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# **Le Sueur County, MN**

**Thursday, November 16, 2017**

**Regular Session**

## **Item 4**

### **Schloesser Packet**

Staff Contact: Kathy Brockway or Michelle Mettler

# VARIANCE STAFF REPORT

## GENERAL INFORMATION

**APPLICANT/OWNER:** Thomas & Michelle Schloesser  
**911 ADDRESS:** 24386 Arrowhead Trail, Cleveland, MN  
**VARIANCE REQUEST:** To install a septic tank and pump tank 110 feet from the Ordinary High Water Level (OHWL).  
**VARIANCE NUMBER:** 17397  
**PARCEL NUMBER:** 04.650.0290

## SITE INFORMATION

**LOCATION:** Lot 29, Jefferson Heights, 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 Arrowhead Trail

**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.

**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>
a. Septic tank to OHWL:	110 feet	200 feet	Section 17. Subdiv. 4. D. 5. a. 2.	17-9

Page 1 of 2

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**.

<b>CONSIDERATIONS</b>
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- 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. Property is connecting to an existing Cluster system.

<b>CONDITIONS</b>
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- 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: THOMAS & MICHELLE SCHLOESSER

Variance # 17397

Variance Request: TO ALLOW THE APPLICANT TO INSTALL SEPTIC TANK AND PUMP TANK 110 FEET FROM OWHL  
(CONNECTING TO EXISTING CLUSTER)

- 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 Thomas & Michelle Schloesser

Mailing Address 24386 Arrowhead Tr

City Cleveland

State Mn

Zip 56017

Phone # 507-931-1969

Phone # 507-327-3830

### II. Landowner:

Name Thomas & Michelle Schloesser

Property Address 24386 Arrowhead Tr

City Cleveland

State Mn

Zip 56017

Phone # 507-931-1969

Phone # 507-327-3830

### III. Parcel Information:

Parcel Number 04.650-0290

Parcel Acreage \_\_\_\_\_

Township Elysian

Section \_\_\_\_\_

Subdivision Jefferson Heights

Lot 029

Block 1

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).

Place underground septic tanks within the 200' setback of an unnamed lake. The septic tanks will be about 110' from the unnamed lake.

### 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 Name)

Township notified on 10-16-17

(Date)

Board Member Linus Hebel

(Name)

regarding the proposed request.

### 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.*

\*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.

I have to be more than 200' from unnamed lake. No where in my backyard would I reach that setback. Also putting the tanks in my backyard would be impossible

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

there was no unnamed lake in my backyard when I built in 1999. Only recently did they change the designation

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

the County and DNR changed the classification from Wetland to unnamed lake

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

tanks will be buried and nothing in the contour or look will be changed

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

No other option to place the septic tanks or anywhere on my property

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

yes. Platteau County is making me come into compliance with my septic and this is my only option

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

sewer will be in compliance and all contours and land will be maintained as it is now

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

getting rid of non-compliant septic. Hooking up to Golden II cluster

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

now that there is an unnamed lake in my backyard, I cannot replace or upgrade my septic without a variance

**IX. Attachments shall include but not limited to:**

- |  |   |
|--|---|
| <input type="checkbox"/> a. Site Plan- <del>survey</del> | <input checked="" type="checkbox"/> e. Floor plans and/or blue prints ( <i>For structures</i> ) |
| <input type="checkbox"/> b. Surveyor Certification       | <input checked="" type="checkbox"/> f. Septic System Compliance Inspection                      |
| <input checked="" type="checkbox"/> c. Access approval   | <input checked="" type="checkbox"/> g. Erosion control plan                                     |
| <input 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.



- 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.

RECEIVED  
OCT 16 2017

### 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.

[Signature]  
Applicant signature

10-13-17  
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.

[Signature]  
Landowner signature

10-13-17  
Date

#### OFFICE USE ONLY

Date received <u>10-16-17</u>	Present Zoning Classification <u>RR</u>	Feedlot within 500' <u>1000'</u> <u>(N)</u>
Meeting date <u>11-16-17</u>	Lake Classification <u>NE</u>	Erosion Control Plan <u>(Y)</u> <u>N</u>
60 Day <u>12-15-17</u>	Lake <u>Unnamed 4038</u>	Water courses <u>Y</u> <u>(N)</u>
RFPE <u>na</u>	FEMA Panel # <u>2707900 270</u>	Bluff <u>(Y)</u> <u>N</u>
<input checked="" type="checkbox"/> Site Plan -survey	Flood Zone <u>X-outside</u>	Other _____
<input type="checkbox"/> Surveyor Certificate	<input checked="" type="checkbox"/> Full legal description	<input checked="" type="checkbox"/> Septic _____
<input checked="" type="checkbox"/> Floor plans/blue prints	<input checked="" type="checkbox"/> Access approval	<input type="checkbox"/> Fee \$ <u>646</u>
<input checked="" type="checkbox"/> Description of Request	<input checked="" type="checkbox"/> Blue Prints	<u>10/16/17</u>
<input type="checkbox"/> Application complete	<u>Michelle R. Muth</u> Planning & Zoning Department Signature	<u>17397</u> Permit #

COC  
NONC/Waiver  
Design

ATF / SPEC MTG



## Proposed request for variance

I am requesting be granted a variance in the ordinance concerning setbacks from an unnamed lake. I need to place my upgraded septic tanks within the 200' setback. There is nowhere on my property that they can be placed as my entire backyard is within the setback as well as bluff zones on either side. And to put the tanks in my front yard would be virtually impossible as I would have to change my entire plumbing system as well as reroute the power coming into my house.

Once the tanks are placed my contractor will bore a pipe to the Geldner II Cluster system, of which I've been a member for over 1 year. Thus making my septic system compliant.

There was no such unnamed lake when I built my house 17 years ago. It was a slough or wetland and there was a 70' setback. My original system as well as this one would have meet those guidelines.

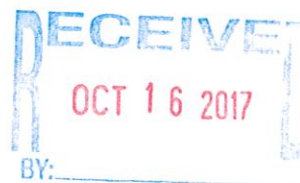




FIGURE 1

The site plan shows a residential property with a house, deck, and various tanks. A proposed 12-inch sewer line is shown running from the house area towards the right side of the property. The plan includes topographic contours, a well, and a tree line. The property is bounded by an Arrowhead Trail to the west and a Jefferson Highway to the south. The plan also shows a block of land to the north and a proposed 12-inch sewer line to the east. The plan includes a well, a house, a deck, a 7' x 11' 1500-gal tank, a 5' x 6' pump tank, and a 110' x 110' area. The plan also shows a proposed 12-inch sewer line, existing tanks to be abandoned, a pump tank, and a 3-inch existing line to a cluster area. The plan includes topographic contours, a well, and a tree line. The property is bounded by an Arrowhead Trail to the west and a Jefferson Highway to the south. The plan also shows a block of land to the north and a proposed 12-inch sewer line to the east.



FIGURE 2

FIGURE 3



SITE  
24386  
CLEVEL



## Surveyor Certification

I. **Applicant:**  
Name Thomas Schloesser

II. **Landowner:**  
Name THOMAS SCHLOESSER  
Property Address 24386 ARROWHEAD TRAIL  
City CLEVELAND State MN Zip 56017

III. **Parcel Information:**  
Parcel Number 04.650.0290

IV. **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.*

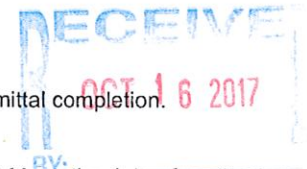
**\*Site shall be physically staked, then surveyed.**

**\*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.**

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 10/2/2017 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 James 10/2/17 19789  
Surveyor Signature Date Lic #

**OFFICE USE ONLY**

10/16/17 mm  
Date Received Planning & Zoning Department Signature

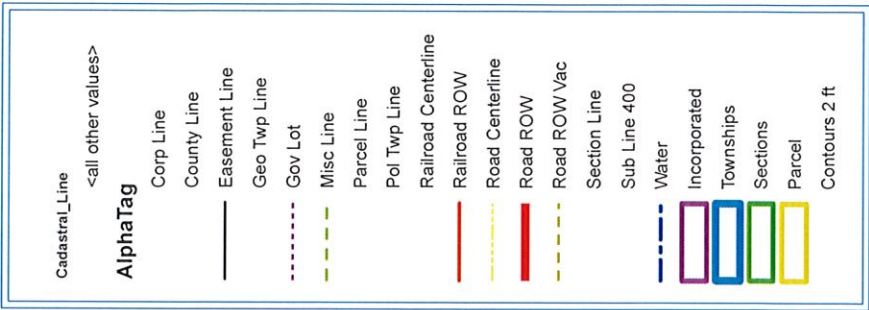
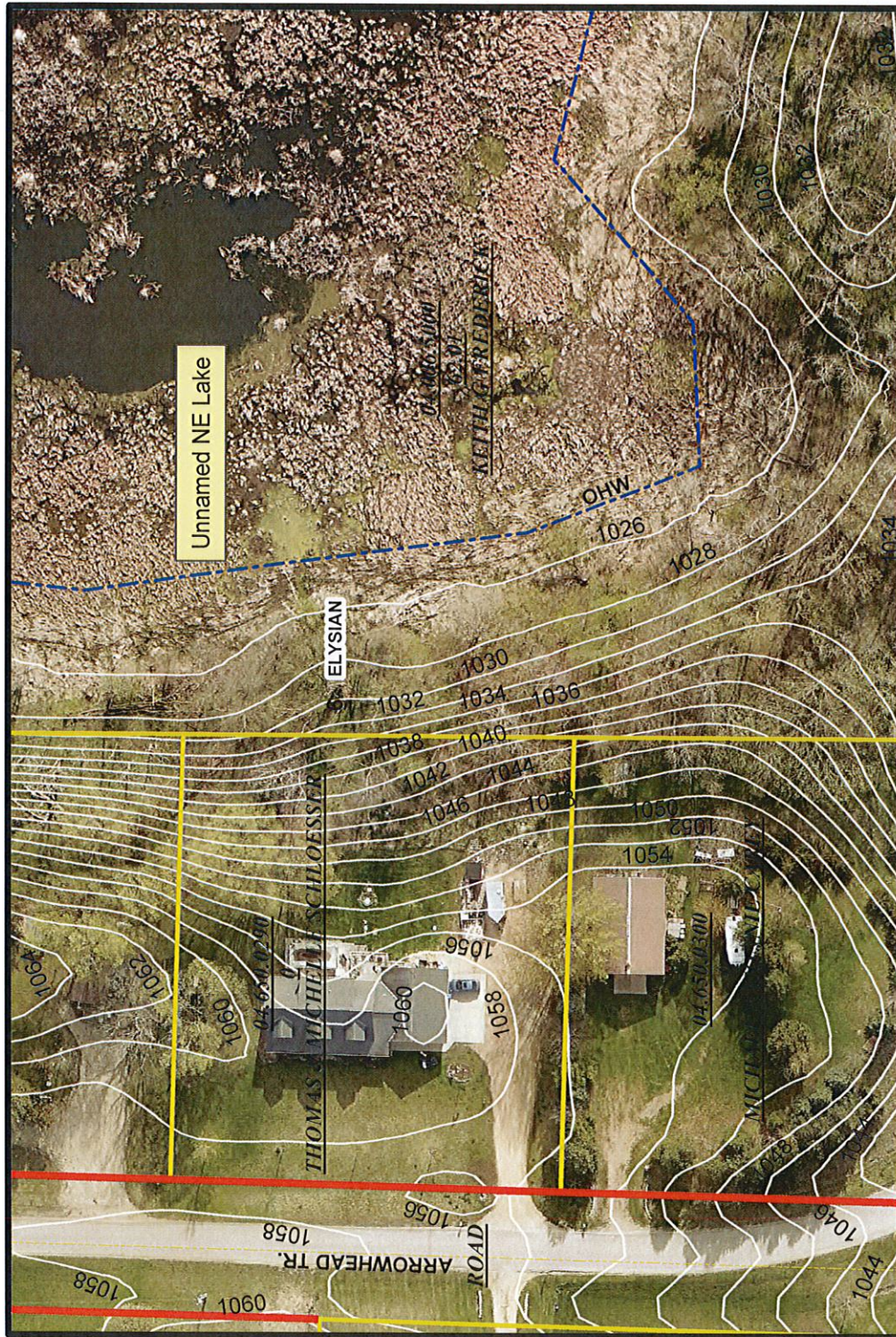
9-14-17  
10-13-17 Paid

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OCT 17 2017



# LE SUEUR COUNTY ENVIRONMENTAL SERVICES

NAME: Thomas & Michell Schloesser  
 PID: 04.650.0290  
 DATE: 11-6-17  
 FIRM #: 27079C0270D  
 F-Zone: X-Outside  
 RFPE: na  
 District: Recreational  
           Residential



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