



Le Sueur County, MN

Thursday, May 17, 2018

Regular Session

Item 1

Cotes Packet

Staff Contact: Joshua Mankowski or Michelle Mettler

VARIANCE STAFF REPORT

GENERAL INFORMATION

APPLICANT/OWNER: Richard & Cynthia Cotes

911 ADDRESS: 19121 400th Street, Le Center, MN

VARIANCE REQUEST: To allow the applicant to use an existing septic tank 0 feet from the deck, 5 feet from the property line, and 67 feet from the Ordinary High Water Level (OHWL); and install two new holding tanks 50 feet from the Ordinary High Water Level (OHWL) and 8 feet from the deck.

VARIANCE NUMBER: 18026

PARCEL NUMBER: 08.450.0170

SITE INFORMATION

LOCATION: Lot 21, Elwood Subdivision, Section 36, Lexington 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 makes reference to 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 resource areas.

Objective 2: Utilize shorelands on Recreational Development Lakes (RD) 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.

Action 2: Adopt the water quality protections standards and design standards specified under goal #3, actions #1 & #2 to protect lake 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 1: The County will adopt and implement the goals, objectives and actions of the County's Local Water Management Plan.

GENERAL SITE DESCRIPTION:

Shoreland, residential

ACCESS: Existing off 400th Street

LAKE: Lake Volney, 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: na

Page 1 of 3

BACKGROUND INFORMATION

Parcel is a non-conforming lot. The existing septic system was inspected and found to be non-compliant, however the existing tank is compliant. The existing tank is located slightly *under* the existing deck. Proposal is keep the existing tank and install 2 new holding tanks between the dwelling and the lake.

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 (new) to OHWL: | 50 feet | 75 feet | Section 17. Subdiv. 4. D. 5. b. 2. | 17-9 |
| b. Septic tank (ext) to OHWL: | 67 feet | 75 feet | Section 17. Subdiv. 4. D. 5. b. 2. | 17-9 |
| c. Septic tank (ext) to prop line: | 5 feet | 10 feet | Section 17. Subdiv. 4. D. 2. | 17-9 |
| d. Septic tank(ext) to structure: | 0 feet | 10 feet | Section 17. Subdiv. 4. D. 1. b. | 17-9 |
| e. Septic tank (new) to structure: | 8 feet | 10 feet | Section 17. Subdiv. 4. D. 1. b. | 17-9 |
2. **Refer to DNR Guidance Letters:**
- | | |
|---|--------|
| a. Administration, Compliance, and Enforcement | pg. 1 |
| b. The Role of the Variances in Shoreland Management Ordinances | pg. 9 |
| c. Non-conforming Lots of Record in Shoreland Areas | pg. 19 |
| d. 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:
- There are special circumstances or conditions affecting the land, structures or use referred to in the Variance.
 - 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.
 - Consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.

CONDITIONS

1. In granting any Variance, the Board of Adjustment may designate such conditions in connection that will secure substantially the objectives of the Ordinance, regulation or provision to which the application is granted.
2. Conditions must be directly related to and bear a rough proportionally to the impact created by the Variance.
3. *If approved*, construction must be completed **prior to the Variance expiration**, Section 22; Subdivision 7.
4. *If approved*, a **zoning permit** must be purchased prior to starting construction, Section 26.
5. **Extension** must be requested 30 days prior to Variance expiration, Section 22; Subdivision 7.

VARIANCE FINDINGS OF FACT

Name of Applicant: RICHARD & CYNTHIA COTES

Variance # 18026

Variance Request: TO ALLOW THE APPLICANT TO USE AN EXISTING SEPTIC TANK 0' TO THE DECK, 5' TO THE PROPERTY LINE & 67' TO THE OHWL; INSTALL 2 NEW HOLDING TANKS 50' TO OHWL, 8' TO THE DECK.

- 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?

Jim M	<input type="checkbox"/>	John W	<input type="checkbox"/>	Jeanne D	<input type="checkbox"/>	Colin H	<input type="checkbox"/>	Fritz C	<input type="checkbox"/>	Majority	<input type="checkbox"/>
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Explain _____

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

Jim M	<input type="checkbox"/>	John W	<input type="checkbox"/>	Jeanne D	<input type="checkbox"/>	Colin H	<input type="checkbox"/>	Fritz C	<input type="checkbox"/>	Majority	<input type="checkbox"/>
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Explain _____

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

Jim M	<input type="checkbox"/>	John W	<input type="checkbox"/>	Jeanne D	<input type="checkbox"/>	Colin H	<input type="checkbox"/>	Fritz C	<input type="checkbox"/>	Majority	<input type="checkbox"/>
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Explain _____

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

Jim M	<input type="checkbox"/>	John W	<input type="checkbox"/>	Jeanne D	<input type="checkbox"/>	Colin H	<input type="checkbox"/>	Fritz C	<input type="checkbox"/>	Majority	<input type="checkbox"/>
-------	--------------------------	--------	--------------------------	----------	--------------------------	---------	--------------------------	---------	--------------------------	----------	--------------------------

Explain _____

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

Jim M	<input type="checkbox"/>	John W	<input type="checkbox"/>	Jeanne D	<input type="checkbox"/>	Colin H	<input type="checkbox"/>	Fritz C	<input type="checkbox"/>	Majority	<input type="checkbox"/>
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Explain _____

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?

Jim M	<input type="checkbox"/>	John W	<input type="checkbox"/>	Jeanne D	<input type="checkbox"/>	Colin H	<input type="checkbox"/>	Fritz C	<input type="checkbox"/>	Majority	<input type="checkbox"/>
-------	--------------------------	--------	--------------------------	----------	--------------------------	---------	--------------------------	---------	--------------------------	----------	--------------------------

Explain _____

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

Jim M	<input type="checkbox"/>	John W	<input type="checkbox"/>	Jeanne D	<input type="checkbox"/>	Colin H	<input type="checkbox"/>	Fritz C	<input type="checkbox"/>	Majority	<input type="checkbox"/>
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Explain _____

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

ACTION: () APPROVE () DENY

CONDITIONS: _____

Applicant response to conditions: Agree () Disagree ()

Reasons: _____

Board of Adjustment Chairman

Date

Variance Application

I. Applicant:
 Name Richard D. and Cynthia M. Cotes
 Mailing Address 19121 400th Street
 City LeCenter State MN Zip 56057
 Phone # 612-910-2918 Phone # 612-916-5479

II. Landowner:
 Name Richard D. and Cynthia M. Cotes
 Property Address 19121 400th Street
 City LeCenter State MN Zip 56057
 Phone # 612-910-2918 Phone # 612-916-5479

III. Parcel Information:
 Parcel Number 08,450.0170 Parcel Acreage .2296
 Township Lexington Section 36
 Subdivision Elwood Lot 21 Block _____
and part of lot 1, Section 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).
See ATTACHED using our existing septic tank 5' from property line & to deck 67' to OHW Install 2 new holding tanks 8' from deck, 50' from OHW

V. Description of Request:

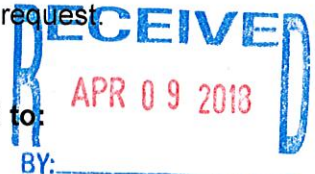
a. A full written description of the proposed variance request with detailed information must be attached.

VI. Township Notification:

Township must be notified prior to application. (County Commissioners are not the Township Board.)

Lexington Township notified on Oct. 11, 2017
 (Township Name) (Date)

Board Member Jerome Krocak 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:

- 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

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

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

See Attached

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

See Attached

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

See Attached

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

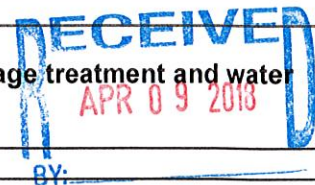
See Attached

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

See Attached

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

See Attached



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

See Attached

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>) |
| <input checked="" type="checkbox"/> b. Surveyor Certification | <input checked="" type="checkbox"/> f. Septic System Compliance Inspection |
| <input type="checkbox"/> c. Access approval | <input type="checkbox"/> g. Erosion control plan |
| <input checked="" type="checkbox"/> d. Full legal description | <input checked="" 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

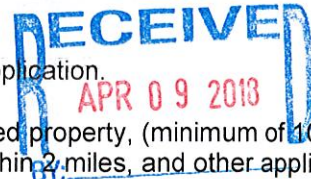
Additional Fees:

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.

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

4/9/18
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

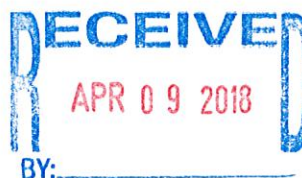
4/9/18
Date

OFFICE USE ONLY

Date received <u>4-9-18</u>	Present Zoning Classification <u>R/R</u>	Feedlot within 500' 1000' <u>(N)</u>
Meeting date <u>5-17-18</u>	Lake Classification <u>R/D</u>	Erosion Control Plan <u>(Y)</u> N
60 Day <u>6-8-18</u>	Lake <u>Volney</u>	Water courses Y <u>(N)</u>
RFPE <u>1032, 45</u>	FEMA Panel # <u>27079C03000</u>	Bluff Y <u>(N)</u>
<input checked="" type="checkbox"/> Site Plan -survey	Flood Zone <u>Xoutside</u>	Other _____
<input checked="" 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 checked="" type="checkbox"/> COC NONC/Waiver Design <u>(HT)</u>
<input checked="" type="checkbox"/> Description of Request	<input checked="" type="checkbox"/> Blue Prints	<input type="checkbox"/> Fee \$ _____
<input checked="" type="checkbox"/> Application complete	<u>Michelle R Mittle</u> Planning & Zoning Department Signature	<input type="checkbox"/> ATF / SPEC MTG
	<u>4-9-18</u> Date	<u>18 026</u> Permit #

01-15-16

4



IV. Variance Request:

We are requesting to install a Type II septic holding tank system due to a non-compliant current system. The variance we request is to allow the holding tank placement outside of the required distance from the lakeshore, but the furthest distance possible based upon the improvements locations on the lot.

V. Description of Request

We are requesting a variance for the addition of two 1000 gallon septic tanks to be connected to the existing two compartment 1500 gallon tank currently on the property. The addition of the two new tanks would be used in conjunction with the existing tanks, as a holding tank system (Type II septic system). The current 1500 gallon tank has been tested to be compliant, however logistically, and economically too small on its own to make sense as a permanent system, thus the addition of two additional tanks is required. The location of the two new tanks would deviate from the set-back requirement on our lakeshore property, we are 14 feet short of the ordinance, therefore a variance is required to move forward.

VIII. Practical Difficulty:

1. To keep the tanks the furthest from the lakeshore as possible, the design has been drawn to have them placed at the furthest point away from the lake yet remaining within 10 feet of improvements (home, patio and deck posts).
2. The placement of our home leaves no other option to place the tanks in an alternate location. We have very little lot space on the sides of the house, with minimal space between our home and the neighbor to the west lot line. On the East there is not enough space due to our fuel tank placement, and drainage ditch between our property line and the neighboring property.
3. We are not the original owners of the home and have only purchased in the past six months. The home, as we are understanding, was enlarged in the past with additions to the small original home.



4. No changes should occur to the character of the locality with the addition of the two additional tanks.

5. yes. The house, the adjoining patio, and the deck.

6. Yes

7. The design for this system along with the measures we will and have already taken to make sure the system works properly along with vigilance on our part, will keep this system compliant with the Comprehensive Land Use Plan.

8. Currently the property has a non-compliant septic system with a two compartment 1500 gallon tank, and a drainfield. The tank is located on the back- south side of the home (lakeside ¹⁶⁷ feet from the lakeshore and the drainfield is located on the front – north side of the property between the road and attached garage. A compliance test done in August of 2017 showed the system to be non-compliant due to lack of separation. A compliance test was done on the existing tank on September 19, 2017 and found it to be compliant. A design for a Type II system was then completed by Blackwater Systems and Inspections, and a copy is attached. The property water is supplied by a shared well system. The well itself is located at a neighboring property that is three houses to the west of our property. Any modifications or changes to the current non-compliant system would require us to request this same variance for lakeshore setback.

9. Due to the location of utilities and the Dry Creek bed/drainage on the east side of the property, this site is not a feasible option, leaving the rear of the home as the best placement.



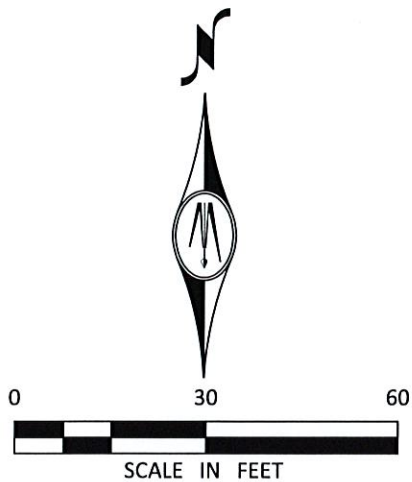
PID 08.450.0170

OWNER ADDRESS

RICK & CINDI COTES
19121 400TH STREET
LE CENTER, MN

SITE ADDRESS

19121 400TH STREET
LE CENTER, MN



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

2/08/2018
Date

CERTIFICATE OF SURVEY
LE SUEUR COUNTY, MINNESOTA



**BOLTON
& MENK**

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

LOT 21, ELWOOD'S SUBDIVISION, SECTION 36,
TOWNSHIP 111 NORTH, RANGE 24 WEST,
LEXINGTON TOWNSHIP, LE SUEUR COUNTY,
MINNESOTA

FOR: KUBES REALTY - SUE JACOBS
RICK & CINDI COTES

Surveyor Certification

I. **Applicant:**
Name Rick Cotes

II. **Landowner:**
Name Rick Cotes
Property Address 19121 400TH ST.
City Le Center State MN Zip 56057

III. **Parcel Information:**
Parcel Number 08,450,0170

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 1/19/18, 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.

Surveyor Signature [Signature] Date 2/6/18 Lic # 19789

OFFICE USE ONLY

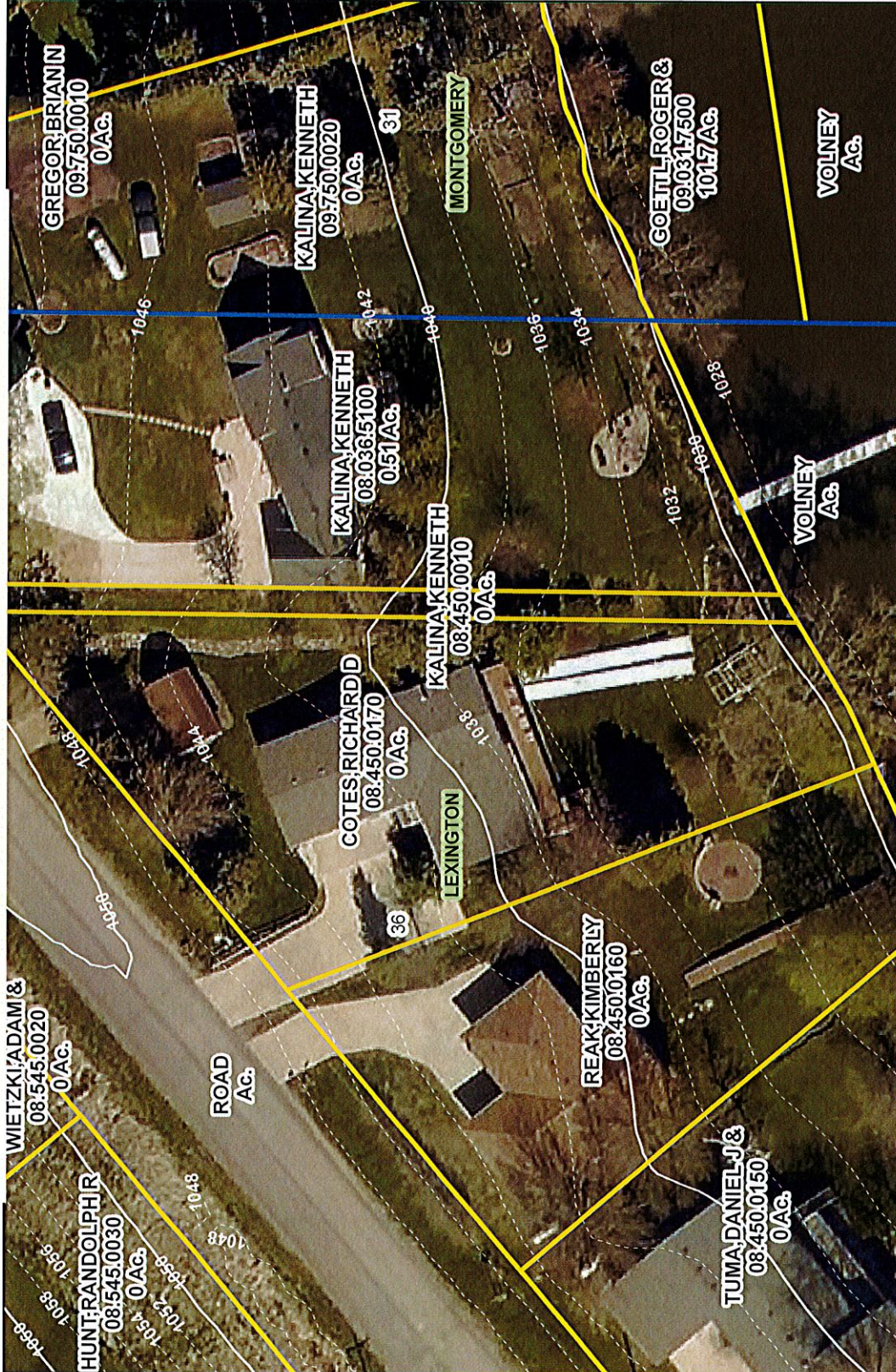
Date Received

Planning & Zoning Department Signature

01-15-16

LE SUEUR COUNTY ENVIRONMENTAL SERVICES

NAME: Cotes
 PID: 08.450.0170
 DATE: 05-07-18
 FIRM #: 27079C0300D
 F-Zone: X-outside
 RFPE: na
 District: Recreational Residential



7	8	9	10	11	MONTGOMERY									
18	17	16	15	14	13	18	17	16						
19	20	21	22	23	24	19	20	21						
29	28	27	26	25	25	30	29	28						
31	32	33	34	35	36	31	32	33						
16	5	4	3	2	1	6	5	4						
7	8	9	10	11	12	7	8	9						

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. 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 2017 Created By: MRM



LE SUEUR COUNTY
 ENVIRONMENTAL SERVICES
 507-357-8538