



Le Sueur County, MN

Thursday, November 16, 2017

Regular Session

Item 3

Theissen Packet

Staff Contact: Kathy Brockway or Michelle Mettler

VARIANCE STAFF REPORT

GENERAL INFORMATION

APPLICANT/OWNER: Michael & Linda Theissen

911 ADDRESS: 46155 Jefferson Lake Drive, Cleveland, MN

VARIANCE REQUEST: To use an existing septic tank 7 feet from the dwelling, 6 feet from the property line, and 52 feet from the Ordinary High Water Level (OHWL) in a Recreational Residential "RR" District.

VARIANCE NUMBER: 17396

PARCEL NUMBER: 01.600.0090

SITE INFORMATION

LOCATION: Lots 9 & 10, Jefferson Highlands, Section 2, 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 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 Jefferson Lake 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, 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>
				Page 1 of 2

a. Septic tank to dwelling:	7 feet	10 feet	Section 17, Subdiv. 4. D. 1. b.	17-9
b. Septic tank to property line:	6 feet	10 feet	Section 17, Subdiv. 4. D. 2.	17-9
c. Septic tank from OHWL:	52 feet	100 feet	Section 17, Subdiv. 4. D. 5. b. 2.	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
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: MICHAEL & LINDA THEISSEN

Variance # 17396

Variance Request: TO ALLOW THE APPLICANT TO USE AN EXISTING SEPTIC TANK 7 FEET FROM THE DWELLING, 6 FEET FROM THE PROPERTY LINE, & 52 FEET FROM THE OHWL.

- 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 Michael G + Linda Theissen
 Mailing Address 46155 Jefferson Lake Dr.
 City Cleveland State MN Zip 56017
 Phone # _____ Phone # 507-931-1619

II. Landowner:
 Name Michael G + Linda Theissen
 Property Address 46155 Jefferson Lake Dr
 City Cleveland State MN Zip 56017
 Phone # _____ Phone # 507-931-1619

III. Parcel Information:
 Parcel Number 016000090 Parcel Acreage _____
 Township Cleveland Section _____
 Subdivision Jefferson Highlands Lot 9+10 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).
use an existing septic tank 7' to the dwelling
6' to property line & 52' from the OHWL

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 10/11/2017
 (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 - <i>Within and adjacent to project area.</i> | |
| • Lot Dimensions | • Ponds | • Location of trees to be removed - <i>Shoreland Districts.</i> | |
- 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.*

RECEIVED
OCT 16 2017
BY: _____

*Site shall be physically staked, then surveyed.

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

*Stakes must remain in place until construction commences.

VIII. Practical Difficulty:

- a. Variances shall only be permitted when they are in harmony with the general purposes and intent of the official controls and are consistent with the comprehensive plan.
- b. A Variance may be granted only where the strict enforcement of the official control will result in a practical difficulty.
- c. It is the responsibility of the applicant and/or landowner to prove evidence that a practical difficulty exists.
- d. A determination that a practical difficulty exists upon the consideration of the following criteria:

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

see attached sheet

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

see attached sheet

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

see attached sheet

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

see attached sheet

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

see attached sheet

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

see attached sheet

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

see attached sheet

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

see attached sheet

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

see attached sheet

RECEIVED
OCT 16 2017
BY: _____

IX. Attachments shall include but not limited to:

- | | |
|---|--|
| <input checked="" type="checkbox"/> a. Site Plan- survey | <input type="checkbox"/> e. Floor plans and/or blue prints (<i>For structures</i>) NO |
| <input checked="" type="checkbox"/> b. Surveyor Certification | <input checked="" type="checkbox"/> f. Septic System Compliance Inspection |
| <input type="checkbox"/> c. Access approval | <input checked="" type="checkbox"/> g. Erosion control plan |
| <input checked="" type="checkbox"/> d. Full legal description | <input type="checkbox"/> h. Description of request |

The Department may request additional information regarding the application.

X. Quantities and Submittal Formats:

- One (1) reproducible copy of the request and all other supporting documents.
- Ten (10)** copies must be submitted for documents larger than 11 x 17, documents in color, aerials or photographs.
- Electronic version of any supporting documents if available.
- Additional copies may be requested as deemed necessary by the Department.

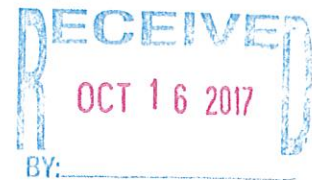
XI. Fees:

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.

- Pre-application meeting is recommended prior to making application to ensure submittal completion. **Appointment is necessary.**
- 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.**
- All required information must be correct and submitted **at the time of application**, or the application will not be accepted.
- Fees **will not** be accepted by mail and must be paid at the time of application.
- 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.
- 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.

Linda R. Thissen
Applicant signature

10/16/2017
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.

Linda R. Thissen
Landowner signature

10/16/2017
Date

OFFICE USE ONLY

Date received 10-16-17

Present Zoning Classification RR

Feedlot within 500' 1000' N

Meeting date 11-16-17

Lake Classification RD

Erosion Control Plan Y N

60 Day 12-15-17

Lake Jefferson

Water courses Y N

RFPE na

FEMA Panel # 27079C0700

Bluff Y N

☒ Site Plan -survey

Flood Zone X-outside

Other _____

☒ Surveyor Certificate

☒ Full legal description

☒ Septic _____
COC
NONC/Waiver
Design

☐ Floor plans/blue prints

☐ Access approval

☒ Description of Request

☐ Blue Prints

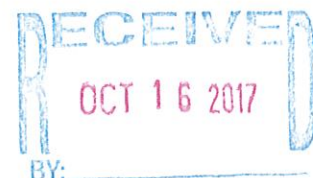
☒ Fee \$ 1640 ATF / SPEC MTG

☒ Application complete

Michelle J. Muth
Planning & Zoning Department Signature

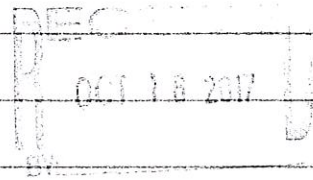
10-16-17 17396
Date Permit #

01-15-16



⑤ Description of request

Our current septic system consists of 1500 gallon holding tank & drainfield on leased land across the street. Drain field is non-conforming due to a 1" separation overlap. Land owner of leased land is unwilling to cooperate & so we have no other option except to install drainfield on our own property. We have been told by St. Peter Well we have room for the system they have submitted.



① Tank was already in place

② In order to meet the lake setback we won't be able to meet the well setback

③ Years ago lots were small

OCT 16 2017

④ All other properties around us have similar mounds

⑤ yes because if we have to pump it is expensive. Also stressful because of not knowing how often to pump & limiting use of water

⑥ yes - will improve water quality meets Goal 3, Objective 1, Action 1

⑦ nearly all lake front owners are
faced to deal with sewage
treatment on small lots

⑧ Bring system into compliance

⑨ There are no other options

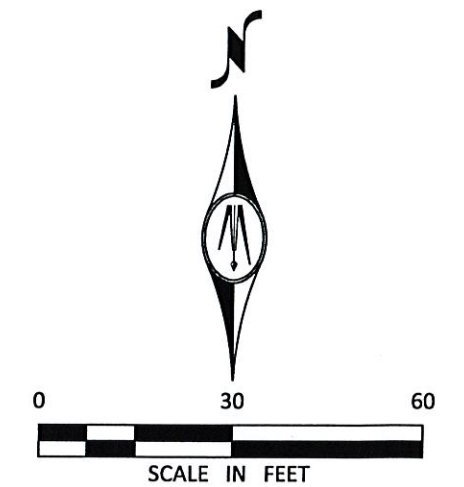
RECEIVED

OCT 16, 2017

PID 01.600.0090

OWNER ADDRESS
MICHAEL G. & LINDA THEISSEN
46155 JEFFERSON LAKE DRIVE
CLEVELAND, MN 56017

SITE ADDRESS
46155 JEFFERSON LAKE DRIVE
CLEVELAND, MN 56017



LEGEND

- MONUMENT FOUND
- ⊙ WELL

SURVEYOR'S CERTIFICATION

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Rory Jensen
Rory Jensen
License Number 19789

10/10/2017
Date



CERTIFICATE OF SURVEY
LE SUEUR COUNTY, MINNESOTA



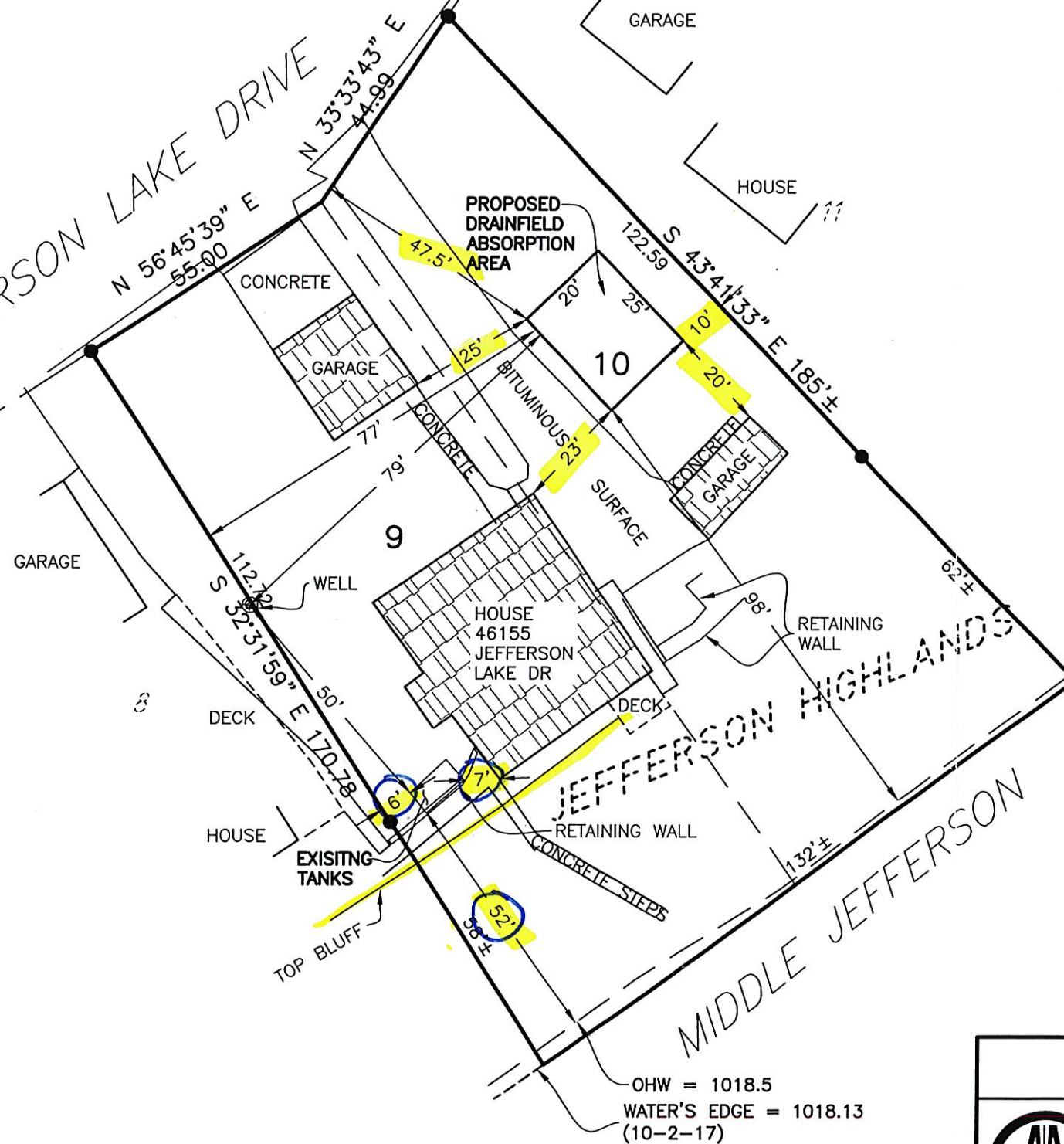
**BOLTON
& MENK**

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

LOTS 9 & 10, JEFFERSON HIGHLANDS, SECTION 2,
TOWNSHIP 109 NORTH, RANGE 25 WEST, LE
SUEUR COUNTY, MINNESOTA

FOR: MICHAEL & LINDA THEISSEN

JEFFERSON LAKE DRIVE



Surveyor Certification

I. Applicant:
Name Michael G + Linda R Theissen

II. Landowner:
Name Michael G + Linda R Theissen
Property Address 46155 Jefferson Lake Dr.
City Cleveland State MN Zip 56017

III. Parcel Information:
Parcel Number 01.600.0090

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.*

*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.

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 10-2-17, 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.

Roy Jensen
Surveyor Signature

10/10/17
Date

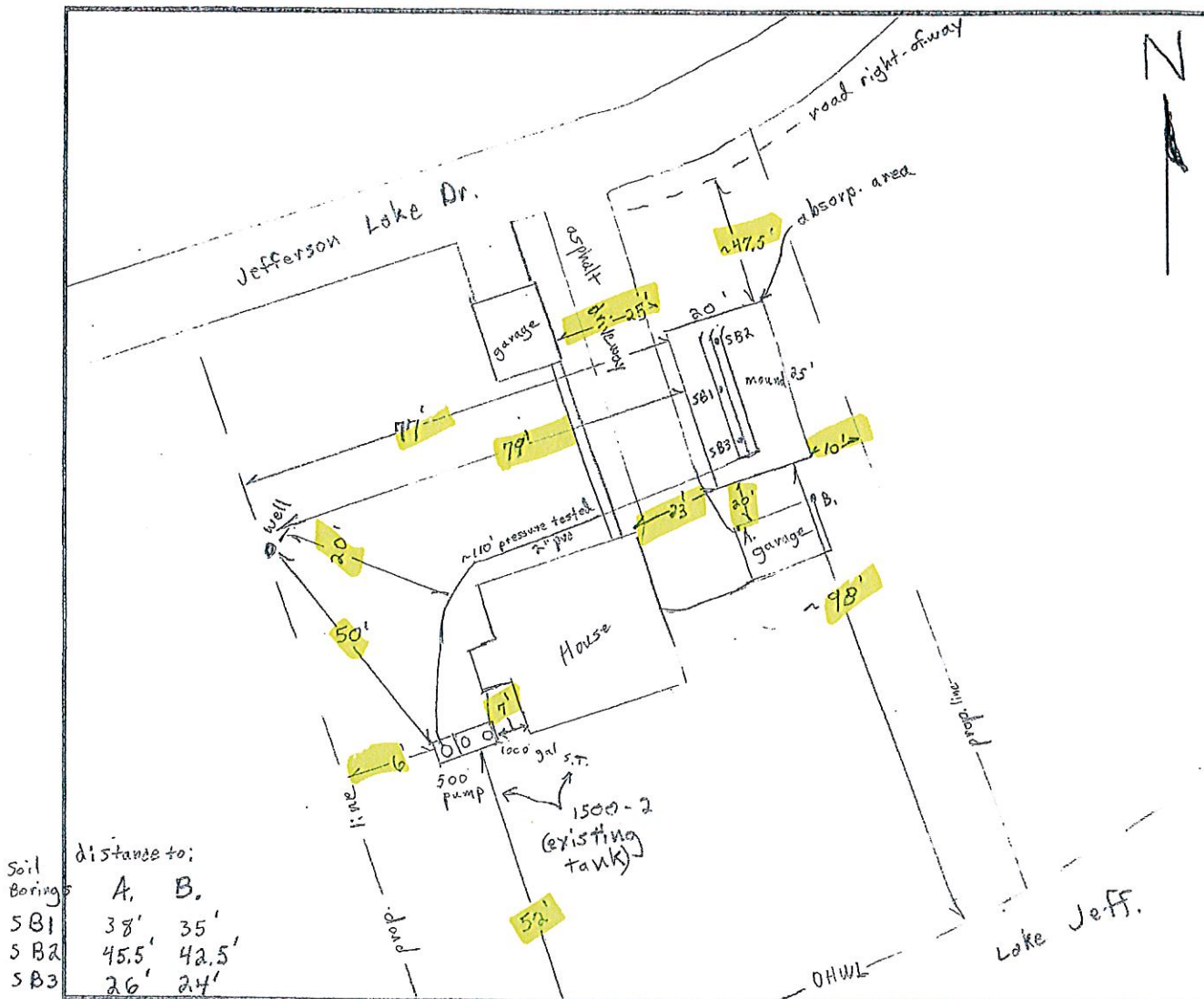
19789
Lic #

OFFICE USE ONLY

10-11-17
Date Received

mm
Planning & Zoning Department Signature

Property Owner: Michael Theissen
Property Address: 46155 Jefferson Lake Drive Cleveland
Parcel Number: 01.600.0090



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>Allen Schilling</u>		
Septic Designer Company:	<u>St. Peter Well</u>		
License Number:	<u>3467</u>	Certification Number:	<u>3218</u>
		Date:	<u>10-17-17</u>
Septic Installer Signature:			
Septic Installer Company:	<u>St. Peter Well</u>		
License Number:	<u>3467</u>	Certification Number:	<u>3218</u>
		Date:	

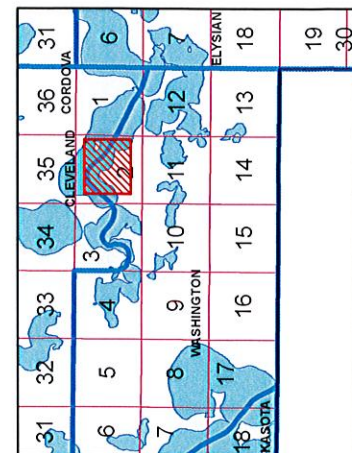
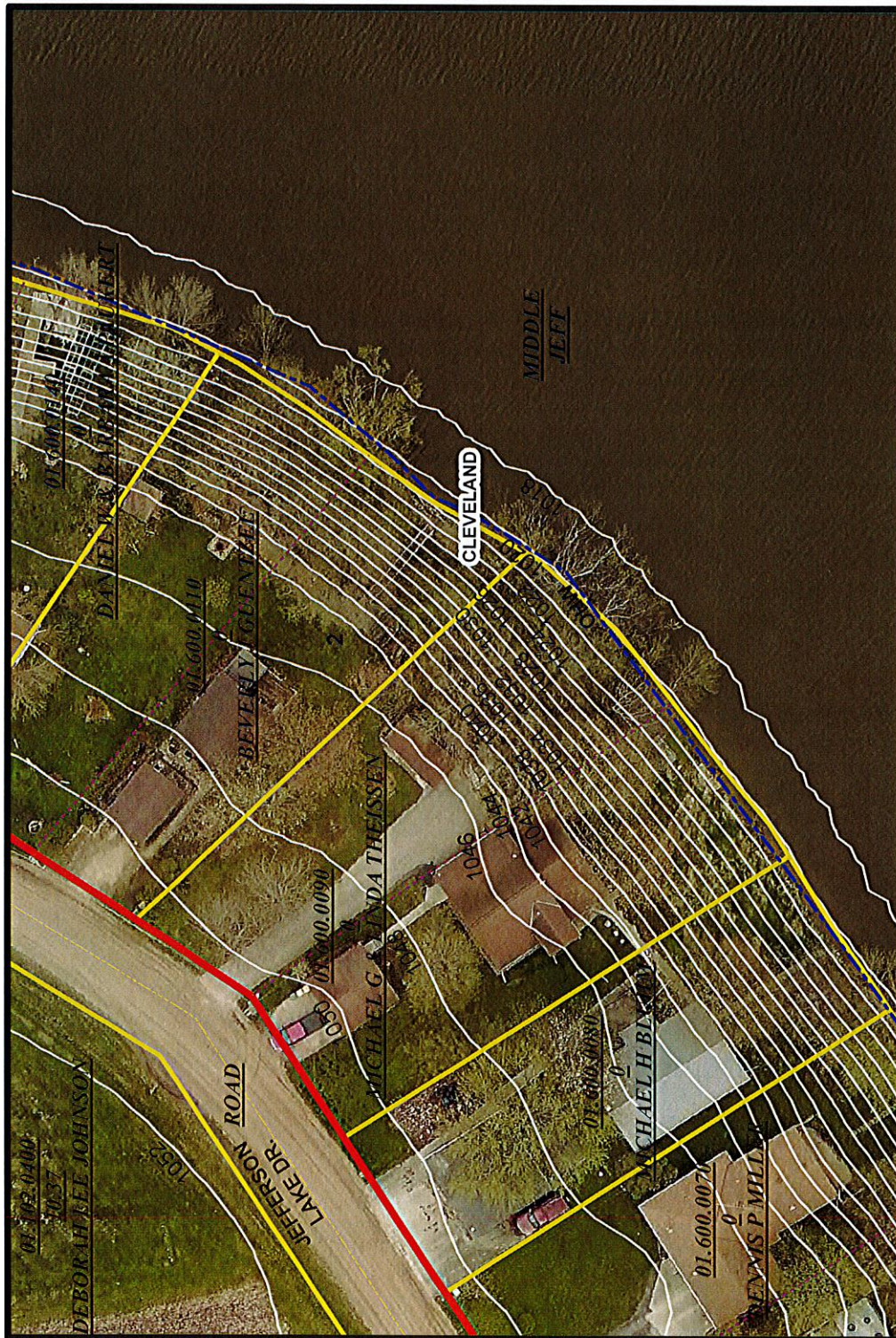
Mailing: 88 South Park Avenue
Le Center, MN 56057

Physical: 515 South Maple Avenue
Le Center MN 56057

Revised: 3/2016

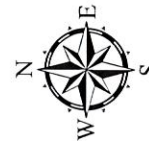
LE SUEUR COUNTY ENVIRONMENTAL SERVICES

NAME: Michael & Linda Theissen
 PID: 01.600.0090
 DATE: 11-6-17
 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

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	
Parcel	
Contours 2 ft	