



Le Sueur County, MN

Thursday, March 21, 2019

Regular Session

Item 2

Mostaghimi Packet

Staff Contact: Joshua Mankowski or Michelle Mettler

VARIANCE STAFF REPORT

GENERAL INFORMATION

APPLICANT/OWNER: Esmail & Barbara Mostaghimi

911 ADDRESS: 50411 Mortensen Lane, Waterville, MN

VARIANCE REQUEST: To allow the applicant to deviate from conditions of a previously approved Variance # 16157; To construct a detached garage 6 feet from the East property line and 8 feet from the road ROW; To construct a front porch addition 0 feet from the bluff within the bluff impact zone.

VARIANCE NUMBER: 19010

PARCEL NUMBER: 144200100 & 14.028.0110

SITE INFORMATION

LOCATION: Lot 11, Auditor's Subdivision, & part of Government Lot 3, Section 28, Waterville Township.

ZONING & PURPOSE: Recreational Residential and Flood Fringe Floodplain Overlay District

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.

Floodplain Overlay District. It is the purpose of this Section to designate an overlay district that will maintain the County's eligibility in the National Flood Insurance Program and to minimize potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare of the County.

Flood Fringe (FF) District: The Flood Fringe District shall include those areas designated as floodway fringe, which shall include the areas shown on the Flood Insurance Rate Map, adopted in this Section as being within Zone AE but being located outside of the floodway. For lakes, wetlands and other basins (that do not have a floodway designated), the Flood Fringe District shall include those areas designated as Zone A and Zone AE on the Flood Insurance Rate Map panels adopted in this Section that are below the one percent (1%) annual chance flood elevation (100-year flood elevation) but above the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14, as amended from time to time.

GOALS AND POLICIES: The current Land Use Plan as adopted in 2007 makes reference to bluff setback and shoreland development and stormwater.

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, bluff, steep slope

ACCESS: Existing access off Mortensen Lane

Mortensen lane is an access to two properties and meets the definition of a road, therefore a road ROW setback is applicable.

LAKE: Lake Tetonka, Recreational Development lake

Recreational Development Lake - Lakes that usually have between sixty (60) and two hundred twenty-five (225) acres of water per mile of shoreline, between three (3) and twenty-five (25) dwellings per mile of shoreline, and are more than fifteen (15) feet deep.

RFPE: Regulatory Flood Protection Elevation: 1006.2. Lowest floor must be at or above RFPE.

BACKGROUND INFORMATION

The applicant was granted a Variance in 2016 to repair an existing deck located within the bluff. Variance was approved as submitted with conditions: The footprint of the deck to remain the same and the existing footings are used; The removal of 242 square feet of concrete located in the shore impact zone and bluff next to the boat house, 606 square feet of parking and steps located outside the bluff impact zone, and also 22 square feet of concrete up near the deck located in the bluff for a total of 870 square feet removal of impervious surface to bring total down to 24.9 % impervious surface on the lot. In follow up to the Variance the Department found that the required impervious surface had not been removed, and that there had been extensive work done on the property without an approved Conditional Use Permit (CUP). Subsequently an ATF CUP was approved in January 2019 by the County Board. However, by not removing the 870 square feet of impervious surface from the approved Variance, the landowner is in violation of the Variance that had been granted in 2016, #16157. The landowner has since purchased additional adjacent land. The request is to deviate from the previous variance and leave the 870 square feet of impervious surface area. The proposal is also to add a detached garage (located within the gravel parking area) 8 feet from the road ROW and 6 feet from the East property line. Included in the proposal is to add an enclosed 7' x 42.5' enclosed front porch addition 0 feet from the bluff and located within the bluff impact zone.

ATTACHMENTS

Application, Written Detail of Request, Survey, Surveyor Certification, Aerial photo, Findings of Fact, garage plans, porch plans, Holly Kalbus letter, Greg Wilmes letter, Variance # 16157 information

STAFF FINDINGS

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

1. Variance:	Request:	Required:	Ordinance:	Page:
a. Detached garage to road ROW:	8 feet	25 feet	Section 13.2. Subdiv. 5. B. 9.	13-44
b. Structure to property line	6 feet	10 feet	Section 13.2. Subdiv. 5. C. 2	13-44
c. Porch addition to bluff:	0 feet	30 feet	Section 13.2 Subdiv. 5. F. 1. c.	13-46
d. Porch addition within BIZ:	Within BIZ	Prohibited	Section 18. Subdiv. 2. A. 2.	18-2
e. Previous Variance conditions:	Variance #16157			
	*Removal of concrete next to boat house within the shore impact zone & bluff then revegetate.			
	*Removal of concrete walk way that extends further beyond the deck within the bluff then revegetate			
	*Removal of gravel parking area outside the bluff impact zone.			

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. 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. **Considerations For the Flood Plain Overlay District:** No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law. The following additional variance criteria of FEMA must be satisfied:
- a. Variances shall not be issued by the County within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
 - b. Variances shall only be issued by the County upon the following:
 - 1. A showing of good and sufficient cause.
 - 2. A determination that failure to grant the variance would result in exceptional hardship to the applicant.
 - 3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - c. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
3. **Additional Considerations:**
- a. Statement from a Certified Building Inspector regarding the stability of the boat house if concrete were to be removed.
 - b. Remove a portion of the concrete slab.
 - c. Comprehensive Plan references bluff setback.
 - d. Section 18, Subdiv. 5. F.I. c. states: *"No structure shall be constructed in any bluff of bluff impact zone as defined in this Ordinance."*

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.

Date: 03/13/2019

To: Le Sueur County Planning and Zoning Board of Adjustment

From: Holly Kalbus, Environmental Resources Specialist

Applicant:

Esmail & Barbara Mostaghami

Property owner:

Esmail & Barbara Mostaghami

Property:

14.420.0100

Description:

Variance request to allow the applicant to deviate from conditions of an approved Variance #16157; to construct a detached garage 6 feet from the East property line and 8 feet from the road Right-Of-Way (ROW); to construct a front porch addition 0 feet from the bluff and located within the bluff impact zone in a Recreational Residential "RR" District, on Lake Tetonka, a Recreational Development lake.

Recommendation:

It would be my recommendation to deny the application due to the deviation from Variance #16157 and the installment of a porch that is located 0 feet from the bluff and is located within the bluff impact zone.

The previous variance that was granted included conditions that would reduce impervious surface on the lot. Some of these conditions were not completed. The current proposal would add further impervious surface to the lot in addition to what was not removed from the first variance. Impacts from stormwater would accumulate in the bluff impact zone, bluff, and lake. The proposed variance defeats the purpose of the conditions that were included in Variance #16157.

The addition of a porch increases the amount of impervious surface on the lot and is located in an area that is deemed sensitive. The structure would create additional impacts to the bluff impact zone and bluff.

If you choose to not take my recommendation of denial, conditions are listed below.

Condition(s):

- 1) Reduce the size of the porch to one fifth of the proposed length; 8.4 feet. This would help reduce the amount of impervious surface on the lot and reduce stormwater runoff in the bluff and bluff impact zone.
- 2) Remove the concrete surface that is located near the boathouse and lake. As part of Variance #16157, the concrete surface was to be removed. This will help reduce impervious surface on the lot and reduce stormwater runoff.
- 3) Implement at least 2 stormwater best management practices near the south side of the dwelling and/or where the proposed garage will be located. This will help reduce erosion and runoff in the bluff impact zone, bluff, and lake.

- 4) Remove the entire gravel surface that is located west of the proposed garage and reseed with vegetation. As part of Variance #16157, the gravel surface was to be removed. This will help reduce impervious surface on the lot and reduce stormwater runoff.

Sincerely,



Holly Kalbus
Le Sueur County
Environmental Resources Specialist

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:	2/20/2019	PERMIT NUMBER:	19010	FEE:	\$646.00
60 DAY RULING DATE:	4/21/2019	911:	50411 MORTENSON LN, WATERVILLE		
APPLICANT:	ESMAIL & BARABARA MOSTAGHI	LAND OWNER:	ESMAIL & BARBARA MOSTAGHIMI		
ADDRESS:	113 PARK AVE	ADDRESS:	50411 MORENSEN LN		
CITY:	LE CENTER	CITY:	WATERVILLE		
STATE:	MN	STATE:	MN	ZIP:	56096
PHONE:	507-351-6644	PHONE:	507-351-6644		
TOWNSHIP:	WATERVILLE	PARCEL NO:	14.420.0100 & 14.028.0110		
SEC:	28	SUBDIV:	AUDITORS		
TWP:	109	LOT:	11	ZONE:	RR
RANGE:	23	BLOCK:		FEMA PANEL #	27079C0430D
Q/Q:		ROAD:	PVT	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:

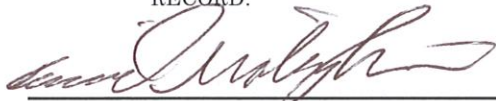
1.) Reason for Requested Variance:

TO ALLOW THE APPLICANT TO DEVIATE FROM CONDITIONS OF A PREVIOUSLY APPROVED VARIANCE #16157; TO CONSTRUCT A DETACHED GARAGE 6' FROM THE EAST PROPERTY LINE AND 8' FROM THE ROAD ROW; TO CONSTRUCT A FRONT PORCH ADDN 0' TO THE BLUFF WITHIN THE BIZ.

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

2-20-19

DATE



LE SUEUR COUNTY PLANNING AND ZONING AUTHORITY

2-20-19

DATE

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

ON-SITE TOUR DATE:	3/21/2019	
PUBLIC HEARING DATE:	3/21/2019	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: ESMail & BARABARA MOSTAGHIMI

Variance # 19010

Variance Request: TO ALLOW THE APPLICANT TO DEVIATE FROM CONDITIONS OF A PREVIOUSLY APPROVED VARAINCE #16157; TO CONSTRUCT A DETACHED GARAGE 6' FROM THE EAST PROPERTY LINE AND 8' FROM THE ROAD ROW; TO CONSTRUCT A FRONT PORCH ADDN 0' TO THE BLUFF WITHIN THE BIZ.

- 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"/>
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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 Esmail and Barbara Mostaghimi
 Mailing Address 113 S. Park Lane
 City Le Sueur State MN Zip 56058
 Phone # 507-351-6644 Phone # 507-351-6645

II. Landowner:
 Name Esmail and Barbara Mostaghimi
 Property Address 50411 Mortensen Lane
 City Waterville State MN Zip 56096
 Phone # 507-351-6644 Phone # 507-351-6645

III. Parcel Information:
 Parcel Number R14.420.0100 + R14.028.0110 Parcel Acreage 15,526 Sq Ft
 Township 109 North Section 28
 Subdivision Auditor's SD Lot 11 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).
Requesting removal of conditions on a variance granted in July 2016 (Variance #16157) and requesting variance for road row and property line setbacks for construction of a garage with a loft and variance for bluff setback for construction of a porch.

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.)

Waterville Township Township notified on 2-15-19
 (Township Name) (Date)

Board Member Al Gehrke 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 - <i>Within and adjacent to project area.</i> | |
| • Lot Dimensions | • Ponds | • Location of trees to be removed - <i>Shoreland Districts.</i> | |

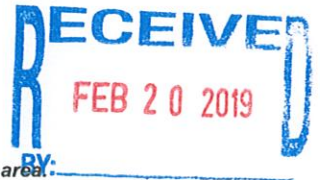
• Impervious Surface

- Required for *Shoreland, Business, & Industrial Districts.*
- Itemized current & proposed impervious surfaces to include total percentages.
- Examples include but are not limited to: *rooftops, sidewalks, patios, decks, driveways, parking lots, storage areas and concrete, asphalt, or gravel roads, or tightly compacted soils.*

*Site shall be physically staked, then surveyed.

*Stakes shall be in place at the time of onsite visit/meeting, or the application will be tabled.

*Stakes must remain in place until construction commences.



VIII. Practical Difficulty:

- a. Variances shall only be permitted when they are in harmony with the general purposes and intent of the official controls and are consistent with the comprehensive plan.
- b. A Variance may be granted only where the strict enforcement of the official control will result in a practical difficulty.
- c. It is the responsibility of the applicant and/or landowner to prove evidence that a practical difficulty exists.
- d. A determination that a practical difficulty exists upon the consideration of the following criteria:

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

The garage will be built in the same area that is already being used for parking. The porch will be an extension of the roof on the front side of the house and a portion will cover an already existing walkway.

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

The southwest corner of the garage will be 8.6' from Mortensen Lane and the east side of the garage will be 6.5' from the property line. The porch is located in a bluff.

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

Someone built the road in close proximity to the parking area. The house was built by the original owner in a bluff.

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

Properties in the same area have garages and porches.

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

The garage will provide a designated parking area.

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.

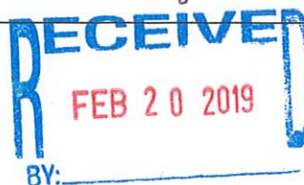
This request does not cause any disruption to natural resource areas. The garage will be built in the same area that is already being used for parking.

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

The property has a septic system and a well.

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

The garage will be built in the same area that is already being used for parking. The porch will be covering an already existing walkway.



IX. Attachments shall include but not limited to:

- | | |
|--|--|
| <input type="checkbox"/> a. Site Plan- survey | <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.

Barbara Montagli
Applicant signature

2-20-19
Date 2-20-19

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.

Barbara Montagli
Landowner signature

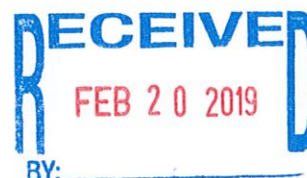
2-20-19
Date 2-20-19

OFFICE USE ONLY

Date received <u>2-20-19</u>	Present Zoning Classification <u>RR</u>	Feedlot within 500' 1000' <u>N</u>
Meeting date <u>3-21-19</u>	Lake Classification <u>RD</u>	Erosion Control Plan <u>Y</u> <u>N</u>
60 Day <u>4-21-19</u>	Lake <u>Tetonka</u>	Water courses <u>Y</u> <u>N</u>
RFPE <u>1006.08</u>	FEMA Panel # <u>2707AC00400</u>	Bluff <u>Y</u> <u>N</u>
<input checked="" type="checkbox"/> Site Plan -survey	Flood Zone <u>X-outside</u>	Other _____
<input type="checkbox"/> Surveyor Certificate	<input checked="" type="checkbox"/> Full legal description	<input checked="" type="checkbox"/> Septic _____
<input checked="" type="checkbox"/> Floor plans/blue prints	<input type="checkbox"/> Access approval	<u>COC</u> NONC/Waiver Design
<input checked="" type="checkbox"/> Description of Request	<input type="checkbox"/> Blue-Prints	<u>Fee \$ 6.44</u> ATF / SPEC MTG
<input checked="" type="checkbox"/> Application complete	<u>Michelle R. Mott</u> Planning & Zoning Department Signature	<u>2-20-19</u> Date <u>1900</u> Permit #

01-15-16

4



Variance Application

Applicant: Esmail & Barbara Mostaghimi

IV. Variance Request:

Requesting removal of conditions on a variance granted in July 2016 (Variance Number 16157) and requesting variance for road row and property line setbacks for construction of a garage with a loft and variance for bluff setback for construction of a porch.

V. Description of Request:

We were granted a variance in July 2016 (Variance Number 16157) to repair an existing deck located within the bluff. The variance was approved as submitted which included the removal of 242 square feet of concrete in the shore impact zone, 606 square feet of parking and steps, and also 22 square feet of concrete up near the deck for a total of 870 square feet removal of impervious surface to bring total down to 24.9% impervious surface on the lot. In 2018 we purchased an additional lot next to ours and have combined both lots bringing down the percentage of total impervious surface below 25%. Additionally we have consulted with a general contractor regarding the removal of the 242 square feet of concrete surface next to the boat house in the shore impact zone. The general contractor's letter is included with this application. They believe the concrete slab is helping the slab underneath the boat house remain stable and stationary. Therefore, due to our lots being combined bringing the total impervious surface below 25% and the necessity to keep intact the concrete surface next to the boat house, we are requesting to have the conditions outlined above removed on the variance granted in July 2016. We are also requesting a variance for road row and property line setbacks for the construction of a 2 stall, 24' by 24' garage with a loft where the parking area is located and a variance for bluff setback for the construction of a porch on the front of the house. Attached are the plans and a survey indicating the locations of the garage and porch.



Greg Wilmes Roofing & Remodeling, LLC
Wilmes Exteriors, LLC
435 Herbert Street North
Waterville, MN 56096
507-202-7070

January 14, 2019

Essie Mostaghimi
113 Southpark Lane
LeSueur, MN 56058

Dear Mr. Mostaghimi:


At your request, I have inspected the boathouse, landscaping, and concrete slabs located on the south shore of Lake Tetonka at 50441 Mortenson Lane, Waterville, and believe that the structure and concrete are best left as is.

I have been a licensed contractor in the State of Minnesota for over 18 years and have completed literally tons of concrete slab work. I, too, live on the south side of Lake Tetonka and have occasionally had minor issues with my own concrete moving slightly from freezing and thawing.

In your situation I believe the concrete slab on the east side of the boathouse is helping the slab underneath the boathouse remain stable and stationary. I think there's a very good chance the boathouse could move if you altered the concrete around it.

If you'd like to discuss the situation or need more information, please call me at the number listed in the letterhead.

Sincerely,



Gregory F. Wilmes

Greg Wilmes Roofing & Remodeling, LLC
Wilmes Exteriors, LLC

PROPOSED DESCRIPTION from Mortensen

Part of Government Lot 3 of Section 28, Township 109 North, Range 23 West, Le Sueur County, Minnesota, described as follows; Commencing at the Southeast Corner of Lot 9 of AUDITOR'S SUBDIVISION of a part of Government Lots 3 & 4, Section 28, Township 109 North, Range 23 West, per the recorded plat thereof; thence North 07 degrees 37 minutes 54 seconds East on the east line of said Lot 9, a distance of 15.00 feet; thence South 76 degrees 32 minutes 06 seconds East parallel with the south line of Lot 10 of said AUDITOR'S SUBDIVISION, a distance of 50.00 feet to the point of beginning; thence continuing South 76 degrees 32 minutes 06 seconds East, a distance of 59.16 feet to the Northeast corner of a Parcel described in Document Number 355359, recorded in the Le Sueur County Recorder's Office; thence South 00 degrees 07 minutes 16 seconds East on the east line of said document, a distance of 177.00 feet; thence North 90 degrees 00 minutes 00 seconds West, a distance of 57.51 feet; thence North 00 degrees 07 minutes 16 seconds East, a distance of 190.78 feet to the point of beginning.

Said parcel contains 0.24 acres of land.

EXISTING & PROPOSED CONDITIONS

PID 14.420.0100

OWNER ADDRESS
ESMAIL & BARBARA MOSTAGHIMI
113 PARK LANE SOUTH
LE SUEUR, MN 56058

SITE ADDRESS
50411 MORTENSEN LANE
WATERVILLE, MN 56096

EXISTING IMPERVIOUS SURFACES

HOUSE W/OVERHANG	942 SQ FT
BOAT HOUSE	526 SQ FT
WELL HOUSE	23 SQ FT
GRAVEL SURFACE	1033 SQ FT
CONCRETE SURFACE 1	17 SQ FT
CONCRETE SURFACE 2	66 SQ FT
CONCRETE SURFACE 3	9 SQ FT
CONCRETE SURFACE 4	383 SQ FT
DECK	364 SQ FT
RETAINING WALL 1	21 SQ FT
RETAINING WALL 2	18 SQ FT
RETAINING WALL 3	2 SQ FT
RETAINING WALL 4	3 SQ FT
RETAINING WALL 5	12 SQ FT
RETAINING WALL 6	26 SQ FT
RETAINING WALL 7	16 SQ FT
RETAINING WALL 8	6 SQ FT
RETAINING WALL 9	19 SQ FT
RETAINING WALL 10	16 SQ FT
RETAINING WALL 11	13 SQ FT
RETAINING WALL 12	15 SQ FT
RETAINING WALL 13	8 SQ FT
RETAINING WALL 14	11 SQ FT
RETAINING WALL 15	8 SQ FT
RETAINING WALL 16	7 SQ FT
LANDSCAPING TIMBERS 1	40 SQ FT
CONCRETE STEPPING PADS	8 SQ FT
TOTAL	3612 SQ FT (41.6%)

PROPOSED IMPERVIOUS SURFACES

ADDITION	
GARAGE W/ OVERHANG	+661 SQ FT
PORCH W/ OVERHANG	+294 SQ FT
STEPS	+8 SQ FT
REMOVALS	
REMOVE GRAVEL SURFACE	-661 SQ FT
CONCRETE SURFACE 2	-66 SQ FT
HOUSE OVERHANG	-42 SQ FT
TOTAL	+194 SQ FT (2.2%)

ORIGINAL LOT AREA

8669 SQ FT

PROPOSED ADDED LAND TO LOT FOR PERVIOUS SURFACE

ADDED PERVIOUS SURFACE TO LOT 6773 + 84 = 6857 SQ FT
TOTAL 6857 SQ FT

TOTAL LOT AREA EAST & NORTH OF ROAD

8669 SQ FT + 6857 SQ FT = 15,526 SQ FT
TOTAL = 15,526 SQ FT

EXISTING IMPERVIOUS

3612 SQ FT

EXISTING IMPERVIOUS

3612 / 15,526 = 23.2%

EXISTING + PROPOSED IMPERVIOUS

3612 + 194 = 3806 SQ FT

NEW TOTAL IMPERVIOUS

3806 / 15,526 = 24.5%

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
8/7/18
Date

REVISED ORIGINAL SURVEY: 10-8-18
11-8-18
ADDED SET IRON MONUMENTS: 12-11-18
REVISED ORIGINAL SURVEY: 1-23-19 (ADD GARAGE AND REMOVE CONCRETE TO BE REMOVED BACK INTO CALCS)
2-18-19 (ADDED DIMENSIONS & PORCH)

LEGEND

- MONUMENT FOUND
- DECIDUOUS TREE
- COMMUNICATION PEDESTAL
- STORM MANHOLE
- FENCE LINE
- ELECTRIC PEDESTAL



CERTIFICATE OF SURVEY LE SUEUR COUNTY, MINNESOTA



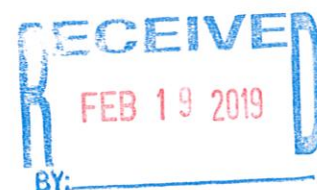
1960 PREMIER DRIVE
MANKATO, MINNESOTA 56001
(507) 625-4171

LOT 11, AUDITOR'S SUBDIVISION & 35' S PARCEL
GOV'T LOT 3 & 4 OF SECTION 28, TOWNSHIP 109
NORTH, RANGE 23 WEST, LE SUEUR COUNTY, MN

FOR: ESSIE MOSTAGHIMI

RETAINING WALLS DIMENSIONS

RETAINING WALL 1	46 L x 0.5 W x 0.5'-3'± H
RETAINING WALL 2	40 L x 0.5 W x 3' H
RETAINING WALL 3	5 L x 0.5 W x 0.25' H
RETAINING WALL 4	8 L x 0.5 W x 0.5'-3'± H
RETAINING WALL 5	27 L x 0.5 W x 0.5'-3' H
RETAINING WALL 6	58 L x 0.5 W x 1'± H
RETAINING WALL 7	35 L x 0.5 W x 2'± H
RETAINING WALL 8	12 L x 0.5 W x 0.5'± H
RETAINING WALL 9	35 L x 0.5 W x 1.5'± H
RETAINING WALL 10	36 L x 0.5 W x 1'± H
RETAINING WALL 11	30 L x 0.5 W x 0.5'-3'± H
RETAINING WALL 12	33 L x 0.5 W x 0.5'-3'± H
RETAINING WALL 13	18 L x 0.5 W x 7'± H
RETAINING WALL 14	18 L x 0.5 W x 3'± H
RETAINING WALL 15	17 L x 0.5 W x 2.5'± H
RETAINING WALL 16	16 L x 0.5 W x 0.8'-1'± H



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H:\MOSTAGES_PR\M33116860\CAD\C3D\116860_V_PROP_N1 - LEGAL DESCRIPTION 8-2-18.dwg 2/19/2019 11:21 AM

SDB116860

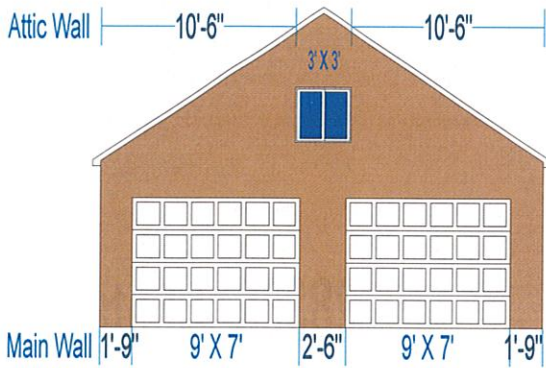
JOB NUMBER: M33.116860 FIELD BOOK: 90K PG 68

DRAWN BY: JLA

4.0 S28-T109N-R23W

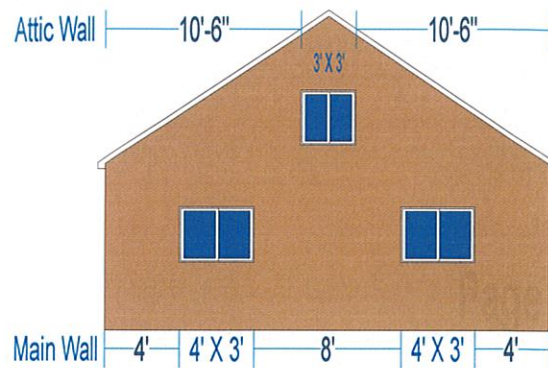
*** Here are the wall configurations for your design.

Illustration May Not Depict All Options Selected



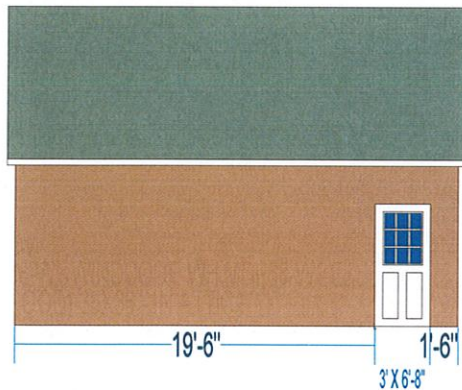
Gable Front View

- (2) - 9X7 MDP38-W1 WINDCODE WH MDP38-W1 EZSET
- (1) - SLIDER (GOOD) 36X36 - IN ATTIC



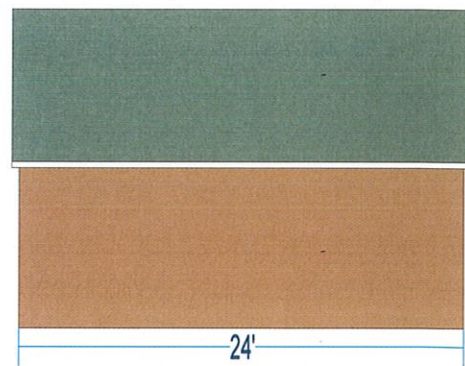
Gable Back View

- (2) - SLIDER (GOOD) 48X36
- (1) - SLIDER (GOOD) 36X36 - IN ATTIC

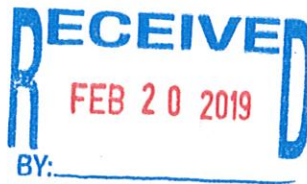


Eave Front View

- (1) - I-4 9-LITE TRAD 2-PNL PH 36X80 RH SN



Eave Back View



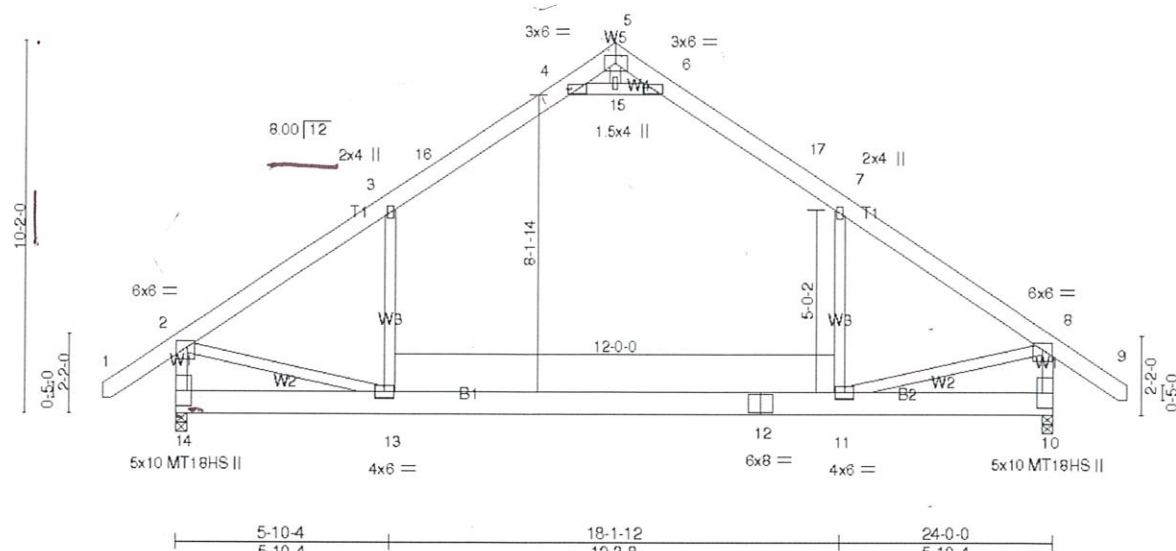
Building Size: 24 feet wide X 24 feet long X 8 feet high

Approximate Peak Height (includes 1 row of concrete blocks): 17 feet 6 inches (210 inches)

NOTE: Overhead doors may need to be "Wind Code Rated" depending on your building location.

Confirm the door requirements with your local zoning official before construction.

Menards-provided material estimates are intended as a general construction aid and have been calculated using typical construction methods. Because of the wide variability in codes and site restrictions, all final plans and material lists must be verified with your local zoning office. Menards is a supplier of construction materials and does not assume liability for design, engineering or the completeness of any material lists provided. Underground electrical, phone and gas lines should be located and marked before your building plans are finalized. Remember to use safety equipment including dust masks and sight and hearing protection during construction to ensure a positive building experience.

Scale = 1:60.2[illegible]

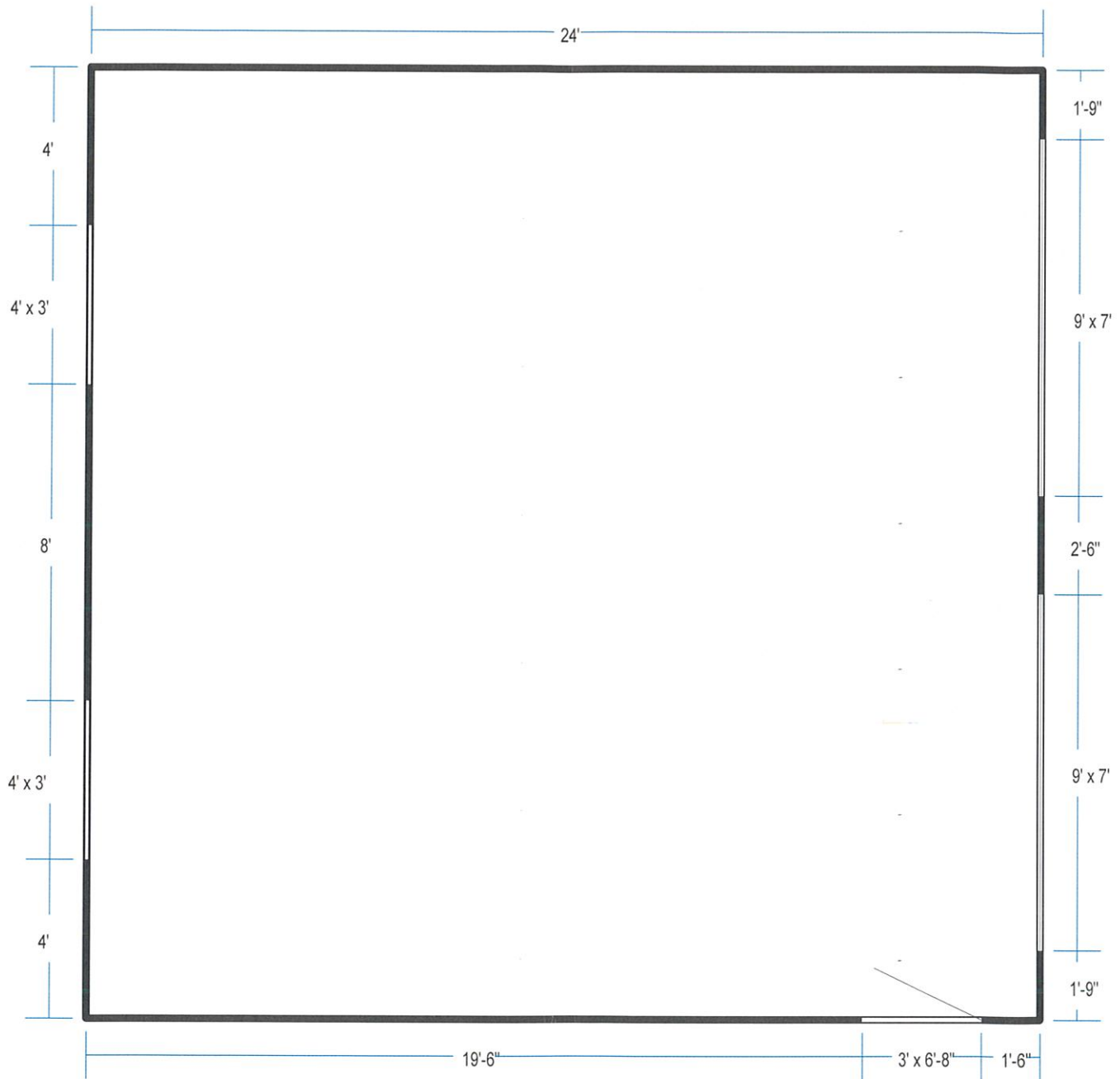
MiTek recommends that Stabilizers and required cross bracing be installed during truss erection, in accordance with Stabilizer Installation guide.

LOAD CASE(S) Standard



*** Floor Plan.

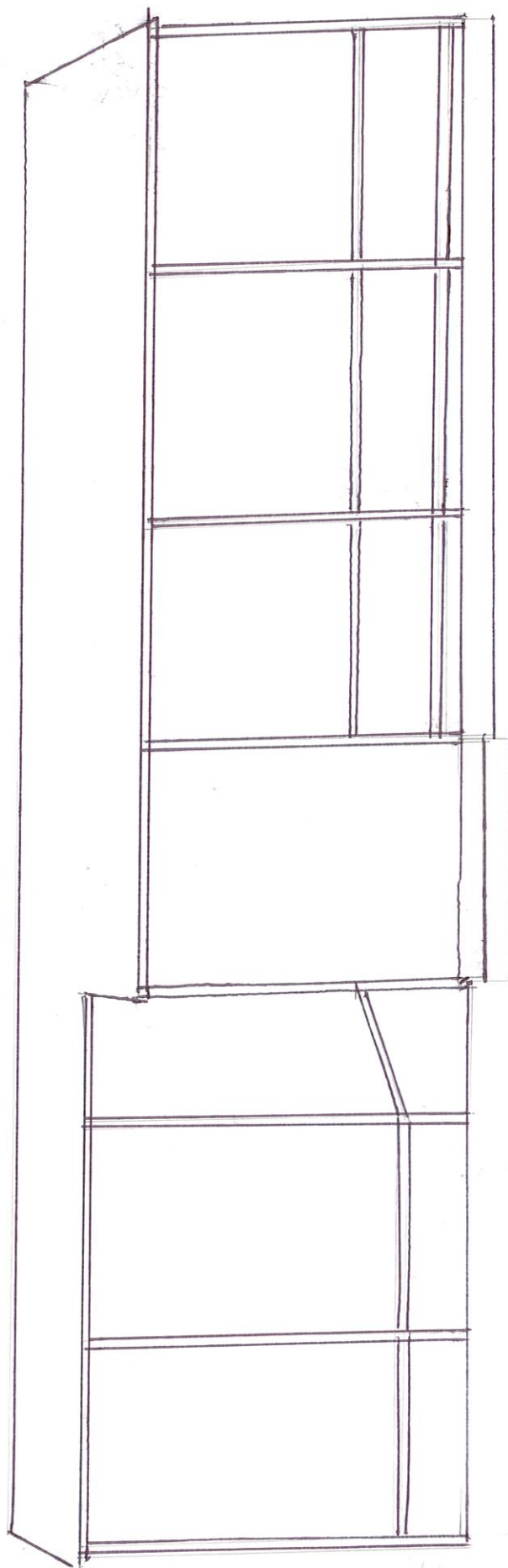
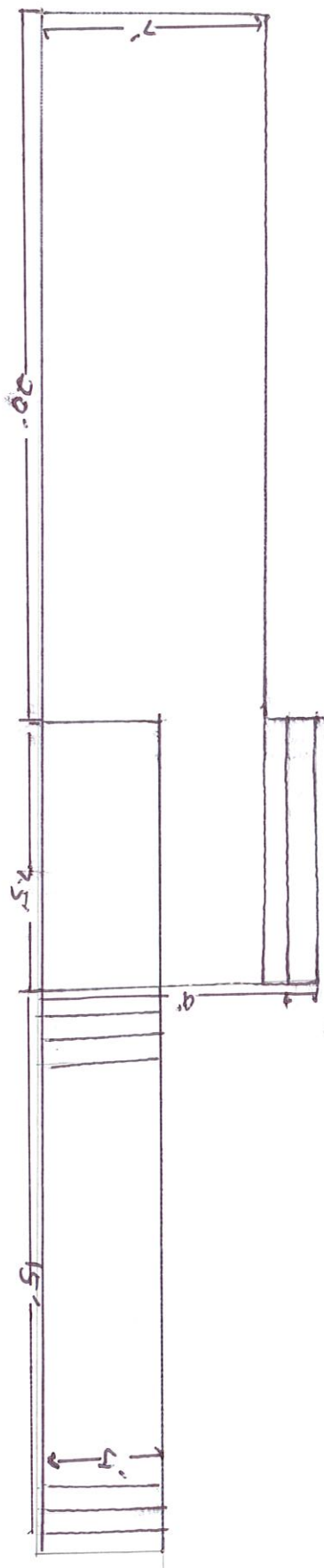
Illustration May Not Depict All Options Selected



Building Size: 24 feet wide X 24 feet long X 8 feet high

Note: Wall construction is 2x6 @ 16" on center

RECEIVED
FEB 20 2019
BY: _____



front elevation

14.470, 0100

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

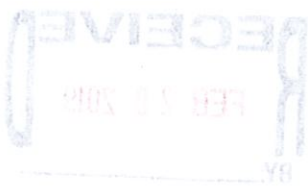
Goal: To control erosion and prevent sediment and other pollutants from entering the lakes, streams, wetlands, and storm drain systems during construction.

Property Owner: Esmail and Barbara Mostaghimi PID: R14.420.0100 + R14.028.0110
Mailing Address: 113 S. Park Lane, Le Sueur, MN 56058
Property Address: 50411 Mortensen Lane Waterville, MN 56096
Phone: (507) 351-6644 Mobile/Cell: (507) 351-6645

Responsible party for Implementation/Inspection: Esmail Mostaghimi
Address: 113 S. Park Lane, Le Sueur, MN 56058
Phone: (507) 665-5058 Mobile/Cell: (507) 351-6644

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 1st. 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.

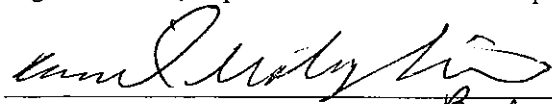
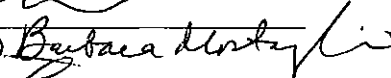
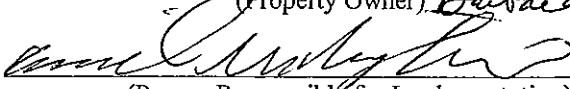
15. Attach a site map showing the location of all erosion control practices, property lines, roads, lakes, watercourses, wetlands, on-site systems and building locations.

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

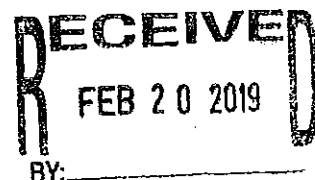
16. Inspect the construction site every 7 days and within 24 hours after every rain event to ensure the practices are working properly (i.e. silt fences, water bars).
17. Clean out the silt fences when they are 1/3 full of sediment or replace with functional silt fences within 24 hours.
18. Clean out 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) 

(Person Responsible for Implementation)

2-20-19
2-20-19 (Date)
2-20-19
(Date)

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



LE SUEUR COUNTY ENVIRONMENTAL SERVICES

NAME: Mostaghimi
PID: 14.420.0100
DATE: 11-28-18
FIRM #: 27079C0430D
F-Zone: AE 100 yr flood zone
RFPE: na
District: Recreational/Residential & Flood Fringe Floodplain



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

Created By: MRM

Photo dated April/May 2017



LE SUEUR COUNTY
ENVIRONMENTAL SERVICES
507-357-8538

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

SHARON J. BUDIN, RECORDER
Le Sueur County, Minnesota

Pages 2 SAB

Well Cert Received
Well Cert Not Required

STATE OF MINNESOTA
COUNTY OF LE SUEUR

LE SUEUR COUNTY BOARD OF ADJUSTMENT
VARIANCE PROCEEDINGS

IN THE MATTER OF: ESMAIL AND BARBARA MOSTAGHIMI

REQUEST: Allow the applicant to repair an existing deck located within the bluff in a Recreational Residential "RR" District on a Recreational Development "RD" lake, Lake Tetonka.

ORDER GRANTING VARIANCE # 16157

OWNER: ESMAIL AND BARBARA MOSTAGHIMI

The above entitled matter came on to be heard before the Le Sueur County Board of Adjustment on the 21 day of July, 2016, on a petition for a Variance pursuant to the Le Sueur County Zoning Ordinance, for the following described property: **SEE ATTACHED**

IT IS ORDERED that the Variance be granted as written with the following conditions or reasons:

1. The Variance is reasonable.
2. The alleged practical difficulty is unique to the property.
3. The circumstances causing the practical difficulty were created by someone other than the landowner.
4. The issuance of the Variance will maintain the essential character of the locality.
5. The alleged practical difficulty involves more than economic considerations.
6. The Variance is consistent with and supported by the statement of purposes, policies, goals and objectives in the Ordinance.
7. The Variance is consistent with the Comprehensive Plan.
8. The footprint of the deck remains the same and the existing footings are used.

DATED THIS 22nd DAY OF July, 2016.

Nathy Brockway
LE SUEUR COUNTY ZONING AUTHORITY

STATE OF MINNESOTA)
) SS.
COUNTY OF LE SUEUR)

LE SUEUR COUNTY OFFICE
OF PLANNING AND ZONING

IN THE TESTIMONY WHEREOF, I have hereunto subscribed my hand at Le Center, Minnesota, in the County of Le Sueur, on the 26th day of July, 2016.

Da R
LE SUEUR COUNTY ADMINISTRATOR

SEAL
AFFIXED

LE SUEUR COUNTY ENVIRONMENTAL SERVICES
88 SOUTH PARK AVE.
LE CENTER MN 56057-1620
(507) - 357-8538
Fax (507) - 357-8541

July 22, 2016

Esmail and Barbara Mostaghimi
113 S Park Lane
Le Sueur MN 56058

Parcel No: 14.420.0100

RE: Variance Approval

Dear Mr. and Mrs. Mostaghimi:

The Le Sueur County Board of Adjustment approved your application for Variance # 16157 on July 21, 2016 with the following condition:

1. That the footprint of the deck remains the same and the existing footings are used.

The Department is required to notify all property owners of record within 500 ft of the affected property, regarding the decisions made by the Board of Adjustment in granting the variances or in hearing appeals from any administrative order, requirements, decision or determination shall be final except that any aggrieved person or persons, or any department, board of commission of the jurisdiction or of the state shall have the right to appeal the Board's decision within 30 days, after notice of the decision, to the district court.

The Variance will lapse within one year from the date of the approval. Construction must be completed prior to the expiration of the Variance. A zoning permit is required prior to starting any construction on your project.

If the work permitted by the Variance has not been completed, a petition for extension may be requested thirty (30) days prior to the Variance expiration. The request for extension shall state facts showing a good faith attempt to complete the work permitted in the Variance. The petition for extension shall be filed with the Planning & Zoning Administrator. Such petition shall be presented to the Board of Adjustment for a decision.

If you have any questions, please contact this office at the above-listed number.

Thank you.

Kathy Brockway
(electronic signature)

Kathy Brockway
Le Sueur County
Planning and Zoning
Administrator

CC: ✓ file
DNR
Le Sueur County Assessor's Office

**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: 07/07/2016

To: Le Sueur County Planning and Zoning Board of Adjustment

From: Joshua Mankowski, Environmental Resources Specialist

Applicant: Esmail and Barbara Mostaghimi

Property owner: Esmail and Barbara Mostaghimi

Property: 14.140.0100

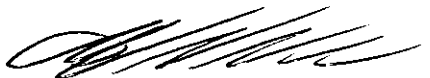
Description:

Allow the applicant to repair an existing deck located within the bluff on Lake Tetonka

Recommendation:

It is my recommendation to approve the Variance request to allow for repair of the existing deck. The footprint of the deck must not change and existing footings must be used.

Sincerely,



Joshua Mankowski
Le Sueur County
Environmental Resources Specialist

Variance Application

I. Applicant:

Name Esmail and Barbara Mostaghimi
 Mailing Address 113 S. Park Lane
 City Le Sueur State MN Zip 56058
 Phone # 507-351-6644 Phone # 507-351-6645

II. Landowner:

Name Esmail and Barbara Mostaghimi
 Property Address 50411 Mortensen Lane
 City Waterville State MN Zip 56096
 Phone # 507-351-6644 Phone # 507-351-6645

III. Parcel Information:

Parcel Number R14.420.0100 Parcel Acreage 8669 SqFT
 Township 109 North Section 28
 Subdivision Auditors SD Lot 11 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).

Existing deck is located in a bluff.
Repairing an existing deck.

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.)

Waterville Township Township notified on June 14 - 2016
 (Township Name) (Date)

Board Member Commins 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 - <i>Within and adjacent to project area.</i> | |
| • Lot Dimensions | • Ponds | • Location of trees to be removed - <i>Shoreland Districts.</i> | |

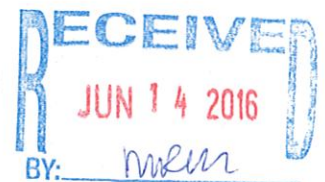
• Impervious Surface

- Required for *Shoreland, Business, & Industrial Districts.*
- Itemized current & proposed impervious surfaces to include total percentages.
- Examples include but are not limited to: *rooftops, sidewalks, patios, decks, driveways, parking lots, storage areas and concrete, asphalt, or gravel roads, or tightly compacted soils.*

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

*Stakes shall be in place at the time of onsite visit/meeting, or the application will be tabled.

*Stakes must remain in place until construction commences.



VIII. Practical Difficulty:

- a. Variances shall only be permitted when they are in harmony with the general purposes and intent of the official controls and are consistent with the comprehensive plan.
- b. A Variance may be granted only where the strict enforcement of the official control will result in a practical difficulty.
- c. It is the responsibility of the applicant and/or landowner to prove evidence that a practical difficulty exists.
- d. A determination that a practical difficulty exists upon the consideration of the following criteria:

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

The deck already exists. We just want to repair it and make sure it is safe for our family.

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

The deck is located in a bluff and is in the only location that is practical.

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

The deck was put in place by previous home owners.

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

It enhances the outdoor living space of the property.

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

The deck is the means for exiting the rear of the house from the 2nd floor (main floor).

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

Yes, except for it being located in a bluff.

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

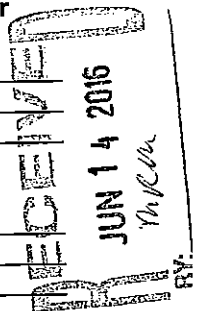
We are only repairing the existing deck.

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

The property has a septic system and a well.

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

We are not adding or removing; we are repairing the existing deck to make it safe.



IX. Attachments shall include but not limited to:

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

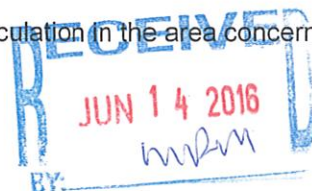
Additional Fees:

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

June-5-2016
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

June-5-2016
Date

OFFICE USE ONLY

Date received <u>10-14-16</u>	Present Zoning Classification <u>RR</u>	Feedlot within 500' <u>1000'</u> <u>(N)</u>
Meeting date <u>7-24-16</u>	Lake Classification <u>RD</u>	Erosion Control Plan <u>(Y)</u> <u>N</u>
60 Day <u>8-13-16</u>	Lake <u>Teton Kaw</u>	Water courses <u>(Y)</u> <u>(N)</u>
RFPE <u>1000.08</u>	FEMA Panel # <u>27079004350</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 type="checkbox"/> Floor plans/blue prints	<input type="checkbox"/> Access approval	<u>COE</u> NONC/Waiver Design
<input checked="" type="checkbox"/> Description of Request	<input checked="" type="checkbox"/> Blue Prints	<input checked="" type="checkbox"/> Fee \$ <u>1240</u> ATF / SPEC MTG
<input checked="" type="checkbox"/> Application complete	<u>[Signature]</u> Planning & Zoning Department Signature	<u>12-13-16</u> Date
		<u>16157</u> Permit #

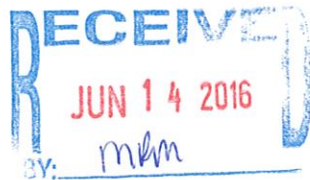
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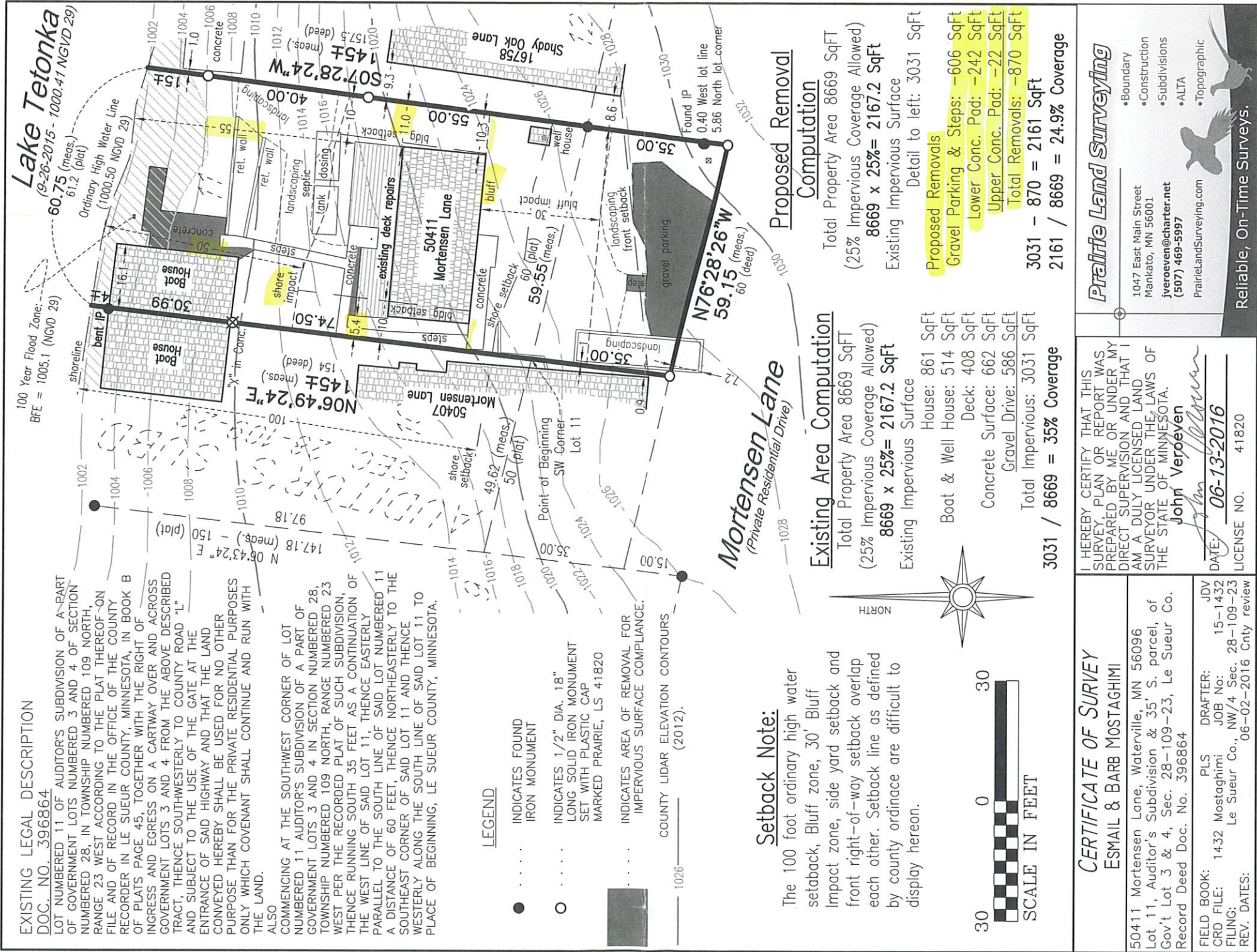
**Le Sueur County
Variance Application**

Esmail and Barbara Mostaghimi
50411 Mortensen Lane
Waterville, MN 56096

V. Description of Request:

Existing deck is in need of repair. It is unsafe in its current condition. In order to exit from the rear of the house we need to go on or under the deck. Our plan is to replace the surface and the railings of the deck. We are keeping the deck the same size. We are not extending or making the deck any bigger. We are also not putting any new footings.





LE SUEUR COUNTY PLANNING AND ZONING COMMISSION

BOARD OF ADJUSTMENT

88 SOUTH PARK AVE.

LE CENTER, MINNESOTA 56057

July 21, 2016

MEMBERS PRESENT: Jeanne Doheny, Jim Mladek, Francis Cummins

MEMBERS ABSENT: Colin Harris, John Wolf

OTHERS PRESENT: Kathy Brockway

The meeting was called to order at 3:00 PM by chairperson, Jeanne Doheny.

ITEM #1: RANDALL & ANN VARGASON, WATERVILLE, MN, (APPLICANT/OWNER): Request that the County grant a Variance from the Le Sueur County Zoning Ordinance to allow the applicant to utilize the existing septic tank located 4 feet from the property line, install a new pump tank 5 feet from the property line, utilize the existing drainfield located 7 feet from the attached garage, and install additional drainfield 16 feet from the attached garage and 5 feet from the property line in a Recreational Residential "RR" District on a Recreational Development "RD" lake, Lake Tetonka, and within the Flood Plain and Mineral Resources Overlay Districts. Property is located at Lot 5, Auditor's Subdivision, Section 28, Waterville Township. **VARIANCE IS FOR SSTS TO PROPERTY LINE AND STRUCTURE SETBACKS.**

Randall and Ann Vargason were present for application. Township: Notified through the application process. DNR: No Comments. Letters submitted: none.

Discussion was held regarding; Variance approved in May of 2015, expired, therefore needed to reapply, no changes from the previous variance request.

Motion was made by Jim Mladek to approve the application as written. Seconded by Fritz Cummins. Motion approved. Motion carried.

ITEM #2: CHARLES RETKA, CJ FARMS, LE SUEUR, MN, (APPLICANT); CHARLES AND MARIE RETKA, LE SUEUR, MN, (OWNER): Request that the County grant a Variance from the Le Sueur County Zoning Ordinance to allow the applicant to construct a grain bin 68 feet from the County road Right-Of-Way (ROW) and 3 feet from an accessory structure in an agriculture "A" District. Property is located in the SW 1/4, Section 12, Tyrone Township. **VARIANCE IS FOR ROAD ROW AND STRUCTURE SETBACKS.**

Chuck Retka was present for application. Township: notified through the application process. DNR: N/A. Letters submitted: none.

Discussion was held regarding; grain bin setup has been in place since 1980, met the setbacks at that time, County changed the requirements, 48' diameter bin between the two existing bins, no other room within the bin site.

Motion was made by Fritz Cummins to approve the application as requested. Seconded by Jim Mladek. Motion approved. Motion carried.

ITEM #3: TAMERA KAPLAN, SAVAGE, MN (APPLICANT/OWNER): Requests that the County grant a Variance from the Le Sueur County Zoning Ordinance to allow the applicant a total of 27% impervious surface; create impervious surface within the shore impact zone; and construct a deck 46 feet from the Ordinary High Water Level (OHWL) in a Recreational Residential "RR" District on a Recreational Development "RD" lake, Lake Frances. Property is located at Lot 6, Dick's Southside Subdivision, Section 34, Elysian Township. **VARIANCE IS FOR IMPERVIOUS SURFACE AND OHWL SETBACKS.**

Jeremy Braun, representative for the applicant was present for application. Township: notified through the application process. DNR: no comments. Letters submitted: Joshua Mankowski, LSC Resource Specialist (see file).

Discussion was held regarding: explained the proposal, not increasing the size of the deck, will be installing pervious pavers to decrease impervious surface, structural damage, will use the current foundation, Bolton and Menk will provide an as-built when the project is completed.

Motion was made by Jim Mladek to approve the application. Seconded by Fritz Cummins. Motion approved. Motion carried.

ITEM #4: ESMAIL & BARBARA MOSTAGHIMI, LE SUEUR, MN

(APPLICANT/OWNER): Request that the County grant a Variance from the Le Sueur County Zoning Ordinance to allow the applicant to repair an existing deck located within the bluff in a Recreational Residential "RR" District on a Recreational Development "RD" lake, Lake Tetonka. Property is located at Lot 11, Auditor's Subdivision, Section 28, Waterville Township. **VARIANCE IS FOR BLUFF SETBACK.**

Esmail Mostaghimi was present for application. Township: Notified through the application process. DNR: no comments. Letters submitted: Joshua Mankowski, LSC Resource Specialist (see file).

Discussion was held regarding: safety of deck, not changing the footprint of the structure, replacing the deck boards and railings.

Motion was made by Jim Mladek to approve the application with the condition that footprint of the deck remains the same and the existing footings are used. Seconded by Fritz Cummins. Motion approved. Motion carried.

ITEM #5: JIM & RENE RUBBISH, OWATONNA, MN (APPLICANT/OWNER): Request that the County grant a Variance from the Le Sueur County Zoning Ordinance to allow the applicant to construct a 22 X 38 detached garage 6 feet from the property line and a total of 31.8% impervious surface in a Recreational Residential "RR" District on a Recreational Development "RD" lake, Lake Washington, and within the Flood Plain Overlay District, Flood Fringe "FF". Property is located at Lot 7, Washington Park Subdivision, Section 17, Washington Township. **VARIANCE IS FOR PROPERTY LINE SETBACK AND IMPERVIOUS SURFACE.**

Jim and Rene Rubbish were present for application. Township: notified through the application process. DNR: no comments. Letters submitted: Joshua Mankowski, LSC Resource Specialist see file.

Discussion was held regarding constructing a year round home, new detached garage, removal of the bituminous surface, installed a rain garden, multi-level home proposed, remove the existing double wide manufactured home, preserving the oak tree, will down size the garage to keep the tree, pervious pavers installed, gutters on new home.

Motion was made by Fritz Cummins to approve the application with the condition that gutters and other run-off from the impervious surfaces are directed to the pervious areas to better allow infiltration. Seconded by Jim Mladek. Motion approved. Motion carried.

ITEM #6: BRIAN WELCH, ELYSIAN, MN, (APPLICANT/OWNER): Requests that the County grant an After-the-Fact Variance from the Le Sueur County Zoning Ordinance to allow the applicant to construct a 12 x 12 deck with a screened porch 206 feet from the Ordinary High Water Level (OHWL) and a Variance for an additional 12 x 24 deck 180 feet from the OHWL and a wraparound deck to the existing dwelling 178 feet from the OHWL; and to enlarge a non-conforming structure in a Special Protection "SP" District, on a Natural Environment "NE" lake, an Unnamed Lake. Property is located in the NE 1/4, Section 7, Elysian Township. **VARIANCE IS FOR OHWL SETBACK.**

Brian Welch was present for application. Township: notified through the application process. DNR: no comments. Letters submitted: Joshua Mankowski, LSC Resource Specialist, see file.