(Name)

VII. Site Plan - Shall be a Certificate of Survey to include, but not limited to:

- North point
- Setbacks
- Property lines
- Road Right-Of-Way
- Lot Dimensions
- Lakes
- Rivers
- Wetlands
- Streams
- Ponds
- Well
- Septic System
- Proposed Structures
- Existing structures - *Within and adjacent to project area.*
- Location of trees to be removed - *Shoreland Districts.*
- Access
- Easements
- 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:

SEP 19 2017
BY:

- 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.
- A Variance may be granted only where the strict enforcement of the official control will result in a practical difficulty.
- It is the responsibility of the applicant and/or landowner to prove evidence that a practical difficulty exists.
- A determination that a practical difficulty exists upon the consideration of the following criteria:

- Describe how the Variance request is reasonable compared to the ordinance requirements being varied from.

The mound tank will be set back at the required feet - but the tanks will be 80 feet as our drainage from house runs out the south side of our home -

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

In 1992 the zoning allowed us to place septic system 75 feet from marsh. Now zoning says set back is 200 feet away - all pipes are on the other side of home don't want to destroy our home to run pipes out north side.

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

Since 1992 - DNR has titled the marsh on our property as unnamed lake - which now according to new setbacks we are to be 200 feet from marsh which is a natural filtration for runoff.

- How will the request maintain the essential character of the locality?

Wanting to put the water tight vacuum sealed tanks in the area where our original septic tank is located near

- Does the alleged practical difficulty involve more than economic considerations?

At this time we will be removing 6 trees and laying extra pipe to set up mound at the ordinance setback -

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

Yes the mound is setback 200 feet from the unnamed lake (marsh) which is farther than many homes on Lake Jefferson - also the sealed tanks will be setback farther than many homes on the lake -

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

We would be following the ordinance for the mound system - 200 foot setback - tanks 80 feet setback from unnamed lake (marsh which has no shoreline)

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

Our current gravity flow septic is on the south side of our home - asking to place sealed tanks on that same side of the home where pipes run out of our home already -

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

By setting the tanks 80 feet away on the south side we would not need 2 pumps and could utilize the set up from existing septic system.

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.

Jesse Baker

Applicant signature

9/19/17

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.

Jesse Baker & Jesse Baker

Landowner signature

9/19/17

Date

OFFICE USE ONLY

Date received <u>9.19.17</u>	Present Zoning Classification <u>SP</u>	Feedlot within 500' 1000' <u>(N)</u>
Meeting date <u>10.19.17</u>	Lake Classification <u>NE</u>	Erosion Control Plan <u>(Y)</u> N
60 Day <u>11.17.17</u>	Lake <u>Unnamed</u>	Water courses <u>(Y)</u> N
RFPE _____	FEMA Panel # <u>27079CO270</u>	Bluff Y 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 _____
<input type="checkbox"/> Floor plans/blue prints	<input type="checkbox"/> Access approval <u>Ext</u>	<input type="checkbox"/> Fee \$ <u>646.00</u>
<input checked="" type="checkbox"/> Description of Request	<input type="checkbox"/> Blue Prints	<u>9.19.17</u>
<input checked="" type="checkbox"/> Application complete	<u>Kathy Brockway</u> Planning & Zoning Department Signature	<u>17364</u> Permit #

01-15-16



We are replacing our current septic system on our property as we are apart of the Herman / Jefferson septic district and our system is non compliant

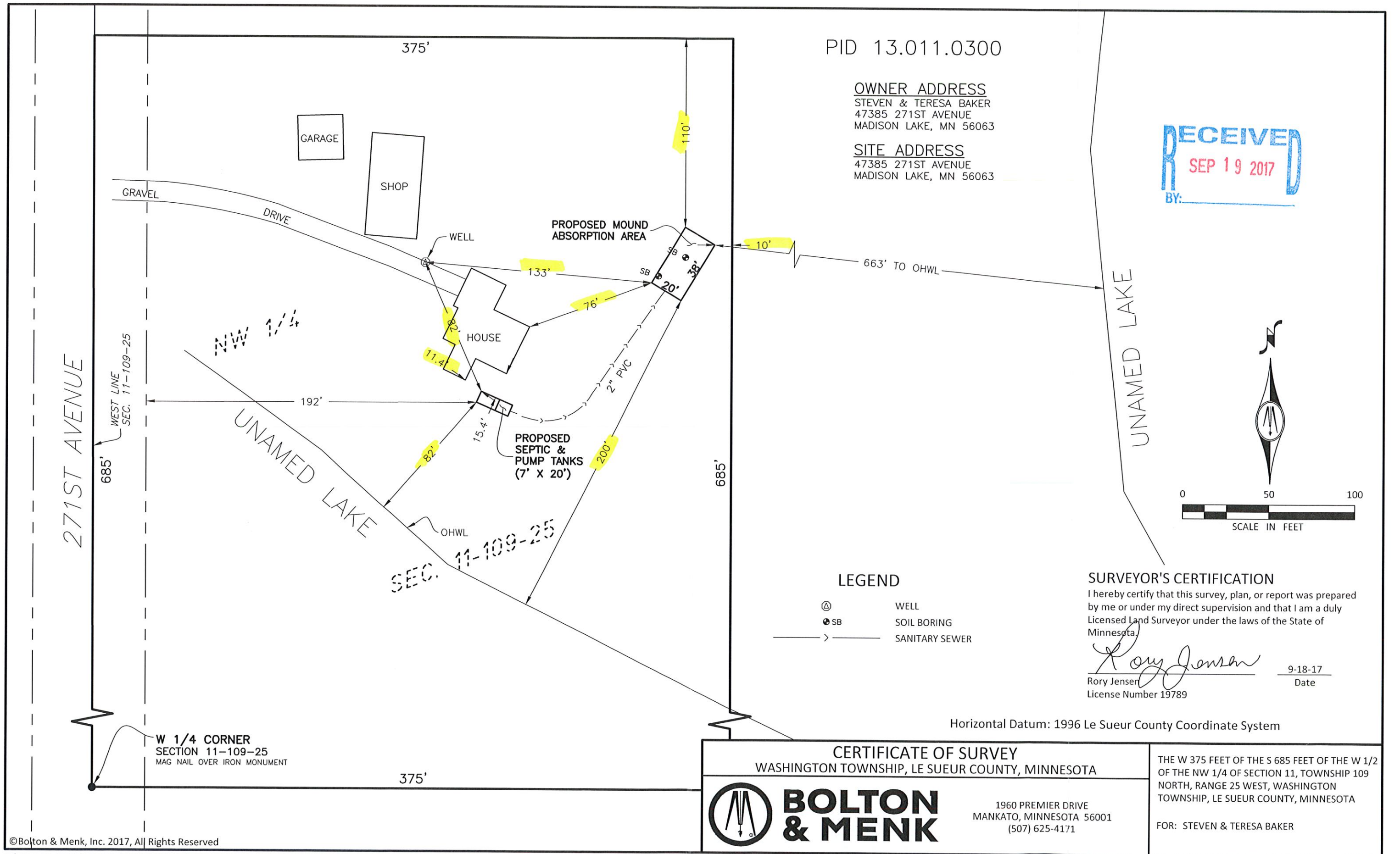
When we built our home in 1992 our septic system met the required set backs.

We were recently informed the D.N.R. has tilled the marsh land we own to the south of our home an un-named lake which now requires different set backs.

We are requesting with this variance to place the three sealed tanks 82 feet from the un-named lake / marsh which is a natural filtration system.

The septic pipes run east the south side of our home.

Steve & Teresa Baker



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SDB114670H

JOB NUMBER: M33.114670

FIELD BOOK: 90K PG 14

DRAWN BY: JLA

4.0 S11-T109N-R25W

Surveyor Certification

I. **Applicant:**
Name STEVE & TERESA BAKER

II. **Landowner:**
Name STEVE & TERESA BAKER
Property Address 47385 271st Ave.
City MADISON LAKE State MN Zip 56063

III. **Parcel Information:**
Parcel Number 13.011.0300

IV. **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.*

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*Stakes shall be in place at the time of onsite visit/meeting, or the application will be tabled.

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V. **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. 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 8/29/17 to reflect an accurate account of current and proposed conditions of the property identified above.

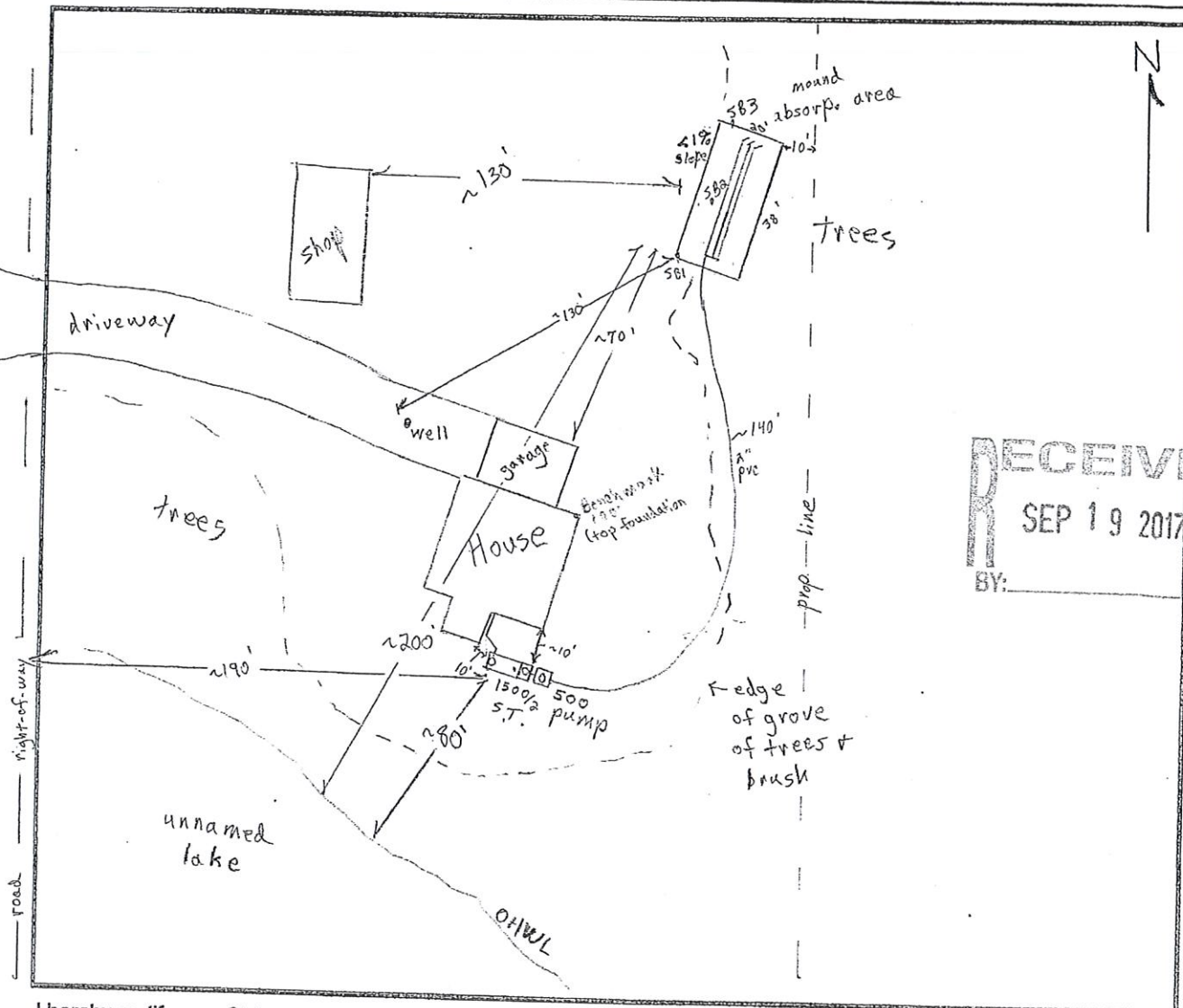
I hereby certify with my signature that all data contained herein as well as all supporting data are true and correct to the best of my knowledge.

Surveyor Signature [Signature] Date 9/10/17 Lic # 19789

9.19.17
Date Received

OFFICE USE ONLY
[Signature]
Planning & Zoning Department Signature

Property Owner: Steve Baker
Property Address: 47385 271st Ave. Madison Lake
Parcel Number: 13.011.0300



RECEIVED
SEP 19 2017
BY:

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:	<u>St. Peter Well</u>		
Septic Designer Company:	<u>St. Peter Well</u>		
License Number:	<u>3467</u>	Certification Number:	<u>3219</u>
		Date:	<u>9-11-17</u>
Septic Installer Signature:			
Septic Installer Company:	<u>St. Peter Well</u>		
License Number:	<u>3467</u>	Certification Number:	<u>3219</u>
		Date:	

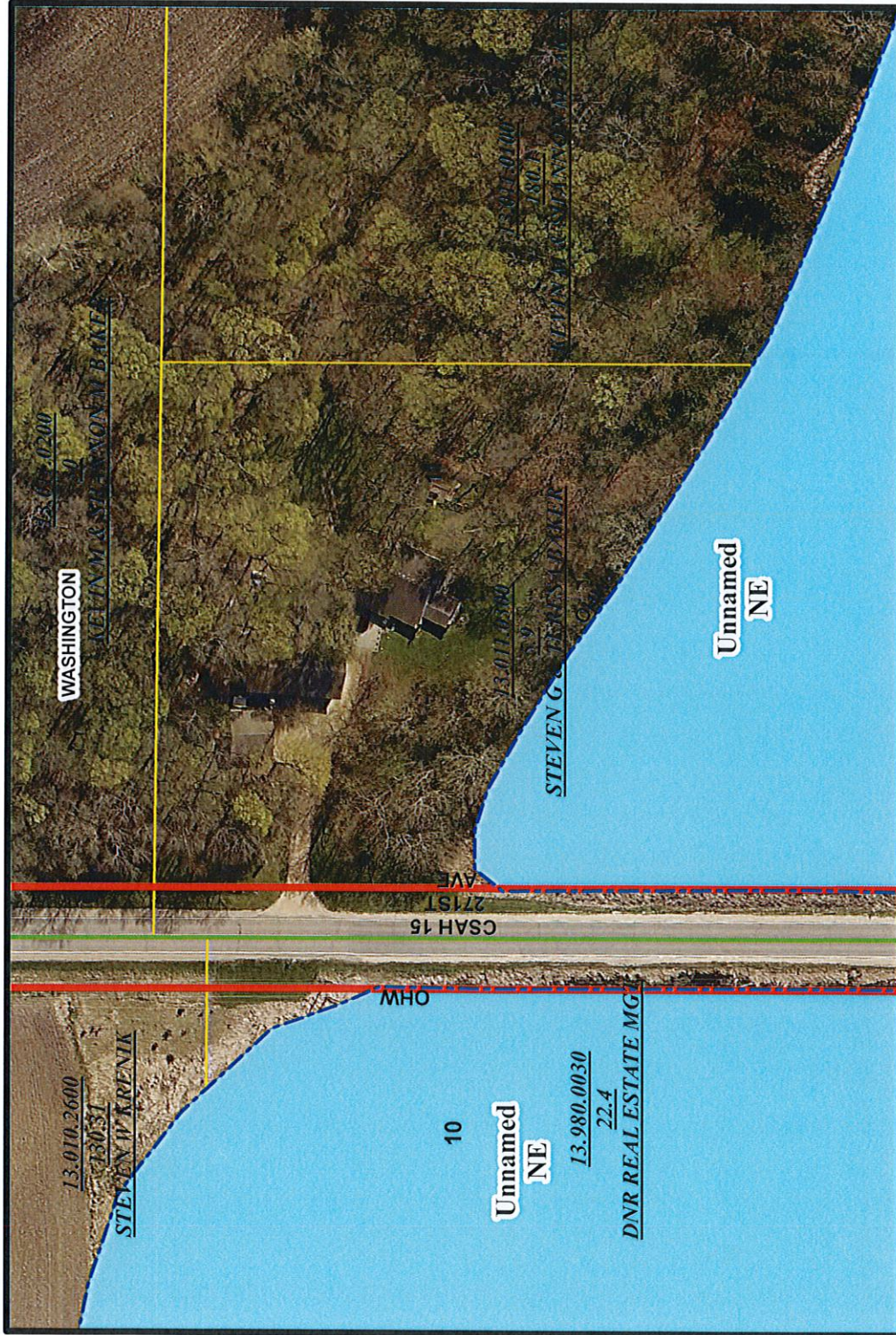
Mailing: 88 South Park Avenue
Le Center, MN 56057

Physical: 515 South Maple Avenue
Le Center MN 56057

Revised: 3/2016

LE SUEUR COUNTY ENVIRONMENTAL SERVICES

NAME: Baker
 PID: 13.011.0300
 DATE: 10-3-17
 FIRM #: 27079C0270D
 F-Zone: X-Outside
 RFPE: na
 District: Agriculture



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

Cadastral Line	<all other values>
AlphaTag	
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	
Lakes	
Parcel	