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# **Le Sueur County, MN**

**Thursday, November 15, 2018**

**Regular Session**

## **Item 3**

### **Ploog Packet**

Staff Contact: Joshua Mankowski or Michelle Mettler

# VARIANCE STAFF REPORT

## GENERAL INFORMATION

**APPLICANT/OWNER:** Dwayne & Gwyn Ploog

**911 ADDRESS:** 27084 Jefferson Road, Cleveland, MN

**VARIANCE REQUEST:** To allow the applicant to install a septic tank 140 feet from the Ordinary High Water Level (OHWL) and install a septic drainfield 163 feet from the OHWL.

**VARIANCE NUMBER:** 18286

**PARCEL NUMBER:** 01.034.5100

## SITE INFORMATION

**LOCATION:** Part of Government Lot 6, Section 34, Cleveland Township

**ZONING & PURPOSE:** Special Protection

The intent of the **Special Protection (SP) District** is to guide the wise development and utilization of shorelands of public waters for the preservation of water quality, natural characteristics, economic values and the general health, safety and welfare of all public waters in the unincorporated areas of the County. Further, the purpose of this district is to manage areas unsuitable for development due to wet soils, steep slopes or large areas of exposed bedrock; and to manage areas of unique natural and biological characteristics in accordance with compatible uses.

**GOALS AND POLICIES:** The current Land Use Plan as adopted in 2007 makes reference to bluff preservation and 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 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 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, scattered residences

**ACCESS:** Existing access off Lake Jefferson Road

**LAKE:** Lake Henry, Natural Environment

**Natural Environment Lake** - Lakes that usually have less than one hundred fifty (150) total acres, less than sixty (60) acres per mile of shoreline, and less than three (3) dwellings per mile of shoreline. They may have some winter kill of fish; may have shallow, swampy shoreline; and are less than fifteen (15) feet deep.

## BACKGROUND INFORMATION

Property is an existing parcel in a Special Protection District on a Natural Environment Lake with bluff and bluff impact zone.

## 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:

- | <u>1. Variance:</u>           | <u>Request:</u> | <u>Required:</u> | <u>Ordinance:</u>                  | <u>Page:</u> |
|-------------------------------|-----------------|------------------|------------------------------------|--------------|
| a. Septic tank to OHWL:       | 140 feet        | 200 feet         | Section 17, Subdiv. 4. D. 5. a. 1. | 17-9         |
| b. Septic drainfield to OHWL: | 163 feet        | 200 feet         | Section 17, Subdiv. 4. D. 5. a. 1. | 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. Bluffs and Steep Slopes                                      | pg. 11 |
| d. Non-conforming Lots of Record in Shoreland Areas             | pg. 19 |
3. Variances shall only be permitted when they are in harmony with the general purposes and intent of the official controls and are consistent with the comprehensive plan.
4. A Variance may be granted **only** where the strict enforcement of the official controls will result in a **practical difficulty**.
5. It is the responsibility of the **applicant** and/or landowner to prove evidence that a practical difficulty exists.
6. A determination that a **practical difficulty exists** upon the consideration of the **findings of fact**.

## CONSIDERATIONS

1. The following shall be considered at the hearing:
- a. There are special circumstances or conditions affecting the land, structures or use referred to in the Variance.
  - b. The granting of the application will not be a detriment to the public health, safety, and general welfare or injurious to property or improvements in the area adjacent to the property of the applicant/landowner.
  - c. Consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.

## 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.

Page 2 of 2



# 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:	10/15/2018	PERMIT NUMBER:	18286	FEE:	\$646.00	
60 DAY RULING DATE:	12/14/2018	911:	27084 LAKE JEFFERSON RD			
APPLICANT:	DWAYNE & GWYN PLOOG		LAND OWNER:	DWAYNE & GWYN PLOOG		
ADDRESS:	27084 LAKE JEFFERSON RD		ADDRESS:	27084 LAKE JEFFERSON RD		
CITY:	CLEVELAND		CITY:	CLEVELAND		
STATE:	MN	ZIP:	56017	STATE:	MN	
PHONE:	507-931-1534		PHONE:	507-382-7165	ZIP:	56017
TOWNSHIP:	CLEVELAND	PARCEL NO:	01.034.5100			
SEC:	34	SUBDIV:	NA			
TWP:	110	LOT:	NA	ZONE:	SP	
RANGE:	25	BLOCK:	NA	FEMA PANEL #	27079C0270D	
Q/Q:	SW	ROAD:	CR	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:




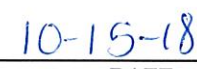
**1.) Reason for Requested Variance:**

TO ALLOW THE APPLICANT TO INSTALL A SEPTIC TANK 140 FT FROM THE OHWL AND CONSTRUCT A SEPTIC DRAINFIELD 163 FT FROM THE OHWL.

**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	 DATE
 LE SUEUR COUNTY PLANNING AND ZONING AUTHORITY	 DATE

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

ON-SITE TOUR DATE: <u>11/15/2018</u>	
PUBLIC HEARING DATE: <u>11/15/2018</u>	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.

# VARIANCE FINDINGS OF FACT

**Name of Applicant:** DWAYNE & GWYN PLOOG

**Variance #** 18286

**Variance Request:** TO ALLOW THE APPLICANT TO INSTALL A SEPTIC TANK 140 FT FROM THE OHWL AND CONSTRUCT A SEPTIC DRAINFIELD 163 FT FROM THE OWHL.

- 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"/>
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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"/>
-------	--------------------------	--------	--------------------------	----------	--------------------------	---------	--------------------------	---------	--------------------------	----------	--------------------------

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 Dwayne and Gwyn Ploog  
 Mailing Address 27084 LR Jefferson Rd  
 City Cleveland State MN Zip 56017  
 Phone # 507-931-1534 Phone # 507-382-7165

### II. Landowner:

Name Dwayne and Gwyn Ploog  
 Property Address 27084 LR Jefferson Rd.  
 City Cleveland State MN Zip 56017  
 Phone # 507-931-1534 Phone # 507-382-7165

### III. Parcel Information:

Parcel Number 01-0345100 Parcel Acreage 2  
 Township Cleveland Section MN 34  
 Subdivision \_\_\_\_\_ Lot \_\_\_\_\_ 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).

Variance of to the lake in Special Protection District  
(See Glen's design)  
Tank to Lake - 140' Drainfield to Lake - 163'  
163'

### V. Description of Request:

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

### VI. Township Notification:

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

Cleveland Township notified on Oct. 7, 2018  
 (Township Name) (Date)

Board Member John Kluntz regarding the proposed request.  
 (Name)

### VII. Site Plan - Shall be a Certificate of Survey to include, but not limited to:

- North point
- Lakes
- Well
- Access
- Setbacks
- Rivers
- Septic System
- Easements
- Property lines
- Wetlands
- Proposed Structures
- Road Right-Of-Way
- Streams
- Existing structures - 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.

There isn't enough room due to the new county setback. The present location is almost the same as the variance requested. The well setback is 56'. There is a drainage issue and sloping to the bluff with a retaining wall.

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

Close to the lake and road right of way

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

We purchased the house as a second owner

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

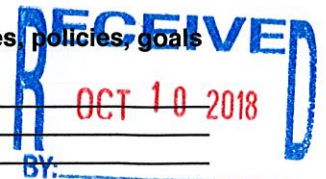
it will continue to be used as residential

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

yes - for use of property

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

yes



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

it would assist in an upgraded septic that would help the environment.

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

Solid tank and liquid tank with a drain field

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

This is the only place where the septic can be located



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

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

*The Department may request additional information regarding the application.*

**X. Quantities and Submittal Formats:**

- 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.

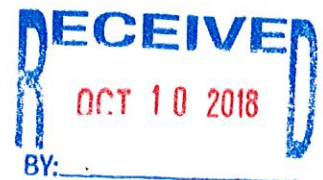
**XI. Fees:**

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 **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.*

Dwayne Ploog  
Applicant signature

10-7-18  
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.*

Dwayne Ploog  
Landowner signature

10-7-18  
Date



#### OFFICE USE ONLY

BY: \_\_\_\_\_

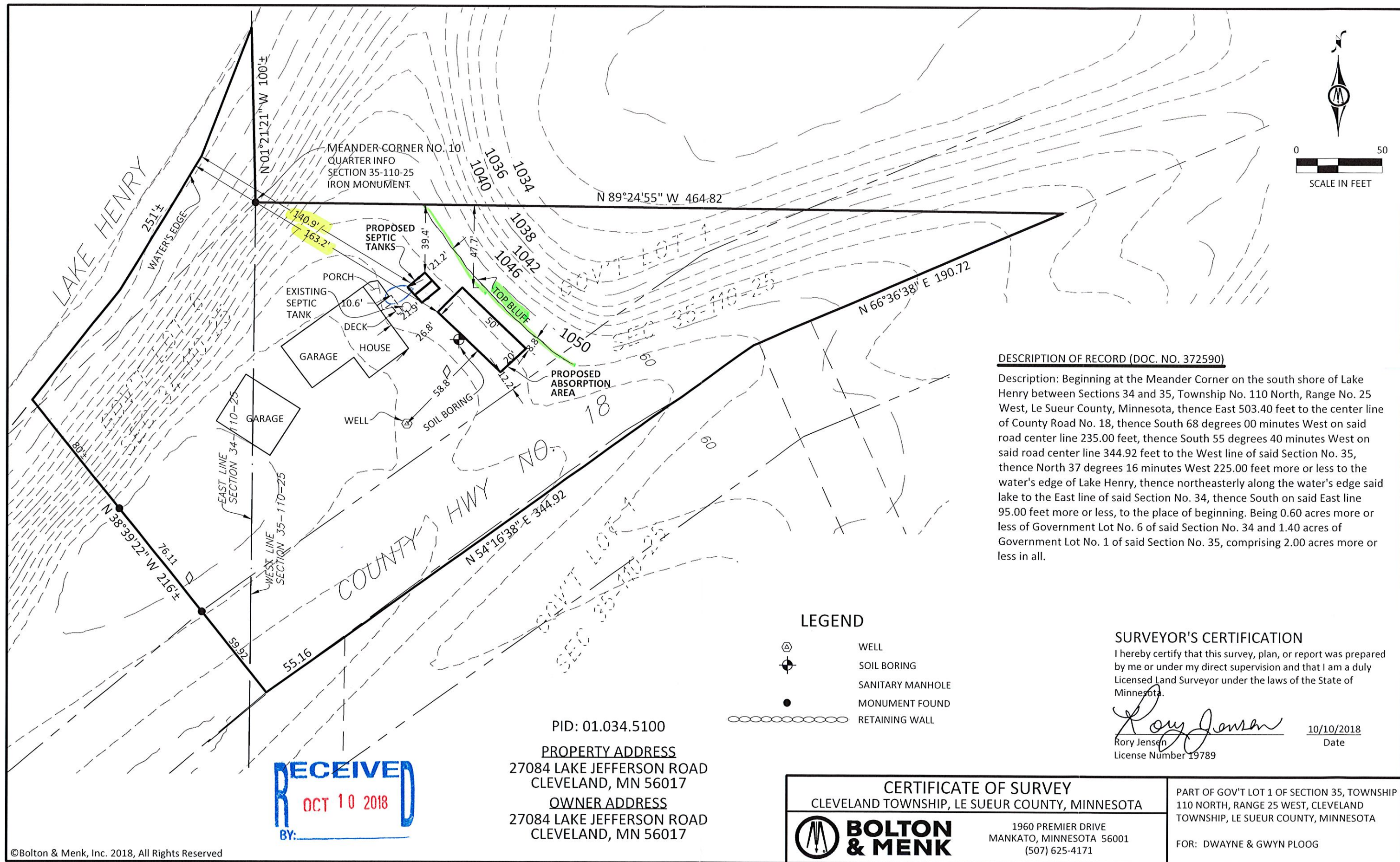
Date received <u>10/15/18</u>	Present Zoning Classification <u>SP</u>	Feedlot within 500' 1000' <u>(N)</u>
Meeting date <u>11/15/18</u>	Lake Classification <u>NE</u>	Erosion Control Plan <u>(Y)</u> <u>(N)</u>
60 Day <u>12/18/18</u>	Lake <u>Henry</u>	Water courses <u>(Y)</u> <u>(N)</u>
RFPE <u>/</u>	FEMA Panel # <u>27079002700</u>	Bluff <u>(Y)</u> <u>(N)</u>
<input checked="" type="checkbox"/> Site Plan -survey	Flood Zone <u>X outside</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>10/5/18</u>
<input checked="" type="checkbox"/> Description of Request	<input type="checkbox"/> Blue Prints	<input checked="" type="checkbox"/> Fee \$ <u>646-</u>
<input checked="" type="checkbox"/> Application complete	<u>Michelle R. Motter</u> Planning & Zoning Department Signature	<u>10-15-18</u> Date
		<u>18286</u> Permit #

COC  
NONC/Waiver  
Design

ATF / SPEC MTG

01-15-16





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H:\PLOOGDW\_PR\M33117285\CAD\C3D\117285\_V\_PROP\_N1.dwg 10/10/2018 10:32 AM

SDB117285H

JOB NUMBER: M33.117285

FIELD BOOK: 90M PG 6

DRAWN BY: JLA

4.0 S35-T110N-R25W



## Surveyor Certification

I. Applicant:  
Name \_\_\_\_\_

II. Landowner:  
Name DWAYNE PLOOG  
Property Address 21084 LAKE JEFFERSON ROAD  
City CLEVELAND State MN Zip 56063

III. Parcel Information:  
Parcel Number 01.034.5100

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.

RECEIVED  
OCT 10 2018  
BY: \_\_\_\_\_

VI. Signatures:

The proposed improvements have been physically staked onsite *then* surveyed on 10-4-18, 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.*

Roy J. Lema 10-10-18 19789  
Surveyor Signature Date Lic #

OFFICE USE ONLY

10/10/18 mjm  
Date Received Planning & Zoning Department Signature

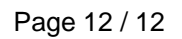
01-15-16

RECEIVED  
OCT 10 2018  
BY: \_\_\_\_\_



## Le Sueur County

Regular Session - 11/15/2018



**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.

Photo dated April/May 2017

LE SUEUR COUNTY  
ENVIRONMENTAL SERVICES  
507-357-8538