



# **Le Sueur County, MN**

**Thursday, August 16, 2018**

**Regular Session**

## **Item 3**

**Hirn Packet**

Staff Contact: Joshua Mankowski or Michelle Mettler

# ATF VARIANCE STAFF REPORT

## GENERAL INFORMATION

**APPLICANT/OWNER:** Charles & Mary Hirn

**911 ADDRESS:** 46529 Cape Horn Road, Cleveland, MN

**ATF VARIANCE REQUEST:** After-The-Fact Variance from the Le Sueur County Zoning Ordinance to allow the applicant to construct a 10 x 50 deck 55 feet & 68 feet from the Ordinary High Water Level (OHWL), 8 feet, 22 feet, & 28 feet from the bluff and within the bluff impact zone, 6 feet from the south property line, and an After-The-Fact Variance for the dwelling 9 feet from the south property line and 78 feet from the OHWL; total impervious surface of 31.9%.

**ATF VARIANCE NUMBER:** 18141

**PARCEL NUMBER:** 01.500.0200

## SITE INFORMATION

**LOCATION:** Lot 22, Cape Horn Subdivision, Section 1, 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 makes reference to shoreland development, water quality, stormwater 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 the premature development of natural resource areas.

**Objective 1:** The County should continue its preservation of significant bluff areas and river valleys through its use of a 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) 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.

**Action 6:** In addition to traditional stormwater designs, the use of new technologies in dealing with on-site stormwater should be reviewed and considered for use, such as:

- a. Use of individual on-site rain gardens.
- b. Permeable pavers for use in traditionally large impermeable surface areas;
- c. Other new technologies, as identified.

**GENERAL SITE**

**DESCRIPTION:** Shoreland, residential development, existing non-conforming lot.

**ACCESS:** Existing off Cape Horn Rd

**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:** Regulatory Flood Protection Elevation: 1022.86 Lowest floor must be at or above RFPE.

**BACKGROUND INFORMATION**

Property is an existing non-conforming lot. A variance was granted April 21, 2016 to allow the applicant to construct a dwelling and attached garage 37 feet from the road ROW and 80 feet from the OHWL. The proposed house met the 30-foot setback to the bluff and the 10-foot setback to property lines. As part of the proposal a deck was not included however a pervious patio was indicated and pervious paver driveway to keep the total impervious surface of the lot below 25%. The applicant recently constructed a deck without a zoning permit. The ATF deck does not meet the setbacks to the bluff, OHWL, side yard, is located within the bluff impact zone and impervious surface of the lot is 31.9%. The survey submitted indicates that the dwelling does not meet the approved variance granted in 2016 which allowed the dwelling to be 80 feet from OHWL, but was constructed 78 feet from the OHWL. The existing dwelling also does not meet the 10-foot side yard setback.

**ATTACHMENTS**

Application, Written Detail of Request, Survey, Surveyor Certification, Aerial photo, Findings of Fact, Holly Kalbus letter, photos, 2016 Variance

**STAFF FINDINGS**

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

<u>1. ATF Variance:</u>	<u>Request:</u>	<u>Required:</u>	<u>Ordinance:</u>	<u>Page:</u>
a. Deck to bluff:	8 (22 & 28) feet	30 feet	Section 13.2, Subdiv. 5. F. 1. c. Section 18, Subdiv. 2. B. 1. c.	13-46 18-2
b. Deck to OHWL:	55 (& 68) feet	80 feet	<b>Variance #16032</b>	
c. Deck to property line:	6 feet	10 feet	Section 13.2, Subdiv. 5. C. 2.	13-44
d. Dwelling to OHWL:	78 feet	80 feet	<b>Variance # 16032</b>	
e. Dwelling to property line:	9 feet	10 feet	Section 13.2, Subdiv. 5. C. 2.	13-44
f. Impervious surface:	31.9 %	25%	Section 13.2, Subdiv. 5. J. 3. Section 13, Subdiv. 5. A. 10. a.	13-48 13-15
g. Bluff Impact Zone:	Within	Prohibited	Section 13.2, Subdiv. 5. F. 4. Section 18, Subdiv. 2. A. 2. Section 18, Subdiv. 2. B. 4.	13-46 18-2 18-2
<b>2. Refer to DNR Guidance Letters:</b>				
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. Limiting Impervious Surface				pg. 15
e. Non-conforming Lots of Record in Shoreland Areas				pg. 19
f. 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. Deny ATF deck and table the application construct one set of stairs to access main level and reduce impervious surface.
  - b. Table application, reduce the size of the ATF deck, with one set of stairs and reduce impervious surface.
  - c. An ATF Conditional Use Permit is required for the grading, excavating, and filling that was done in the bluff impact zone and the bluff without a permit.

#### 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

## LE SUEUR COUNTY PLANNING AND ZONING BOARD OF ADJUSTMENT

88 SOUTH PARK AVENUE  
LE CENTER MN 56057

Direct Dial (507) 357-8538 Fax (507) 357-8541

APPLICATION DATE: 7/17/2018	PERMIT NUMBER: 18141	FEE: \$2,746.00
60 DAY RULING DATE: 9/15/2018	911: 46529 CAPE HORN RD, CLEVELAND, MN	
APPLICANT: CHARLES & MARY HIRN	LAND OWNER: CHARLES & MARY HIRN	
ADDRESS: 46529 CAPE HORN RD	ADDRESS: 46529 CAPE HORN RD	
CITY: CLEVELAND	CITY: CLEVELAND	
STATE: MN	STATE: MN	ZIP: 56017
PHONE: 651-402-8067	PHONE: 651-402-8067	

TOWNSHIP: CLEVELAND	PARCEL NO: 01.500.0200	
SEC: 1	SUBDIV: CAPE HORN	
TWP: 109	LOT: 22	ZONE: RR
RANGE: 25	BLOCK:	FEMA PANEL # 27079C0270D
Q/Q:	ROAD: TWP	FLOOD ZONE: X OUTSIDE

I (We), the undersigned, owner(s) and/or applicant of the property described herein, do hereby respectfully petition your Honorable Bodies to grant a variance, as hereinafter designated, and in support thereof, the following facts are presented:

**1.) Reason for Requested Variance:**

TO GRANT AN ATF VAR TO ALLOW THE APPLICANT TO CONSTRUCT A 10 X 50 DECK 55' & 68' TO OHWL; 8', 22' & 28' TO BLUFF AND W/IN THE BLUFF IMPACT ZONE; 6 FT TO S PL; ATF VAR FOR DWELLING 9' TO S PROPERTY LINE & 78 FT TO OHWL. & CREATE A TOTAL OF 31.9 % IMP SURF/

**2.) Reasons for Approval or Denial of Request as Listed in Findings.**

**3.) Special Conditions of Variance:**

RECORDED LEGAL DESCRIPTION OF PROPERTY MUST BE SUBMITTED PRIOR TO ISSUANCE OF ZONING PERMITS. ADDITIONAL CONDITIONS AS STATED IN RECORD:

APPLICANT/PROPERTY OWNER

7-17-18

DATE

LE SUEUR COUNTY PLANNING AND ZONING AUTHORITY

7-07-18

DATE

**\*\* FEES ARE NON-REFUNDABLE\*\***

ON-SITE TOUR DATE: 8/9/2018	
PUBLIC HEARING DATE: 8/9/2018	ACTION: _____
<input type="checkbox"/> AS WRITTEN	<input type="checkbox"/> WITH CONDITIONS

BOARD OF ADJUSTMENT CHAIRMAN

DATE

BUILDING SITE MUST BE STAKED OUT THE MONDAY PRIOR TO THE MEETING OR THE APPLICATION WILL BE TABLED.

# ATF VARIANCE FINDINGS OF FACT

Name of Applicant: CHARLES & MARY HIRN

Variance # 18141

- 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?	JM	JW	JD	CH	FC
		Explain _____	<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?	JM	JW	JD	CH	FC
		Explain _____	<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?	JM	JW	JD	CH	FC
		Explain _____	<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?	JM	JW	JD	CH	FC
		Explain _____	<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?	JM	JW	JD	CH	FC
		Explain _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Y	N	6. Did the applicant/owner act in good faith to obtain a Variance or comply with the applicable requirements prior to commencing work?	JM	JW	JD	CH	FC
		Explain _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Y	N	7. Did the applicant/owner attempt to comply with the Ordinance by obtaining the proper permits prior to commencing work?	JM	JW	JD	CH	FC
		Explain _____	<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	8. Is the Variance consistent with and supported by the statement of purposes, policies, goal and objectives in the Ordinance?	JM	JW	JD	CH	FC
		Explain _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Y	N	9. Is the Variance consistent with the Comprehensive plan?	JM	JW	JD	CH	FC
		Explain _____	<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

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: 08/07/2018

To: Le Sueur County Planning and Zoning Board of Adjustment

From: Holly Kalbus, Environmental Resources Specialist

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**Applicant:**

Charlie & Mary Hirn

**Property owner:**

Charlie & Mary Hirn

**Property:**

01.500.0200

**Description:**

After-The-Fact Variance request to allow the applicant to construct a 10 x 50 deck 55 feet & 68 feet from the Ordinary High Water Level (OHWL), 8 feet, 22 feet, & 28 feet from the bluff and within the bluff impact zone, 6 feet from the south property line, and an After-The-Fact Variance for the dwelling 9 feet from the south property line and 78 feet from the OHWL; total impervious surface of 31.9% in a Recreational Residential "RR" District, on Lake Jefferson, a Recreational Development "RD" lake.

**Recommendation:**

It would be my recommendation to approve the application with the conditions listed below. The conditions that are listed will address stormwater, specifically preventing runoff and erosion from occurring. This will help protect and provide stability for the bluff.

**Condition(s):**

- 1) Install rain barrels under all of the downspouts directed towards the bluff.
- 2) Planted vegetation that is native to Minnesota along the north side of the house by the boulder wall where there is steep grade. Since a downspout and the steep grade are located in the same area, the potential for runoff and erosion increases; native vegetation should help prevent this.
- 3) Remove part of the stairs that is used to access the deck. This would help reduce the impervious surface which is currently at 31.9%.

Sincerely,



Holly Kalbus  
Le Sueur County  
Environmental Resources Specialist



**After-The-Fact Variance Application**

**I. Applicant:**  
 Name Charles & Mary HIRN  
 Mailing Address 46529 Cape Horn Rd  
 City Cleveland State MN Zip 56017  
 Phone # 651 402 8067 Phone # 651-491-9733

**II. Land Owner:**  
 Name Same  
 Property Address \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
 Phone # \_\_\_\_\_ Phone # \_\_\_\_\_

**III. Parcel Information:**  
 Parcel Number 01500 0200 Parcel Acreage .328  
 Township Cleveland Section 1  
 Subdivision Cape Horn Lot 22 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).  
see Attached document

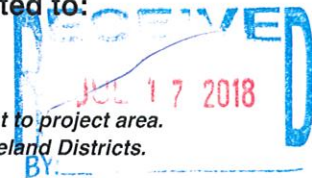
**V. Description of Request:**  
 a. A full written description of the proposed variance request with detailed information must be attached.

**VI. Township Notification:**  
**Township must be notified prior to application.** (County Commissioners are not the Township Board.)  
Susan Ely Township notified on 7-16-18  
 (Township Name) (Date)

Board Member Susan Ely 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 - *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 ATF Variance request is reasonable compared to the ordinance requirements being varied from.**

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

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

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

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

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

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

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

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

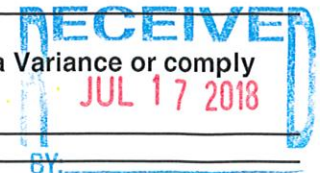
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**10. Explain how the applicant/landowner acted in good faith to obtain a Variance or comply with the applicable requirements prior to commencing work?**

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**11. Describe how the applicant/landowner attempted to comply with the Ordinance by obtaining the proper permits prior to commencing work?**

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

- a. Site Plan-*survey*
- b. Surveyor Certification
- c. Access approval
- d. Full legal description
- e. Floor plans and/or blue prints (*For structures*)
- f. Septic System Compliance Inspection
- g. Erosion control plan
- h. Description of request

**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:	<u>Doubled</u> + After-The-Fact Penalty.
After-The-Fact Penalty:	\$1,500 OR 10% of the improvement, whichever is greater.



***Fees must be paid at the time of application, cannot be accepted by mail, and are non-refundable. Cash or check. Credit cards will not be accepted.***

**XII. Procedure:** See Section 22 of the Zoning Ordinance for full details.

- a. Pre-application meeting is recommended prior to making application to ensure submittal completion. **Appointment is necessary.**
- b. Application must be made in person by the applicant and/or landowner prior to 12 P.M. on the date of application deadline. **Appointment is necessary.**
- c. All required information must be correct and submitted **at the time of application,** or the application will not be accepted.
- d. Fees **will not** be accepted by mail and must be paid at the time of application.
- e. Notification will be sent to all landowners within 500 feet of the affected property, (minimum of 10 landowners) as well as the affected Town Board, any municipality within 2 miles, and other applicable agencies.
- f. Notice will be published in the newspaper of general circulation in the area concerned and the official newspaper of the County.



- 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

7-17-18  
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

7-17-18  
Date

**OFFICE USE ONLY**

Date received <u>7-17-18</u>	Present Zoning Classification <u>RR</u>	Feedlot within 500' <u>1000'</u> <u>N</u>
Meeting date <u>8-16-18</u>	Lake Classification <u>RD</u>	Erosion Control Plan <u>Y</u> <u>N</u>
60 Day <u>9-15-18</u>	Lake <u>Jefferson</u>	Water courses <u>Y</u> <u>N</u>
RFPE <u>102280</u>	FEMA Panel # <u>27079C0270D</u>	Bluff <u>Y</u> <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 type="checkbox"/> Access approval	<u>COC</u>
<input checked="" type="checkbox"/> Description of Request	<input type="checkbox"/> Blue Prints	<u>NONC/Waiver</u>
<input checked="" type="checkbox"/> Application complete	<u>Michelle R. Mitta</u>	<u>Design</u>
	Planning & Zoning Department Signature	<u>ATF/SPEC MTG</u>
		<u>2746.00</u>
		<u>7-17-18</u>
		<u>18</u>
		Permit #

01-15-16

15 Day 8-6-18

ATF \$1200  
Penalty \$1500  
Filing fee \$44  
2746  
BY: \_\_\_\_\_

**RECEIVED**  
JUL 17 2018

10%  
Finished Value \$15,000  
4

After-The-Fact Variance Application

**IV. Variance Request:**



1. Requesting a variance to build deck on the Bluff Impact Zone
2. Requesting a variance for an additional 31.9% nonpervious surface.
3. Requesting a 9"8" setback from south property line for south side of house.
4. Requesting a 6' setback from my south property line for the south end of deck, deck stairways and stairway landing area.
5. Requesting a variance of a Bluff set back of 8' measured from the stairway landing.
6. Requesting a variance of a Shore line set back of 55'. This set back is measured from the deck stair way landing to shore line.
7. Requesting a variance of a bluff setback of 28'. This setback is measured from the north end of deck.
8. Requesting a variance of a shoreline set back of 68'. This setback is measured from the north end of deck.

**V. Description of request**

The request for the ATF variance is for additional non-pervious surface and setbacks for the construction of deck to existing single dwelling home. Requesting 31.9% non- pervious surface.

The set backs are:

1. 9'.8" setback for south side of house from the south property line
2. 6' Setback of south side of deck, deck stairway and stairway landing from south property line.
3. 8' bluff set back of stairway landing
4. 55' shoreline setback of stairway landing.
5. 28' bluff setback of north end of deck.
6. 68'shoreline setback of north end of deck

**VIII. Practical Difficulty:**

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

We feel the ATF request is reasonable because the added structure (deck) in my opinion allows for permeability and all precipitation, except a slight film of moisture that stays on the deck surface, permeates right through the deck. Also, the contour of the ground below the deck is flat and is or will be covered with a shade tolerant grass or a permeable patio, allowing for the rain water to soak in, thus reducing the potential for erosion and run off, preserving the bluff impact zone. In regard to property line set back, there remains six feet of set back from property line which is reasonable for this non-conforming lot.



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

The unique circumstances of this property which prevent compliance with the Zoning Ordinance that will result in practical difficulty is that our lot is a nonconforming lot of record, small lot size (total square footage). We have the bluff impact zone to contend with on a lot that already limits where we can construct this deck. Plus we are limited to where we are able to construct the stairs because any other placement would put them in front of entry ways or block views of the lake.

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

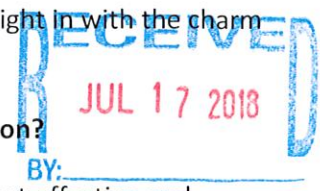
Per the current Ordinance, our lot being nonconforming and having a bluff impact zone, leaves us with a unique circumstance to deal with, thus limiting where we can construct the deck. These circumstances were all naturally created and in place as per the ordinances, hence, created by someone other than us.

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

Our deck will be compatible and consistent with the current development. Every comparable dwelling on this bluff, have decks which create beautiful views of the lake. This deck fits right in with the charm and character of the neighborhood.

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

The most important consideration in this case is to utilize our property in the most effective and environmentally useful way by building a deck that is architecturally, aesthetically and environmentally pleasing, and promotes and maintains the current character and environment. Other non- economic consideration is the placement of the stairways if placed anywhere else would block entryways and views of the lake.



**6. is the request consistent with and supported by the statement of purpose, policies, goals and objectives in the ordinance?**

Our request is consistent with, the statement of purpose, goals and objectives of the ordinance. In my opinion the deck is pervious; precipitation runs right through to the erosion control surface below, avoiding large volume run off and erosion. There was minimal impact during construction process to the BIZ. Only 8 post footings for a total of 4.9 Sq. Ft of surface was disturbed. Also this small surface area causes minimal if any potential for run off or erosion.

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

1. We are preserving the bluff area (Goal #2) by using a plan that will use all the standard and acceptable building practices to prevent erosion and run-off. Create minimal impact during the construction process (8 post footings/4.9 sq. ft. of surface). The permeability of the deck to rain water and the surface below which is flat and



covered with shade tolerant grass, thus significantly reducing the potential for erosion or run off onto the BIZ. Rain gutters with directional downspouts, along with rain barrels, will prevent erosion and run-off onto the BIZ.

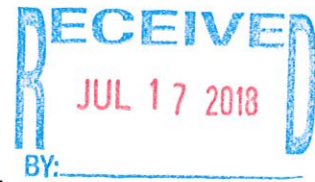
2. We are not affecting the shoreline thus preserving the current one. We are protecting the current agricultural reserves by not affecting them (Goal # 1).

3. We currently have a compliant waste water treatment system (holding tank) (Goal #3).

4. Complied, and in some instances went above and beyond uniform building code (Goal #8)

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

We currently share a well with Cape Horn Well Association. Our on-site sewage treatment is a compliant 15/2 holding tank.



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

The proposed deck structure utilizes the property and its current contours, as well as maintaining the current environment. A ten foot wide deck was the minimal width, anything less creates a narrow deck, thus creating a small and non-functioning surface. Placement and the configuration of the steps 6 feet from the south property line was the only placement that did not create a blockage of entry ways and view of the lake from the basement walkout level. Infringement is minimal on the bluff zone setbacks, and erecting a deck that we felt is consistent with several adjacent properties to our north and south on Cape Horn Road.

**10. Explain how the applicant/landowner acted in good faith to obtain a Variance or comply with the applicable requirements prior to commencing work?**

I did not realize that I need a variance and thought I was complying with applicable requirements and thus ultimately did not act in good faith. It was our mistake in assuming so.

**11. Describe how the applicant/landowner attempted to comply with the Ordinance by obtaining the proper permits prior to commencing work?**

I was not aware of the ordinance and that I need a permit and thus ultimately did not act in good faith. It was our mistake in assuming so.

IV. Variance Request: List request alternative to development standard(s)

1. Requesting a variance for an additional 4.93% non-pervious surface above the 25% allowed/lot for construction of deck, deck stairways, and stairway landing.
2. Requesting a variance to build deck on the Shore Impact Zone and Bluff Impact Zone
3. Requesting a variance of a Bluff set back of \_\_\_\_ feet and a Shore line set back of \_\_\_\_ feet.
4. Requesting a 6 foot set-back from my south property line for the south end of deck, deck stairways and stairway landing area.

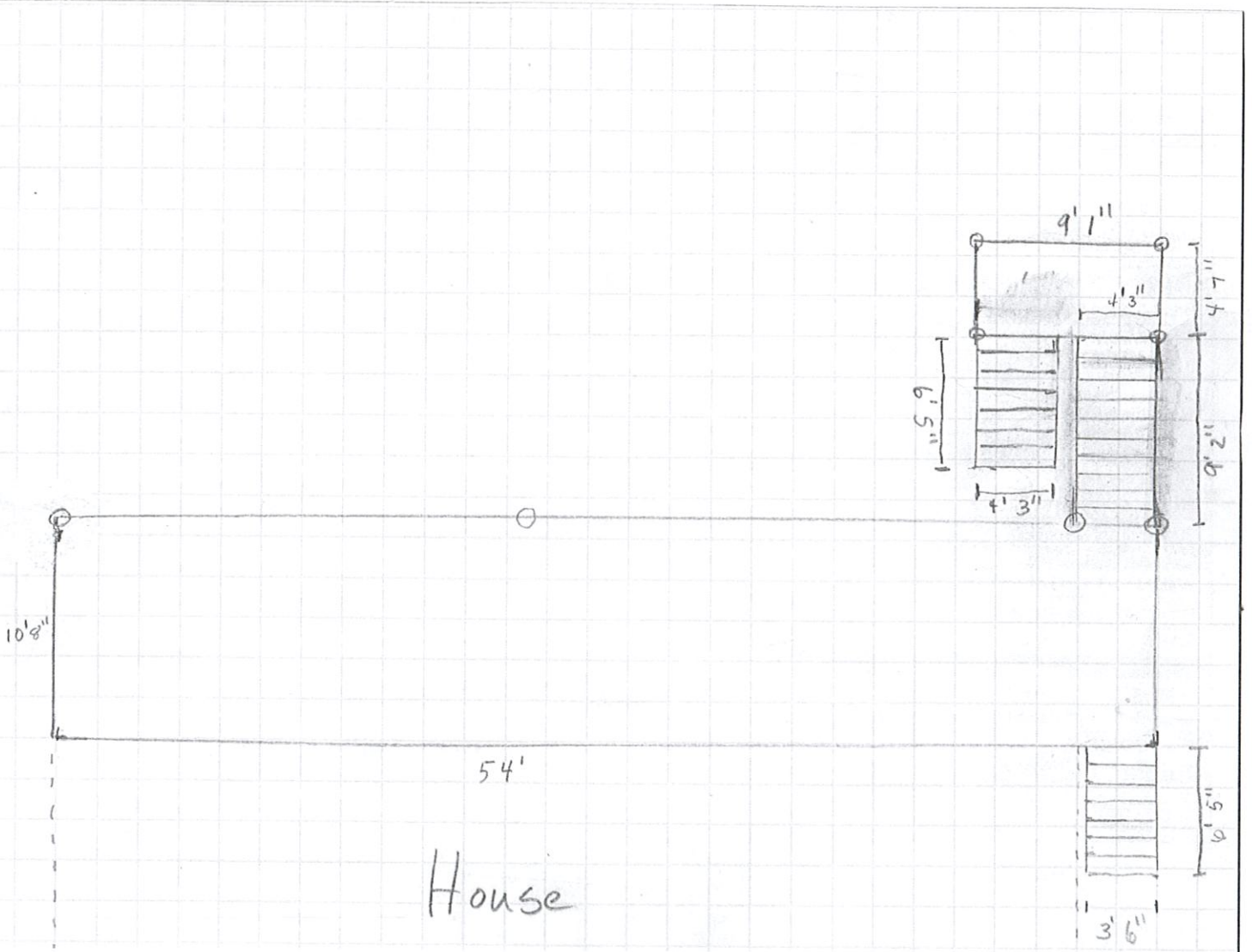
V. Description of request:

After-the-Fact variance for constructed deck, stairways and stair way landing area. The deck is attached to the east side of single family dwelling, dimension of deck-10'8"x54', three sets of stairways, dimension of stairways-4'3"x9'2", 4'3"x6'5", and 3'6"x6'5", and one stairway landing area, dimensions of stairway landing area-4'7"x9'1". There are four 12" diameter post hole footings and four 9" post hole footings.

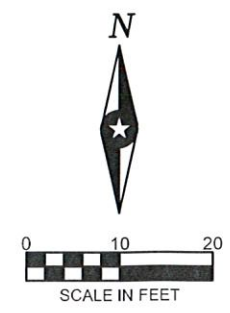
or

1. Request additional 4.93% non-permeable surface above the 25% of lot area for construction of a deck, deck stairways and deck stairway landing.
2. A request for a 6 foot set-back from south property line for the south end of deck, deck stairways and stairway landing.
3. Request to build on the Shore Impact Zone and Bluff Impact Zone which would consist of four 12 inch diameter and four 9 inch diameter post whole footings, for a total of 4.9 sq. ft. of construction on SIZ and BIZ.
4. Request a 6 ft. set-back from bluff and a 38 ft. set-back from shore line. This set back is measured from the deck stair way landing to top of bluff and to shore line

RECEIVED  
JUL 17 2018  
BY: \_\_\_\_\_







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.

Daniel L. Stueber  
*DL Stueber*  
DATE 07/17/2018 LIC. NO. 43110

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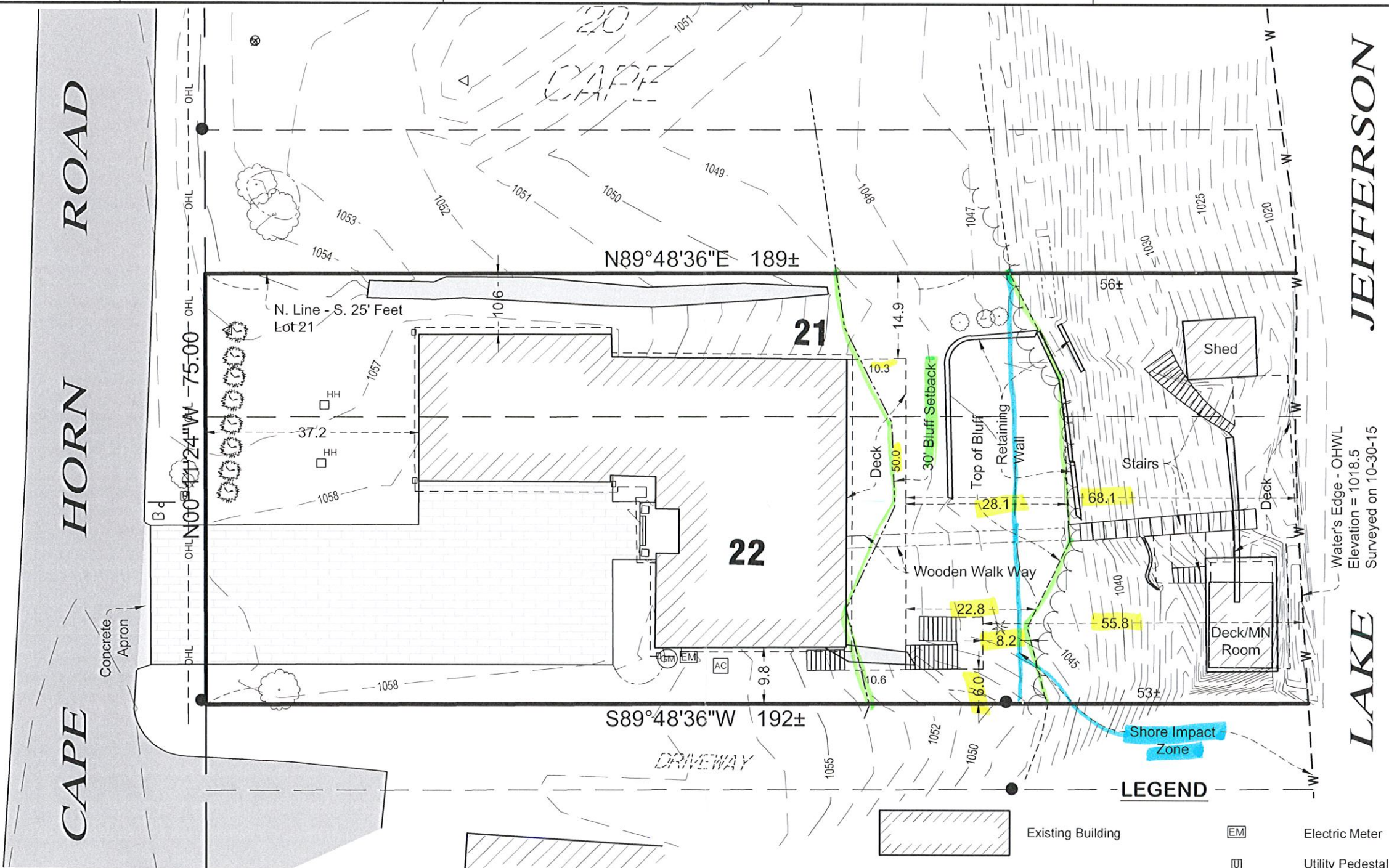
PROJECT  
**CHARLIE HIRN PROPERTY**  
Lot 22 and the South 25 feet of Lot 21, Cape Horn, Part of Gov't Lots 2 and 3, Section 1-109-25, Le Sueur County, Minnesota

REVISION SCHEDULE		
DATE	DESCRIPTION	BY

PROJECT NO. 15-18488  
 CAD FILE NAME: 18488 ASBUILT  
 DRAWN BY: JW  
 DESIGNED BY: -  
 REVIEWED BY: -  
 ORIGINAL ISSUE DATE: -/-  
 CLIENT PROJECT NO. -

TITLE:  
**AS-BUILT SURVEY**

SHEET  
**1** OF 1



**LEGAL DESCRIPTION:**  
(Per Document No. 284911)

Lot Twenty-two (22) and the South 25 feet of Lot Twenty-one (21), CAPE HORN, Part of Government Lots Two (2) and Three (3) of Section Numbered One (1) in Township Numbered One Hundred Nine (109), North, Range Numbered Twenty-five (25) West, in Le Sueur County, Minnesota.

**BEARING NOTE:**  
The orientation of this bearing system is based on the plat of THE LANDING at JEFFERSON LAKES.

**BENCHMARK:**  
MnDot Monument CLEVELAND SE  
Elevation = 1060.79 (NAVD88)

**SETBACK:**  
 Front = No closer to the OHWL than the existing structure on adjacent or at least 1/2 setback whichever is greater  
 Side = 10 feet  
 Rear = No closer to the OHWL than the existing structure on adjacent or at least 1/2 setback whichever is greater  
 Bluff = 30 feet

- NOTES:**
- This lot is considered a non-conforming lot for setback purposes per Le Sueur County Zoning Department.
  - Site is served by water well located offsite.
  - Bluff line for this property is shown hereon.
  - Shore impact zone is shown as 50 from the ordinary high water line.
  - Ordinary high water line is noted as elevations 1018.5.
  - The field work was completed on July 11, 2018.

**AS-BUILT HARDCOVER CALCULATIONS:**

House (New)	2,999 sq. ft.
Deck/Stairs (New)	640 sq. ft.
Wooden Walk Way (New)	59 sq. ft.
Retaining Walls (New)	308 sq. ft.
Shed	126 sq. ft.
MN Room	243 sq. ft.
Stairs/Retaining Walls	200 sq. ft.
<b>Total</b>	<b>4,575 sq. ft.</b>
<b>Lot Total</b>	<b>14,338 sq. ft.</b>
Impervious Surface	31.9%

	Existing Building	EM	Electric Meter
	Existing Bituminous Surface	AC	Air Conditioner
	Existing Paver Surface	GM	Gas Meter
	Retaining Wall	U	Utility Pole
	Overhead Utility Line	M	Mailbox
	Existing Contour	S	Sign
	Water Edge	Δ	Septic
	Tree Line	○	Deciduous Tree
	Landscape Edge	⊗	Bush
	Iron Monument Found	□	Roof Drain
		⊗	Curb Stop

**RECEIVED**  
JUL 17 2018



## Surveyor Certification

I. **Applicant:**  
Name CHARLIE HIRN

II. **Landowner:**  
Name CHARLIE HIRN  
Property Address 46529 CAPE HORN RD  
City CLEVELAND State MN Zip 56017

III. **Parcel Information:**  
Parcel Number 01,500,0200

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 07/11/2018 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

07/16/2018  
Date

4310  
Lic #

**OFFICE USE ONLY**

MRM

\_\_\_\_\_  
Planning & Zoning Department Signature



01-15-16

LE SUEUR COUNTY ENVIRONMENTAL SERVICES  
88 SOUTH PARK AVE.  
LE CENTER, MINNESOTA 56057-1620  
(507) 357-2251  
FAX (507) 357-8541

Erosion and Sediment Control Plan

Goal: To control erosion and prevent sediment and other pollutants from entering the lakes, streams, wetlands, and storm drain systems during construction.

Property Owner: Charles HIRN PID: \_\_\_\_\_  
Mailing Address: 46529 Cape Horn Rd  
Property Address: Same  
Phone: (651) 402 8067 Mobile/Cell: (651) 491 9733

Responsible party for Implementation/Inspection: Charles HIRN  
Address: 46529 Cape Horn Rd  
Phone: (651) 402 8067 Mobile/Cell: ( ) \_\_\_\_\_

Erosion & Sediment Control Measures

1. Maintain existing vegetation whenever possible and minimize the area of disturbance. Retain and protect trees to enhance future landscaping efforts and to reduce raindrop impact. (Vegetation is the best and most cost-effective erosion control practice).
2. Install all erosion and sediment control practices prior to any soil disturbing activities, when applicable.
3. Phase construction activities to minimize the areas disturbed at one time. This will also allow completed areas to be stabilized and re-vegetated before disturbing adjacent sites.
4. Maintain and protect all natural waterways. Retain at least a 20-foot wide strip of natural vegetation along all waterways to filter out sediment and other pollutants.
5. Minimize the use of impermeable surfaces such as roofs, driveways, parking lots and roads. The Environmental Resources staff must approve all storm water runoff plans.
6. Use rock rip-rap at both the outlet and inlet ends of culverts to prevent scour erosion.
7. Limit construction equipment to designated areas to control soil compaction.
8. Install silt fence on the down-slope perimeter of all disturbed areas according to the attached installation instructions. Sensitive areas such as wetlands, drainage swales and shoreland areas should also be protected with silt fence.
9. Install straw bale checks or rock check dams in areas of concentrated flow .
10. Cover any stockpiled topsoil with plastic or other impervious covering. Use stockpiled topsoil as earthen berms to serve as temporary sediment basins.





11. Mulch all disturbed areas at the rate of one 50-pound bale of straw per 500 square feet. On slopes 4:1 or steeper use the following erosion control blankets that have been pinned to the slope according to the manufacturer's instructions:

2:1 slopes or steeper	Straw/Coconut Blanket or High Velocity Wood Blanket
3:1 slopes or steeper	Wood or Straw Blanket with net on both sides
4:1 slopes or steeper	Wood or Straw Mulch blanket with net on one side
Flat areas	Straw Mulch w/disc anchoring

12. Seed all disturbed areas within seven days of final grading and temporary seed/mulch all areas that will be left inactive for more than seven days. Do not seed later than September 1<sup>st</sup>. Areas that need to be seeded after this date should be dormant seeded in late October or early November. See the attached instruction sheet for recommended mixtures and rates. The use of native plant materials, including trees and shrubs, is encouraged. Native species will provide good vegetative cover that is adapted to our soils and climate.

13. Apply fertilizer according to soil test recommendations.

14. Install water bars on access roads to prevent concentrated water from flowing down the road and eroding gravel.

15. Attach a site map showing the location of all erosion control practices, property lines, roads, lakes, watercourses, wetlands, on-site systems and building locations.

Note: To reduce mud transported onto paved roads, a rock construction entrance may be required. This will require a six-inch layer of 1-2 inch diameter washed rock a minimum of 50 feet in length.

**Inspection and Maintenance**

16. Inspect the construction site every 7 days and within 24 hours after every rain event to ensure the practices are working properly (i.e. silt fences, water bars).

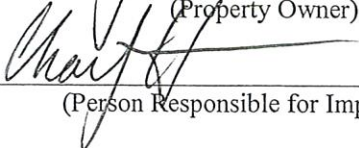
17. Clean out the silt fences when they are 1/3 full of sediment or replace with functional silt fences within 24 hours.

18. Clean out sediment basins on a regular basis to maintain capacity.

I agree to install, inspect and maintain the above practices to accomplish the goal of preventing erosion.

  
\_\_\_\_\_  
(Property Owner)

7-17-18  
(Date)

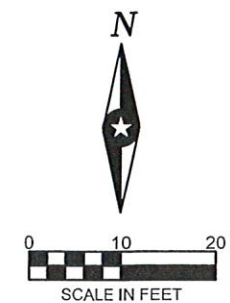
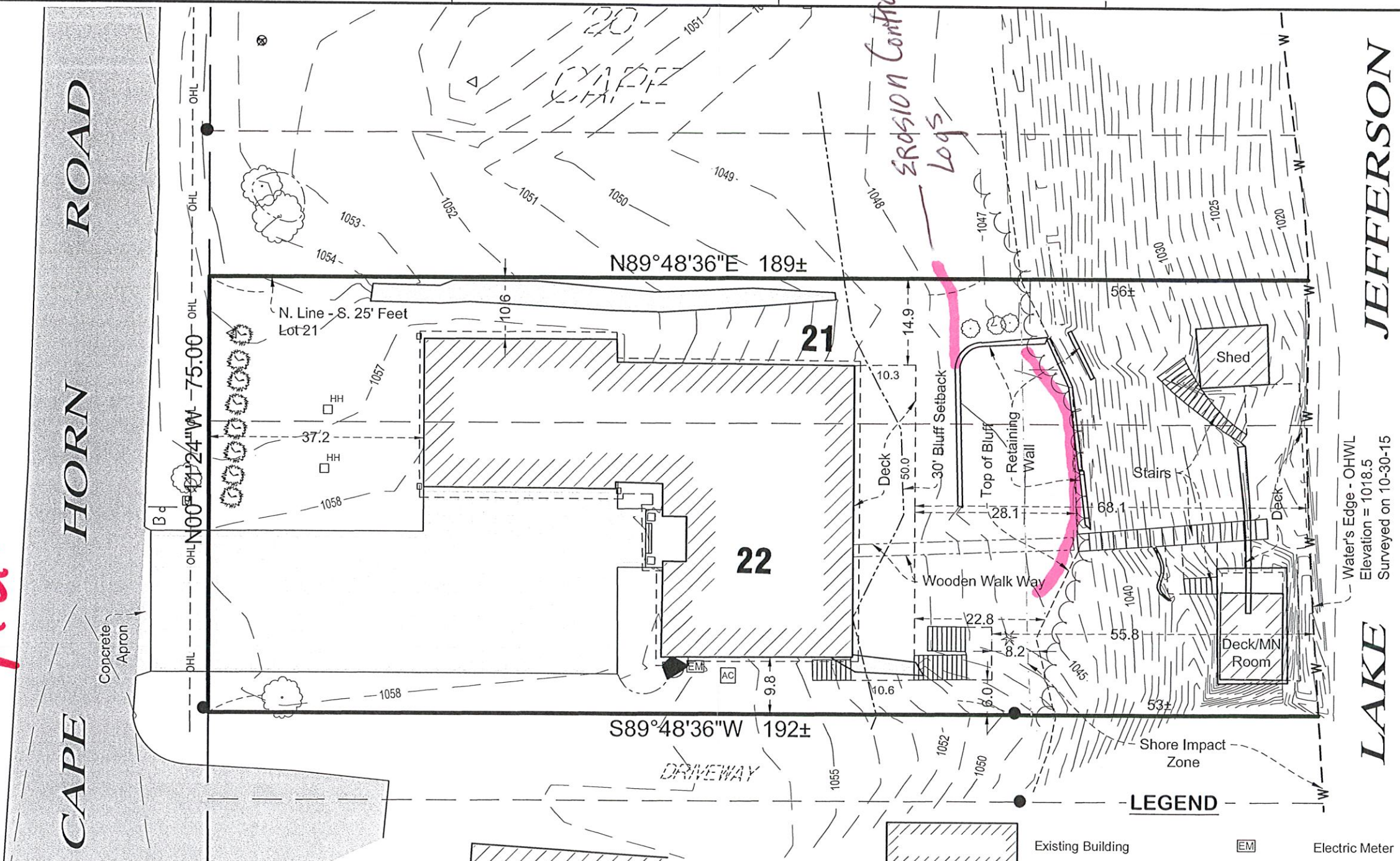
  
\_\_\_\_\_  
(Person Responsible for Implementation)

7-17-18  
(Date)

If you have any questions, please contact Environmental Services, at 507-357-8538.



**EROSION CONTROL PLAN**



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.

Daniel L. Stueber

DATE 07/17/2018 LIC. NO. 43110

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DATE	DESCRIPTION	BY

PROJECT NO.	15-18488
CAD FILE NAME	18488 ASBUILT
DRAWN BY	JW
DESIGNED BY	-
REVIEWED BY	-
ORIGINAL ISSUE DATE	-/-
CLIENT PROJECT NO.	-

TITLE:  
**AS-BUILT SURVEY**

SHEET  
**1** OF 1

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(Per Document No. 284911)

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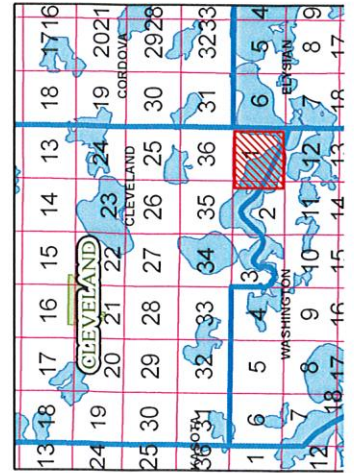
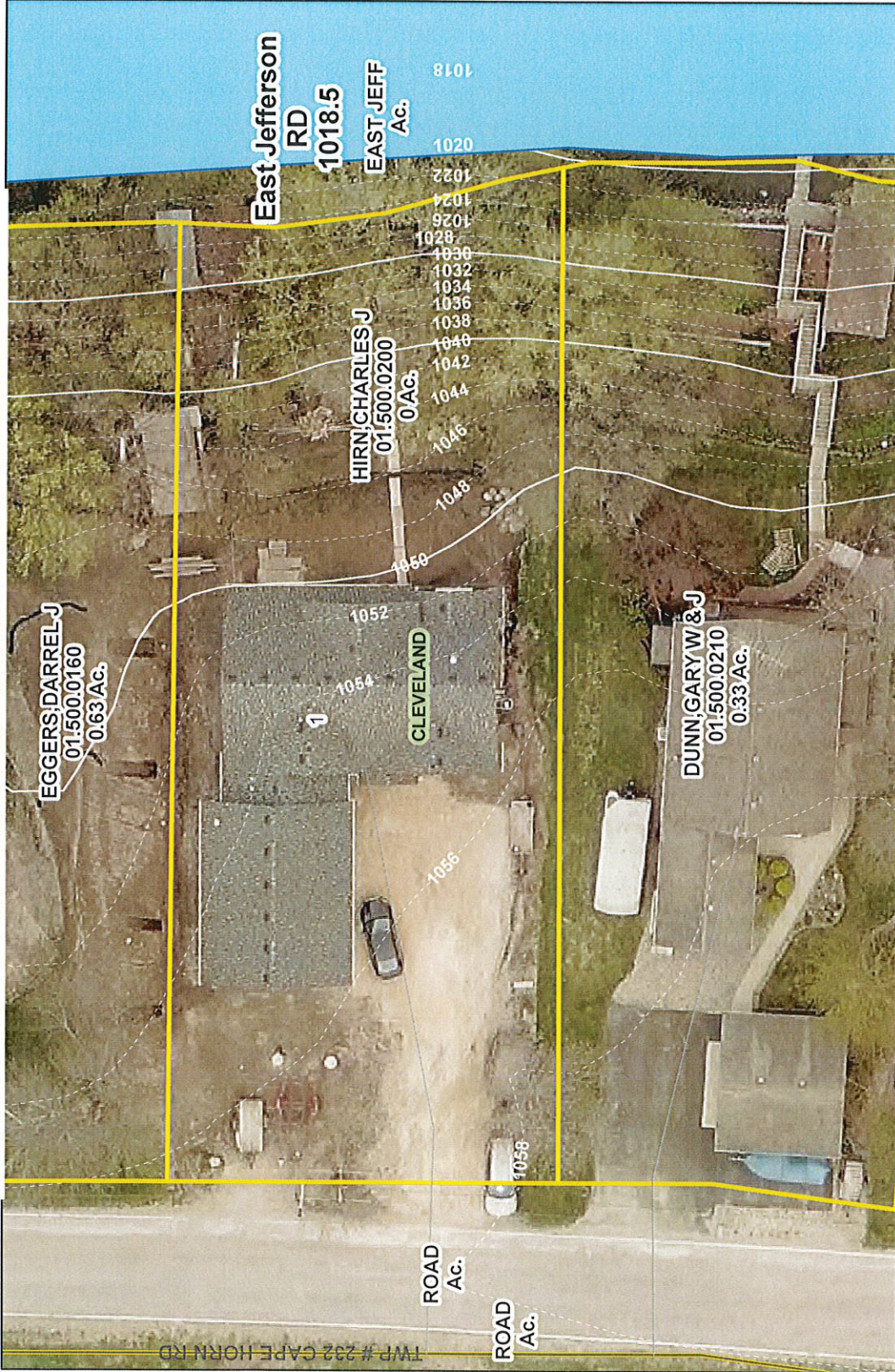


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	Existing Bituminous Surface		Utility Pedestal
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	Retaining Wall		Gas Meter
	OHL		Utility Pole
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	Water Edge		Sign
	Tree Line		Septic
	Landscape Edge		Deciduous Tree
	Iron Monument Found		Bush
			Roof Drain
			Curb Stop



# LE SUEUR COUNTY ENVIRONMENTAL SERVICES

**NAME:** Him  
**PID:** 01.500.0200  
**DATE:** 08-01-18  
**FIRM #:** 27079C0270D  
**F-Zone:** X-outside  
**RFPE:** 1022.86  
**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. 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 SERVICE  
 507-357-8538