

Le Sueur County, MN

Thursday, March 15, 2018 Regular Session

Item 1

Gore Packet

Staff Contact: Joshua Mankowski or Michelle Mettler

VARIANCE STAFF REPORT

GENERAL INFORMATION

APPLICANT/OWNER:

Matt & Jill Gore

911 ADDRESS:

28252 Ridge Rd, Cleveland, MN

VARIANCE REQUEST:

To construct a detached garage 3 feet from the road Right-Of-Way (ROW), 3 feet from the north property line, 71 feet from the Ordinary High Water Level (OHWL), 29 feet from the bluff and

within the bluff impact zone.

VARIANCE NUMBER:

18009

PARCEL NUMBER:

13.651.0020

SITE INFORMATION

LOCATION:

Lot 2, Tomahawk Point First Addition, and part of Government Lot 2, Section 4, Washington

Township.

ZONING & PURPOSE:

Recreational Residential "RR"

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 shoreland development and

bluff preservation

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 premature

development of natural resources.

Objective 1:

The County should continue its preservation of significant bluff areas and river valleys through its use of

Conservancy Zone.

Action 3:

Amend the County's Zoning controls to require all structures to meet a 30' minimum setback from the top of a bluff.

Objective 2:

Utilize shorelands on Recreational Development Lakes (RD) lakes for housing, but with a focus on development

design that protects the resource.

Action 1:

Continue utilizing the minimum state shoreland regulations to determine housing densities and development design.

GENERAL SITE

DESCRIPTION:

Residential, shoreland

ACCESS:

Existing off Ridge Road

LAKE:

Lake Jefferson, Recreational Development lake

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:

Regulatory Flood Protection Elevation: 1028.86. Lowest floor must be at or above RFPE.

ATTACHMENTS

Page 1 of 3

STAFF FINDINGS

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

1.	Variance:	Request:	Required:	Ordinance:	Page:
	a. Detached garage to road ROW:b. Structure to property line:c. Structure to OHWL:d. Structure to bluff:e. Structure in Bluff Impact Zone:	3 feet 3 feet 71 feet 29 feet within	25 feet 10 feet 100 feet 30 feet outside	Section 13.2, Subdiv. 5. B. 9. Section 13.2, Subdiv. 5. C. 2. Section 13.2, Subdiv. 5. E. 1. Section 13.2, Subdiv. 5. F. 1. C. Section 13.2, Subdiv. 5. F. 4.	13-44 13-44 13-46 13-46

2. Refer to DNR Guidance Letters:

Telef to DIA Guidance Letters.					
a.	Administration, Compliance, and Enforcement	pg. 1			
b.	The Role of the Variances in Shoreland Management Ordinances	pg. 9			
c.	Bluffs and Steep Slopes	pg. 11			
d.	Non-conforming Lots of Record in Shoreland Areas	pg. 19			
e.	Structure Setback Requirements	pg. 21			

- 3. Variances shall only be permitted when they are in harmony with the general purposes and intent of the official controls and are consistent with the comprehensive plan.
- 4. A Variance may be granted only where the strict enforcement of the official controls will result in a practical difficulty.
- 5. It is the responsibility of the applicant and/or landowner to prove evidence that a practical difficulty exists.
- 6. A determination that a 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. Proposal is to replace an existing detached garage that was destroyed by fire.
- b. No living space is allowed in detached garage.
- c. Landowner has petitioned to be part of West Jeff to connect to the City of Cleveland.

Page 2 of 3

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.
- 7. Compliance inspection of the existing septic system is required by June 1, 2018.

LE SUEUR COUNTY ENVIRONMENTAL SERVICES 88 SOUTH PARK AVE. LE CENTER, MINNESOTA 56057-1600

Phone (507) 357-8540 (direct line)

Fax (507) 357-8541

Date: 03/07/2018

To: Le Sueur County Planning and Zoning Board of Adjustment

From: Joshua Mankowski,

Applicant:

Matt and Jill Gore

Property owner:

Matt and Jill Gore

Property:

13.651.0020

Description:

Variance request to construct a detached garage 3 feet from the road Right-Of-Way (ROW), 3 feet from the north property line, 71 feet from the Ordinary High Water Level (OHWL), 29 feet from the bluff and within the bluff impact zone.

Recommendation:

It is my recommendation that you approve this application with the condition listed below. This project plans to reused an existing slab left after the previously constructed garage burned down. By reusing the old slab, there should not be any additional material movement on the lot.

Condition(s):

1) Plant deep rooted vegetation between proposed garage and bluff to provide additional bluff stability.

Sincerely,

Joshua Mankowski Le Sueur County

Environmental Resources Specialist

VARIANCE FINDINGS OF FACT

Name of Applicant: JILL GORE

Variance # 18009

Variance Request: TO ALLOW THE APPLICANT TO CONSTRUCT A DETACHED GARAGE 3 FT FROM THE ROAD ROW, 3 FT FROM THE N PROPERTY LINE, 71 FT FROM THE OWHL, 29 FT FROM THE BLUFF & WITHIN THE BLUFF IMPACT ZONE

- A. No Variance may be granted that would allow any use that is prohibited in the Zoning District in which the subject property is located.
- B. Facts supporting the answer to each question must be documented below, and are hereby certified to be the Findings of Fact of the Board of Adjustment.
- C. A Variance may be granted only where the strict enforcement of the official control will result in a practical difficulty.
- D. It is the responsibility of the applicant / landowner to prove evidence that a practical difficulty exists.
- E. A determination that a practical difficulty exists upon the consideration of the following criteria.

	Υ	Ν	1.	Does the property owner propose to use the property in reasonable manner?	
				Explain	JM JW JD CH FC
	Υ	N	2.	Is the alleged practical difficulty unique to the property?	
				Explain	JM JW JD CH FC
	Υ	N	3.	Were the circumstances causing the practical difficulty created by someone other than the applicant / landowner?	JM JW JD CH FC
				Explain	
	Υ	N	4.	Will the issuance of the Variance maintain the essential character of the locality?	JM JW JD CH FC
				Explain	
	Υ	Ν	5.	Does the alleged practical difficulty involve more than economic considerations?	
				Explain	JM JW JD CH FC
F.	Var	ianc	es s	shall only be permitted when they are in harmony with the general purposes and i	ntent of the official controls.
	Υ	N	6.	Is the Variance consistent with and supported by the statement of purposes, policies, the Ordinance?	goal and objectives in
				Explain	JM JW JD CH FC
	Υ	N	7.	Is the Variance consistent with the Comprehensive Plan?	M IN ID OU 50
				Explain	JM JW JD CH FC
G.	IF	ALL	_T	IE ANSWERS ARE " <u>YES",</u> THE CRITERIA FOR GRANTING THE VARIANC	E HAVE BEEN MET.
	(_)	APF	PROVED () DENIED	
	С	ONE	ITIC	DNS:	
	,	Appli	can	at response to conditions: Agree () Disagree ()	
		Reas	sons	s:	
		Boar	d of	Adjustment Chairman Date	



Va	ariance Application
I.	Applicant: Name Jill Gove
	Mailing Address 28252 Ridge Rd
	City Cleveland State MN Zip 56017
	Phone # 507-381-2957 Phone # 507 327 0467
II.	Landowner: Name
	Property Address <u>28252 Ridge Rd</u> City <u>Cleveland</u> State <u>Ma)</u> Zip 56017
	City <u>Cleveland</u> State <u>MA)</u> Zip <u>56017</u> Phone # <u>507 381 2957</u> Phone # <u>507 327 0467</u>
III.	Parcel Information: Parcel Number
	Subdivision Tomanawe 1st Addh Lot 2 Block
	Full Legal Description must be attached. (Full legal description can be found on deed, not abbreviated legal description from tax statement).
	(Full legal description can be found on deed, not appreviated legal description from tax statement).
IV.	Variance Request: List requested alternative to development standard(s). 22 x 24 detacled garage 3 from Right of Way, 3' to Property line (N)
	29 from the bluff: 71" from the Loke OHL.
V.	Description of Request:
	a. A <u>full written description</u> 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.)
	(Township Name) (Date)
	Board Member <u>Gregory Ocur's</u> regarding the proposed request. (Name)
	(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 Westlands Normal Structures
	 Property lines Road Right-Of-Way Wetlands Proposed Structures 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.

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 attache
2.	What are the unique circumstances of this property that prevent compliance with the Zoning Ordinance that will result in a practical difficulty?
_	
3.	Describe how the unique circumstances causing the practical difficulty were created by someone other than the applicant/landowner.
4.	How will the request maintain the essential character of the locality?
_	
5. —	Does the alleged practical difficulty involve more than economic considerations?
_	
6.	Is the request consistent with and supported by the statement of purposes, policies, goals and objectives in the Ordinance?
7.	Describe how the request is consistent with the Comprehensive Land Use Plan.
8.	Describe the properties current, and any proposed, onsite sewage treatment and water capabilities.
9.	Explain why this request is the minimum variance amount to afford relief.
_	
-	

IX. Attachments shall include but not limited to:

☑ a. Site Plan -survey	☐ e. Floor plans and/or blue prints (For structures)
☑ b. Surveyor Certification	f. Septic System Compliance Inspection
c. Access approval	g. Erosion control plan
d. Full legal description	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 <u>at the time of application</u>, or the application will not be accepted.
- d. Fees will not be accepted by mail and must be paid at the time of application.
- e. Notification will be sent to all landowners within 500 feet of the affected property, (minimum of 10 landowners) as well as the affected Town Board, any municipality within 2 miles, and other applicable agencies.
- f. Notice will be published in the newspaper of general circulation in the area concerned and the official newspaper of the County.

- g. The Board of Adjustment may conduct an onsite visit to the affected property prior to the scheduled meeting. Any conversation with the Board of Adjustment during the onsite visit is prohibited.
- h. The Board of Adjustment shall hold a public hearing on the proposed Variance at a scheduled Board of Adjustment meeting.
- i. The applicant or representative must appear before the Board of Adjustment in order to answer questions concerning the request, or the application will be tabled.
- j. The Board of Adjustment has the authority to request additional information or designate conditions.
- k. The Board of Adjustment has the authority to determine Variance approval or denial. No Variance may be granted that allow any use that is prohibited in the Zoning District in which the property is located.
- I. 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 true and correct to the Matthew Applicant signature	my signature that all data containe he best of my knowledge.	ed here 2 / Date	ein as well as all su	ipporting data are
I hereby certify with true and correct to the fact that the Landowner signature	my signature that all data containe he best of my knowledge.	ed here	ein as well as all su	ipporting data are
	OFFICE USE ONLY	, =		
Date received $2 - 9 - 18$ Meeting date $3 - 15 - 18$	Present Zoning Classification		Feedlot within 500' Erosion Control Plan	1000' N
60 Day 4-10-18	Lake Jefferson	-	Water courses	YN
RFPE 10220	FEMA Panel # 270790026	00	Bluff	YN
Site Plan -survey	Flood Zone Kowside		Other	
Surveyor Certificate	☐ Full legal description.		□ Septic	coc
Floor plans/blue prints Description of Request Application complete	DAccess approval Blue Prints Manual M	L	2-9-18 Date	NONC/Waiver Design With Suff ATF / SPEC MTG Permit#

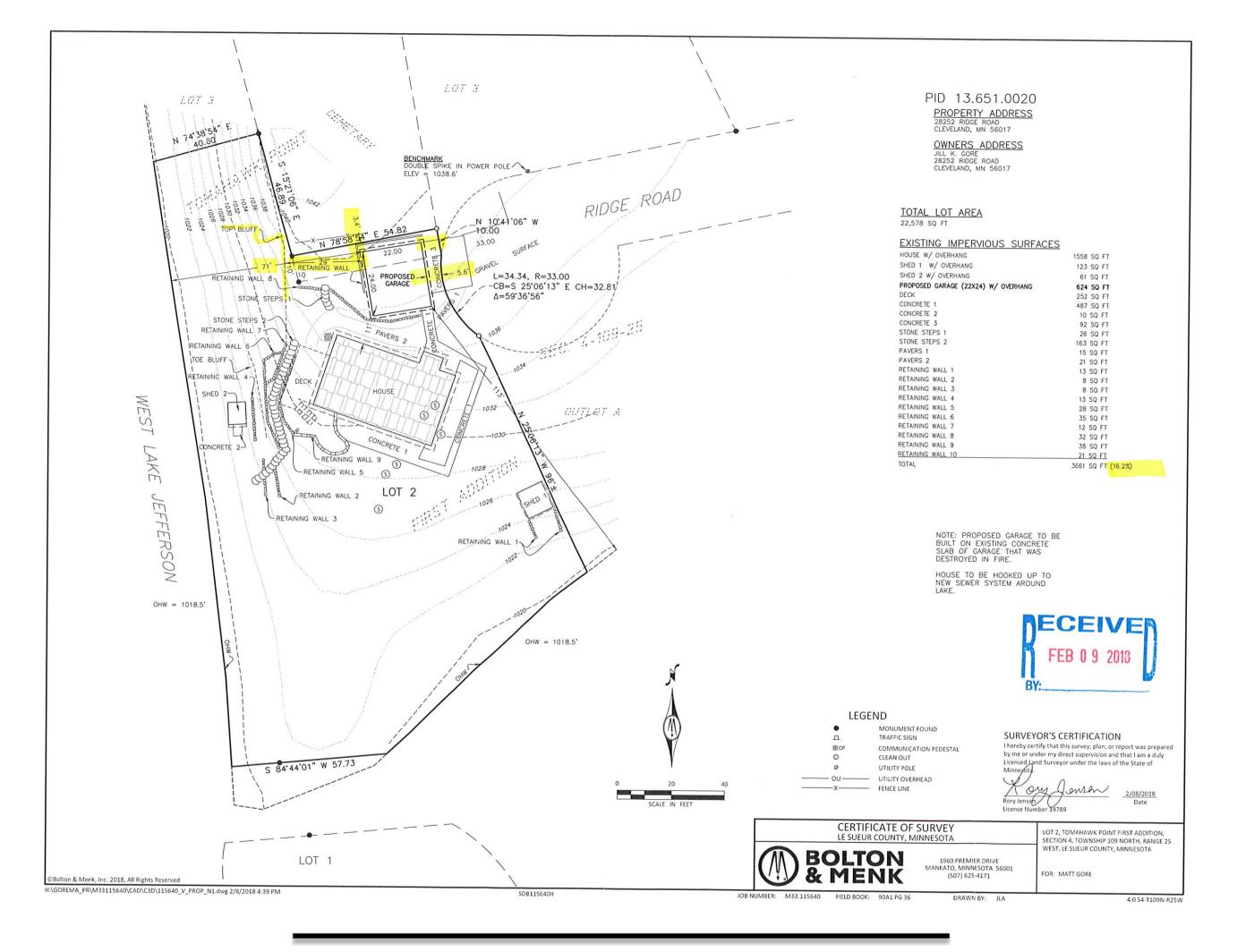
01-15-16

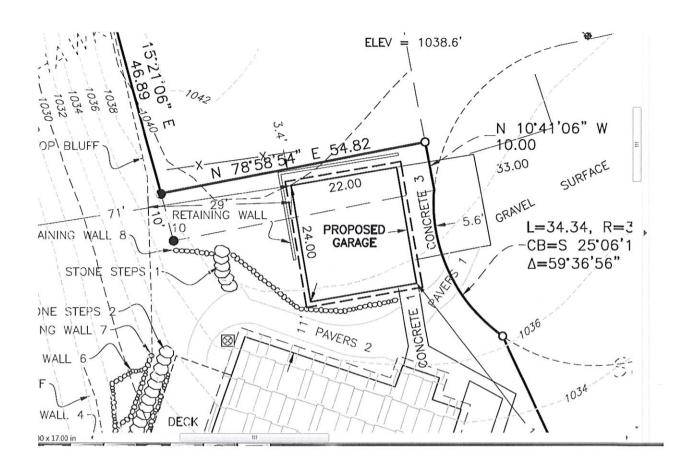
On January 4, 2018, our garage was destroyed by fire. This garage had stood in this location 40 plus years pinched within the bluff, house, neighboring property, and the culdesac. The configuration of the property does not allow for the garage to be located in any other area of the lot due to the pond southeast of the house and the lake to the south west and west of the house. The concrete pad remains in essentially the only location a garage would work, taking into consideration the neighbors, the road and the lake/bluff preservation. There will be zero disturbance of the soil during the process of replacing the destroyed structure. We propose that the new garage would match the house and become an aesthetically pleasing addition to the neighborhood.



- 1. The variance request is reasonable in that we are replacing a structure destroyed by fire on January 4, 2018. Our goal is to replace the destroyed structure utilizing the current concrete pad thus replicating the exact same footprint.
- 2. Space is limited and the geography of the location lends itself to the garage being placed in the exact same location. Since the garage has been in this location for 40 plus years, the neighborhood has evolved with this structure in place.
- 3. The previous landowner erected the garage in this location based on the lot and how this lot was platted in 1965.
- 4. Building a new garage would maintain the character of the neighborhood based on the character of the neighborhood prior to the structure being destroyed. When viewing comparable properties, the garage would seem to maintain the essential character of not only the neighborhood, but the lake shore properties on Lake Jefferson.
- 5. The garage is where it needs to be based on bluff/lake shore, neighbors property, and the culdesac. The destroyed structure was pinched within the bluff, neighbors and culdesac as well as our house with no real options available for any alternative options.
- 6. After reviewing the ordinance, we are consistent with the goal of preserving the bluff/lake shore as we are building on the existing location utilizing the existing concrete pad with no plans to expand on the footprint.
- 7. Since we are building on the current concrete pad, we are consistent with the preservation of the bluff and lake shore. There will be zero disturbance to soil at or near the bluff and/or lake shore. There will be no soil disturbed in any manner during the construction of this structure as we are utilizing the existing concrete pad.
- 8. We are currently enrolled in the Septic Pipe Project to Cleveland with anticipated completion 2018.
- 9. We propose a garage to be built on the concrete pad that the original garage stood. Since this lot is such that a garage could not be erected in any other area of the lot. We do recognize the location of the garage is pinched into a small area thus we are restricted in any plans to erect a larger structure than was previously there.









Su	rveyor Certification
I.	Applicant: NameMATT Gore
II.	Name MATT GORE
	Property Address 28232 KIDGE ROAD City Cleveland State MAN Zip 56017
	City Cleve land State MN Zip 56017
III.	Parcel Information: 13,651, 002.0
IV.	Site Plan - Shall be a Certificate of Survey to include, but not limited to: North point Setbacks Setbacks Property lines Road Right-Of-Way Lot Dimensions Certificate of Survey to include, but not limited to: Access Septic System Septic System Proposed Structures Proposed Structures Existing structures - Within and adjacent to project area. 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, <i>then</i> 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.
	 Ten (10) copies must be submitted for documents <u>larger than 11 x 17</u>, documents in <u>color</u>, <u>aerials or photographs</u>.
	c. Electronic version of any supporting documents if available.
	 Pre-application meeting is recommended prior to making application to ensure submittal completion. <u>Appointment is necessary</u>.
	e. Application must be made in person by the applicant and/or landowner prior to 12 P.M. on the date of application deadline. Appointment is necessary.
	 All required information must be correct and submitted <u>at the time of application</u>, or the application will not be accepted.
VI.	Signatures: No STAKES FOR GARAGE, CONERETE SLAB IS IN PLACE FOR GARAGE. The proposed improvements have been physically staked onsite <u>then</u> surveyed on 1-29-18, 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.
	104 Jensa 2-8-18 19789
	Surveyor Signature 2-8-18 19789 Lic#
	OFFICE USE ONLY
	2-9-18 MAN
	Date Received Planning & Zoning Department Signature
01-15-	FEB 0 9 2018 1
	BY:

Recreational Residential X-Outside 022.86

NAME: PID: DATE: FIRM #: F-Zone: RFPE:

District:

Contours 2 ft Incorporated Townships Sections Parcel

LE SUEUR COUNTY ENVIRONMENTAL SERVICES 507-357-8538

26

27

28

29

30

36

accurately interpret the source data used in their preparation; however, a degree of error is inherent in all maps and these maps may contain omissions and errors in scale, resolution, rectification, positional accuracy, Reasonable efforts have been made by the Le Sueur County GIS Department to verify that these maps

These maps should not be used for navigational, engineering, legal, or any other site-specific use. The maps are date specific and are intended for use only at the published scale.

YSIAN 18

4 5

10

Coordinate System: NAD 1983 HARN Adj MN Le Sueur Feet

Photo dated April/May 2013

9

Created By: MRM

1018