
Le Sueur County, MN

Thursday, November 20, 2014

Regular Session

Item 2

Item #2 Merlyn Buesgens/Gibson Wong

Staff Contact: Kathy Brockway or Michelle Mettler

VARIANCE STAFF REPORT

GENERAL INFORMATION

APPLICANT: Merlyn Buesgens
OWNER: Gibson Wong
911 ADDRESS: 16127 Pepin LN, Montgomery MN
VARIANCE REQUEST: To allow the applicant to install a septic tank 161 feet from the Ordinary High Water Level (OHWL), install a pump tank 150 feet from the OHWL, and construct a mound drainfield 109 feet from the OHWL.
VARIANCE NUMBER: 14239
PARCEL NUMBER: 07.450.0080

SITE INFORMATION

LOCATION: Lot 8, Bensons's Subdivision, Section 28, Lanesburgh Township

ZONING & PURPOSE: Recreational Residential

The intent of the **Recreational Residential (RR) District** is to preserve areas which have natural characteristics suitable for both passive and active recreational usage. Also, it is the intent of this district to manage areas suitable for residential development of varying types, including permanent and seasonal housing. Some non-residential uses with minimal impacts on residential uses are allowed if properly managed under conditional use procedures.

GENERAL SITE DESCRIPTION: Shoreland, residential

ACCESS: Existing off Pepin Lane

LAKE: Pepin, Natural Environment Lake

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.

ATTACHMENTS

Application, Written Detail of Request, Survey, Surveyor Certification, Aerial photo, Findings of Fact,

STAFF FINDINGS

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

1. <u>Variance:</u>	<u>Request:</u>	<u>Required:</u>	<u>Ordinance:</u>	<u>Page:</u>
a. Septic tank to OHWL:	161 feet	200 feet	Section 17, Subiv. 5.E.1.	13-45
b. Pump tank to OHWL:	150 feet	200 feet	Section 17, Subdiv. 5.E.1	13-45
c. Septic drainfield to OHWL:	109 feet	200 feet	Section 17, Subdiv. 5.E.1	13-45

2. **Refer to DNR Guidance Letters:**

- a. The Role of the Variances in Shoreland Management Ordinances pg. 9
- b. Non-conforming Lots of Record in Shoreland Areas pg. 19
- c. 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.

CONDITIONS

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

VARIANCE

LE SUEUR COUNTY PLANNING AND ZONING
BOARD OF ADJUSTMENT
88 SOUTH PARK AVENUE
LE CENTER MN 56057

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

APPLICATION DATE: 10/28/2014 PERMIT NUMBER 14239 FEE: \$646.00
60 DAY RULING DATE: 12/26/2014

APPLICANT: MERLYN J BUESGENS PROPERTY OWNER: GIBSON WONG
ADDRESS: 311 COLUMBUS AVE APT 205 ADDRESS: 16127 PEPIN LANE
CITY: NEW PRAGUE CITY: MONTGOMERY
STATE: MN ZIP: 56071 STATE: MN ZIP: 56069
PHONE: 952-486-1128 PHONE: 612-289-5455

PARCEL NO: 07.4500.0080 TOWNSHIP: LANESBURGH 911: 16127 PEPIN LANE, MONTGOMERY M N 56069
SEC: GOVT LT 18 SUBDIV: BENSON'S SUBDIVISION
112 - TWP: Govt. Lot 2, Sec. 34 LOT: 8 ZONE: RR
RANGE: 23W BLOCK: FEMA PANE 27079C0200D
Q/Q: ROAD: TWP FLOOD ZON X OUTSIDE-A

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 161 FT FROM THE OHWL, PUMP TANK 150 FT FROM THE OHWL, AND THE MOUND 109 FT FROM THE OHWL ON A NATURAL ENV. LAKE

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:

X-Mike Sklyanek
APPLICANT/PROPERTY OWNER

10-28-14
DATE

Kathy Brockway
LE SUEUR COUNTY PLANNING AND ZONING AUTHORITY

10-28-14
DATE

** FEES ARE NON-REFUNDABLE**

ON-SITE TOUR DATE: 11/20/2014	
PUBLIC HEARING DATE: 11/20/2014	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: MERLYN J BUESGENS

Variance # 14239

Variance Request: TO ALLOW THE APPLICANT TO INSTALL A SEPTIC TANK 161 FT FROM THE OHWL, PUMP TANK 150 FT FROM THE OHWL, AND THE MOUND 109 FT FROM THE OHWL ON A NATURAL ENV. LAKE

- 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?

Explain _____

JM	JW	JD	CH	FC
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

Explain _____

JM	JW	JD	CH	FC
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

Explain _____

JM	JW	JD	CH	FC
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

Explain _____

JM	JW	JD	CH	FC
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

Explain _____

JM	JW	JD	CH	FC
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

F. Variances shall only be permitted when they are in harmony with the general purposes and intent of the official controls.

Y N 6. Is the Variance consistent with and supported by the statement of purposes, policies, goal and objectives in the Ordinance?

Explain _____

JM	JW	JD	CH	FC
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

Explain _____

JM	JW	JD	CH	FC
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

() APPROVED

() DENIED

CONDITIONS: _____

Applicant response to conditions:

Agree ()

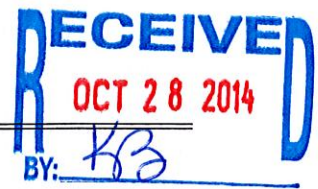
Disagree ()

Reasons: _____

Board of Adjustment Chairman

Date

Le Sueur County



Variance Application

- I. **Applicant:**
Name MERLYN J. BUESGENS
Mailing Address 311 COLUMBUS AVE APT 205
City NEW PRAGUE State MN Zip 56071
Phone # _____ Phone # 952-486-1128
- II. **Land Owner (s), if different from above:**
Name Gibson Wong
Property Address 16127 Pepin Ln
City Montgomery State MN Zip 56069
Phone # 612-289-5455 Phone # 612-605-8840
- III. **Parcel Information:**
Parcel Number 07.450.0080 Parcel Acreage N/A
Legal Description-Full legal description must be attached (not from tax statement)
Please see attached
- IV. **Variance Request:**
To install a septic tank 1161' feet, a pump tank 150 feet, and a mound absorption area 109 feet from the ordinary high water mark of Lake Pepin.
- V. **Township Notification: Township must be notified of proposed request prior to application.**
Lanesburgh Township notified on 10/27/2014
(Township Name) (Date)
Board Member Anthony Kubes regarding the proposed request.
(Name)
- VI. **Quantities and Submittal Formats:**
- One (1) reproducible 8.5" x 11" copy of the request and all other supporting documents.
 - Ten (10) copies must be submitted, if in color, an aerial, or larger than 8.5" x 11" in size,
 - Electronic version of any supporting documents if available.
 - Additional copies may be requested as deemed necessary by the Department.
 - Application must be made in person by the applicant and/or landowner no later than 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.
 - Applications will not be accepted by mail.**

VII. Site Plan-must be a survey and shall include but not limited to the following:

- North point
- Setbacks
- Property lines
- Road Right-Of-Way
- Easements
- Access
- Impervious Surface -- Itemized current & proposed with total percentages *(If in Shoreland)*
- Location of significant trees to be removed *(If in Shoreland)*
- Note how disturbed areas will be restored *(If in Shoreland)*
- Landscape, screening and buffering *(If applicable)*
- Lakes
- Rivers
- Wetlands
- Streams
- Ponds
- Existing structures *(within and adjacent to project area)*
- Proposed Structures
- Lot Dimensions
- Septic System
- Well

Building site shall be physically staked by the surveyor or the application will be tabled.

VIII. Attachments shall include but not limited to:

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

IX. Fee: Must be paid at the time of application.

Variance: \$ 600
Filing Fee: \$ 46

After-The-Fact meeting fees are doubled.

Additional Fees:

Special Meeting: \$1,200
After-The-Fact Penalty: \$1,500 OR 10% of the improvement, whichever is greater.

X. Procedure:

The Board of Adjustment shall hold a public hearing on the proposed Variance at a regularly scheduled Board of Adjustment meeting.

The Board of Adjustment has the authority to determine Variance approval or denial.

The Planning & Zoning Administrator shall notify the applicant and/or landowner in writing of the Board of Adjustment decision.

A zoning permit is required prior to starting construction; however zoning permits will not be available the day of the Board of Adjustment meeting.

XI. 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.

A Variance may be granted only where the strict enforcement of the official control will result in a practical difficulty.

It is the responsibility of the applicant and/or landowner to prove evidence that a practical difficulty exists.

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.
Please see attached

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

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

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

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

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

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

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

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

XII. 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.

Marilyn J. Buegan
Applicant signature

9/23/14
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.

John Wey
Land Owner signature

10/21/14
Date

OFFICE USE ONLY

Date received 10/28 Present Zoning Classification RR Feedlot within 500' 1000' N
Meeting date 11/20 Lake Classification NE Erosion Control Plan Y N
60 Day 11/26 Lake Pepin Water courses Y N
FEMA Panel # 2707960200D Flood Zone Outside A Bluff Y N
☒ Surveyor Certificate ☐ Ordinance ☒ Septic CID DESIGN
☒ Site Plan -survey ☐ Access approval ext. ☒ Fee \$ 400 ATF / SPEC MTG
☒ Full legal ☒ Blue Prints design ☐ Other 46 Rec. Fee
☒ Application complete ☐ Written Detail of Var
K Brockway 10/28/14 14239
Planning & Zoning Department Signature Date Permit #

04-15-13

RECEIVED
OCT 28 2014
BY: 63



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

It is a reasonable request because

- the proposed mound septic system will replace an existing, non-compliant septic system (failing to protect groundwater);
- due to the well location on the west-side of the property near Pepin Lane, this location would require a variance from the Minnesota Department of Health and from Le Sueur County.

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

The circumstances that prevent compliance with the Le Sueur County Zoning Ordinance are the locations of the existing, non-compliant septic system, the location of existing dwelling, and the location of the parcel's well (the parcel's well is located on the road side of the parcel). These circumstances leave the only reasonable location to construct/install the proposed mound septic system between the existing dwelling and the ordinary high water mark of Lake Pepin.

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

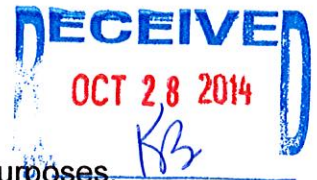
Due to a property transfer, it is a requirement of the Le Sueur County Zoning Ordinance to conduct a compliance inspection on the existing septic system. The compliance inspection deemed the existing septic system as non-compliant; therefore, a new septic system is required to be installed. The locations of the existing dwelling and well leave the only reasonable location to construct/install the proposed mound septic system between the existing dwelling and ordinary high water mark of Lake Pepin.

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

The proposed mound septic system will replace an existing, non-compliant septic system.

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

Yes, the proposed mound septic system will treat the dwelling's sewage on-site and replace the existing non-compliant septic system.



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

Yes, it is the goal of the Ordinance to treat sewage so as to protect ground and surface water.

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

This variance request is consistent with Goal #2, Objective #2 (protecting the county's natural resources) and Goal #3, Objective #1 (protect ground and surface water) by having a septic designed by a licensed contractor that meets the required design standards as prescribed in state statute and county ordinance.

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

The current on-site sewage treatment is non-compliant (failing to protect groundwater). The proposed septic system design will be a 1500 gallon 2-compartment septic tank, a 1000 gallon pump tank, and a pressurized mound soil treatment area.

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

The setback to the ordinary high water mark of Lake Pepin (which 200 feet) is the only septic setback that the proposed mound septic system (septic and pump tanks and pressurized mound soil treatment area) will not meet. The parcel's well on the west-side of the property near Pepin Lane would require a variance from the Minnesota Department of Health and from Le Sueur County if proposed to be installed on the north-side of the dwelling (between the dwelling and the road).



Written Detail of Variance

We are requesting a variance to construct/install

- Septic tank 161 feet from the ordinary high water mark of Lake Pepin;
- Pump tank 150 feet from the ordinary high water mark of Lake Pepin; and
- Mound absorption area 109 feet from the ordinary high water mark of Lake Pepin.

Due to a recent property transfer, a compliance inspection was conducted on the existing septic system. It was deemed non-compliant (failing to protect groundwater). Therefore, a new septic system is required to be installed. Due to the locations of the existing, non-compliant septic system, the location of existing dwelling, and the location of the parcel's well (the parcel's well is located on the road side of the parcel), it leaves the only reasonable location to construct/install the proposed mound septic system between the existing dwelling and the ordinary high water mark of Lake Pepin.

We believe this variance request is reasonable because, once constructed/installed, will provide the property with a septic system that will treat the sewage per the state and county regulations.

Le Sueur County



Surveyor Certification

I. Applicant:

Name ~~Mike MS Excavating~~ Merlyn Buesgens

II. Property Owner (s), if different from above:

Name ~~MERLYN BUESGENS~~ Gibson & Kristie Wong

Property Address 16127 Pepin Lane

City Montgomery State MN Zip 56009

III. Parcel Information:

Parcel Number 07.450.0080

IV. Quantities and Submittal Formats:

- One reproducible 8.5" x 11" copy of the request and all other supporting documents.
- If in color, an aerial, or larger than 8.5" x 11" in size, 10 copies must be submitted.
- Electronic version of any supporting documents, if available.
- Additional copies may be requested as deemed necessary by the Planning & Zoning Department.
- All required information must be correct and submitted at the time of application, or the application will not be accepted.

V. Site Plan-must be a survey:

BUILDING SITE SHALL BE PHYSICALLY STAKED BY THE SURVEYOR OR THE APPLICATION WILL BE TABLED.

Site plan shall include but not limited to:

- North point
- setbacks
- property lines
- road right-of-way
- easements
- current & proposed impervious surface-Itemized with percentages (if in shoreland)
- landscape, screening and buffering (if applicable)
- location of significant trees to be removed (if applicable)
- note how disturbed areas will be restored (if applicable)
- lakes
- rivers
- wetlands, ponds
- streams
- well
- existing structures (within and adjacent to project area)
- proposed structures
- lot dimensions
- septic system
- access

- VI. The proposed improvements have been physically staked onsite then surveyed on 10/14/14 to reflect an accurate account of current and proposed conditions of the property identified above.

VII. 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.

Kerry Jensen
Surveyor's signature

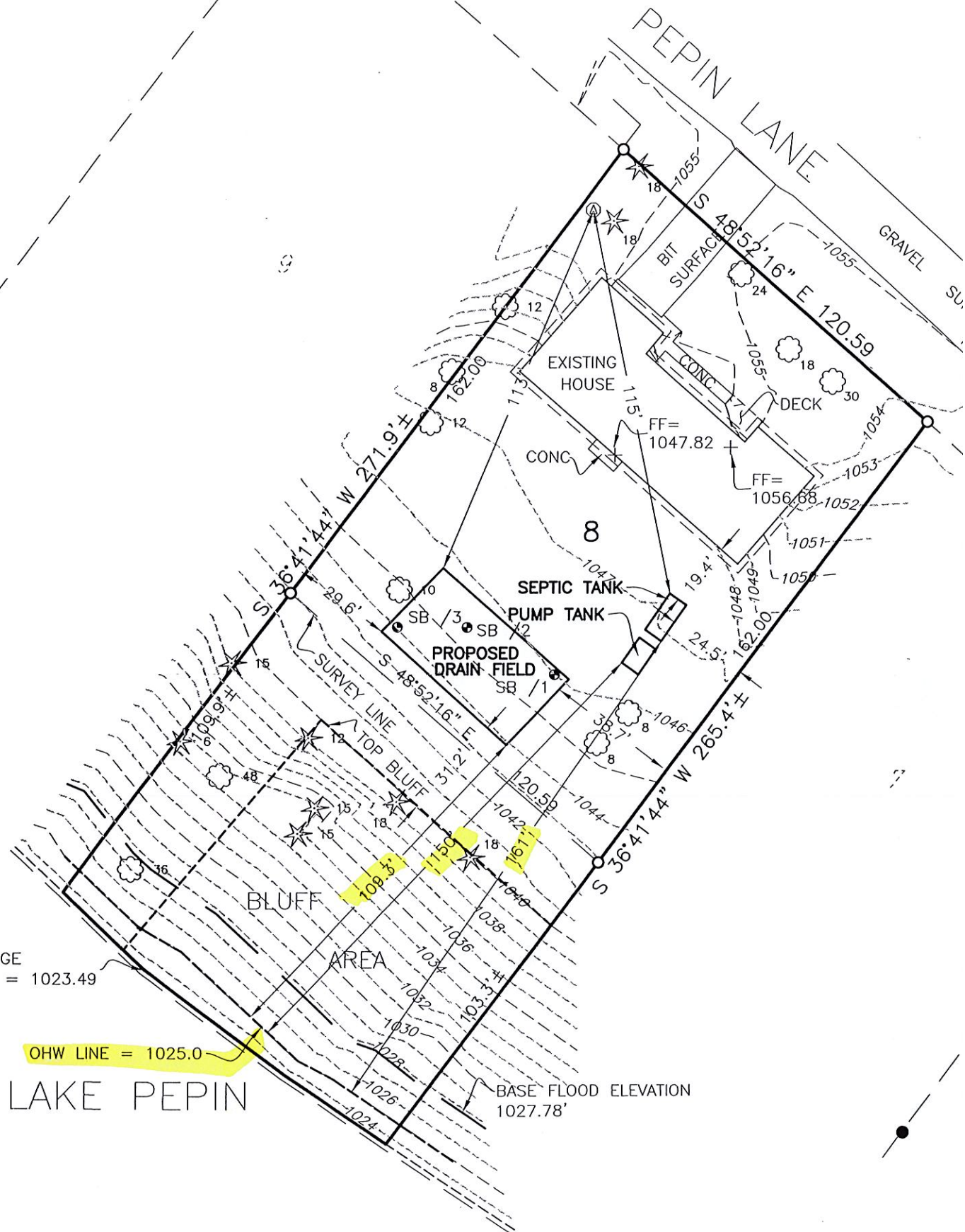
10/8/14
Date

19789
Lic #

10/28/14
Date received

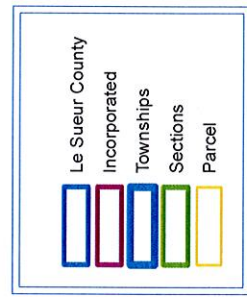
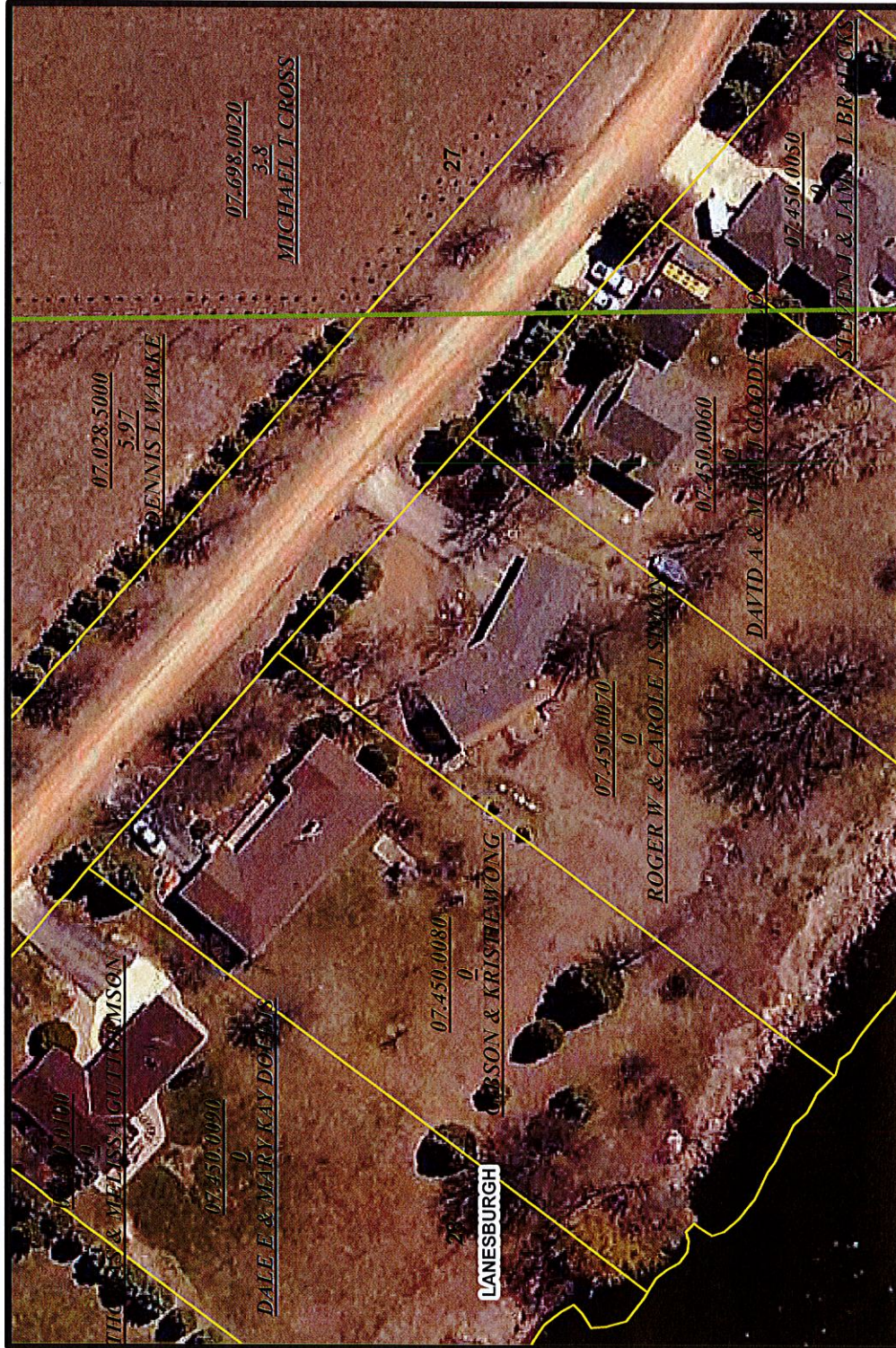
K Brockway
OFFICE USE ONLY
Planning & Zoning Authority signature

10-01-11



LE SUEUR COUNTY ENVIRONMENTAL SERVICES

NAME: Buesgens-Wong
 PID: 07.450.0080
 DATE: 11-7-14
 FIRM #: 27079C0200D
 F-Zone: X-Outside
 RFPE: na
 District: Recreational
 Residential



Map Disclaimer

*Reasonable efforts have been made by the Le Sueur County GIS Department to verify that these maps accurately interpret the source data used in their preparation; however, a degree of error is inherent in all maps, and 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.

3	2	1	6	5	NEWPRAGUE	1
11	12	7	8	9	10	11 ² 12
14	13	18	17	16	15	14 13
23	HEIDELBERG	22	23	24	LANESBURGH	
26	25	30	29	28	27	26 25
35	36	31	32	33	34	35 36
3	2	1	6	5	MONTCOMERY	
LEXINGTON						

Coordinate System: NAD 1983 HARN Adj MN Le Sueur Feet

Photo dated April/May 2013

Created By: MRM

LE SUEUR COUNTY
 ENVIRONMENTAL SERVICES
 507-357-8538