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# Le Sueur County, MN

Thursday, April 16, 2015

Regular Session

## Item 2

### Perkins Packet

Staff Contact: Kathy Brockway or Michelle Mettler

# VARIANCE STAFF REPORT

## GENERAL INFORMATION

APPLICANT/OWNER: Mark Perkins

911 ADDRESS: 28717 440<sup>th</sup> St, Cleveland MN 56017

VARIANCE REQUEST: To allow the applicant to construct an animal feedlot confinement structure for an existing feedlot 46 feet to the East property line, 41 feet to the South property line, deviate from lot size and suitable area acreage requirements.

VARIANCE NUMBER: 15018

PARCEL NUMBER: 01.028.0700

## SITE INFORMATION

LOCATION: Part of the SE 1/4 of the NW 1/4 in Section 28, Cleveland Township.

ZONING & PURPOSE: Agriculture

The **Agriculture (A) District** is established for areas where agriculture uses are seen as the best and highest long term use of the land. The land itself needs to be preserved for primarily agricultural activities. These areas should avoid existing cities, residential zones and subdivisions. They should be large contiguous land areas with mostly prime soils.

GENERAL SITE DESCRIPTION: Agriculture, scattered residences, less than 1 mile from the City of Cleveland.

ACCESS: Existing off 440<sup>th</sup> Street

LAKE: NA

RFPE: NA

## ATTACHMENTS

Application, Written Detail of Request, Survey, Surveyor Certification, Aerial photo, Findings of Fact, Letter from Amy Beatty

## 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. Feedlot structure to property line. | 41 & 46 feet | 100 feet       | Section 16, Subdiv.10.A. | 16-8  |
| b. Feedlot lot size.                   | 4.74 acres   | 10 acres       | Section 16, Subdiv.10.E. | 16-8  |
| c. Feedlot suitable area acreage.      | 4.74 acres   | 10 to 14.99 ac | Section 3, Subdiv.3.F.2. | 16-4  |
2. 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.
  3. A Variance may be granted **only** where the strict enforcement of the official controls will result in a **practical difficulty**.
  4. It is the responsibility of the **applicant** and/or landowner to prove evidence that a practical difficulty exists.
  5. 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: 2/17/2015 PERMIT NUMBER 15018 FEE: \$646.00  
60 DAY RULING DATE: 4/17/2015

APPLICANT: MARK PERKINS PROPERTY OWNER: MARK PERKINS  
ADDRESS: 28717 440TH ST ADDRESS: 28717 440TH ST  
CITY: CLEVELAND CITY: CLEVELAND  
STATE: MN ZIP: 56017 STATE: MN ZIP: 56017  
PHONE: 507-381-8644 PHONE: 507-381-8644

PARCEL NO: 01.028.0700 TOWNSHIP: CLEVELAND 911: 28717 440TH ST  
SEC: 28 SUBDIV: NA  
TWP: 110 LOT: NA ZONE: A  
RANGE: 25 BLOCK: NA FEMA PANEL #: 27079C0255D  
QQ: SENW ROAD: CNTY 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 construct an ~~add-on~~ <sup>ca</sup> ~~ext~~ <sup>46'</sup> ~~barn~~ <sup>↑ E</sup> 25 ft to the ROW, 20 ft to the property line, ~~construct~~ <sup>41 to S.</sup> feed structures 30 ft to the ROW. Allow the feedlot to deviate from lot size requirements. <sup>suitable PC area</sup>

MP

**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

2/17/15

DATE

LE SUEUR COUNTY PLANNING AND ZONING AUTHORITY

2/17/15

DATE

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

ON-SITE TOUR DATE:	3/18/2015	4/16/15
PUBLIC HEARING DATE:	3/19/2015	4/16/15
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.



# USE VARIANCE FINDINGS OF FACT

Name of Applicant: MARK PERKINS

Variance # 15018

**Variance Request:** To allow the applicant to construct a barn 46' to the E pl 41' to the S pl, 311' to an ext. SFD and deviate from lot size and suitable area requirements.

- 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 hardship 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

Y N 2. Is the alleged hardship unique to the property?

Explain \_\_\_\_\_

JM JW JD CH FC

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

Explain \_\_\_\_\_

JM JW JD CH FC

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

Explain \_\_\_\_\_

JM JW JD CH FC

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

Explain \_\_\_\_\_

JM JW JD CH FC

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

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

Explain \_\_\_\_\_

JM JW JD CH FC

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 Mark + Denise Perkins  
Mailing Address 2877 440th St  
City Cleveland State Mn Zip 55007  
Phone # 507-381-8644 Phone # 507-381-8645

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

Name Same  
Property Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
Phone # \_\_\_\_\_ Phone # \_\_\_\_\_

### III. Parcel Information:

Parcel Number 01-028.0700 Parcel Acreage 6.11  
Legal Description-Full legal description must be attached (not from tax statement)  
See survey

### IV. Variance Request:

to allow the appl. to construct an addn to an ext. barn closer to the row, & property lines, + SFD. Feeders closer to the row. deviate from lot size requirements. (Barn 25' x 40', 41' x 46' PL, SFD to feedlot 311'') (AC. Parcel)

### V. Township Notification: Township must be notified of proposed request prior to application.

Cleveland Township notified on 12/20/2014  
(Township Name) (Date)

Board Member John Kluntz 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      **After-The-Fact meeting fees are doubled.**  
Filing Fee: \$ 46

**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 Department 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. Use 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.**

**No Variance may be granted that would allow any use that is prohibited in the Zoning District in which the subject property is located.**

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

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

**A determination that a hardship exists upon the consideration of the following criteria:**

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

To deviate from Set backs of road right away and property lines and deviate away from the 10 acres and to be within 1000' of neighbors

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

The Land owner that owns the land surrounding our property is not willing to sell additional 5.25 acres but is willing to sell 1.3 acres to be able to add the addition

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

The property was split and sold to different parties when we bought our feedlot which made it a illegal non-conformity and in 2006 we were issued a permit to rebuild after the tornado to make it a legal non-conformity

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

This will be added to our existing building making it all under 1 roof no change - already exist. feedlot.

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

This is part of our livelihood and benefits our family's future

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

yes, Ag district

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

This will be an addition of 1,400 pigs to our existing property

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

N/A

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

It is the most efficient way we can accomplish our expansion



**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.

X [Signature]  
Applicant signature

2/13/15  
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.

X [Signature]  
Land Owner signature

2/13/15  
Date

**OFFICE USE ONLY**

Date received 2/19/15 Present Zoning Classification AG Feedlot within 500' 1000' N

Meeting date 3/19 Lake Classification \_\_\_\_\_ Erosion Control Plan Y N

60 Day 4/19 Lake \_\_\_\_\_ Water courses Y N

FEMA Panel # 27079C0265 Flood Zone X outside Bluff Y N

Surveyor Certificate  Ordinance  Septic NA CI / DESIGN

Site Plan -survey  Access approval NA  Fee \$ 646 ATF / SPEC MTG

Full legal  Blue Prints NA  Other \_\_\_\_\_

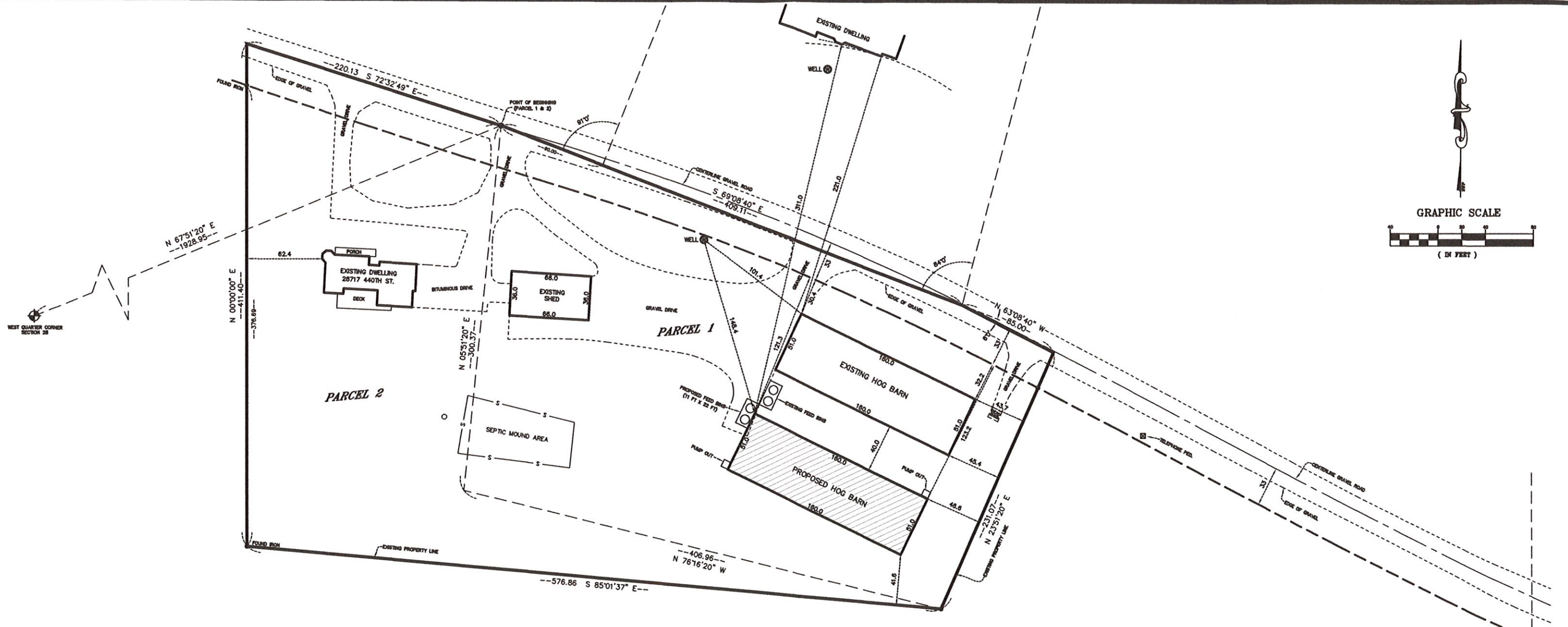
Application complete  Written Detail of Var

[Signature]  
Planning & Zoning Department Signature

2/17/15  
Date

15018  
Permit #

04-15-13



# CERTIFICATE OF SURVEY

SURVEY FOR: **MARK PERKINS**

SURVEYED: February, 2015  
 DRAFTED: March 9, 2015  
 REVISED: March 13, 2015, to show additional dimensions per county's request.

### LEGAL DESCRIPTION PARCEL 1:

That part of the Southeast Quarter of the Northwest Quarter of Section 28-110-25, Le Sueur County, Minnesota, described as follows: Assuming that the East - West quarter line of said Section 28 has a bearing of East and West. Commencing at the West quarter corner of said Section 28; thence North 67 degrees 51 minutes 20 seconds East, a distance of 1928.95 feet to the point of beginning of the tract to be described; thence South 69 degrees 08 minutes 40 seconds East, a distance of 409.11 feet; thence South 63 degrees 08 minutes 40 seconds East, a distance of 85.00 feet; thence South 23 degrees 51 minutes 20 seconds West, a distance of 231.07 feet; thence North 76 degrees 16 minutes 20 seconds West, a distance of 406.96 feet; thence North 05 degrees 51 minutes 20 seconds East, a distance of 300.37 feet to the point of beginning. This tract subject to right of way of existing town road and subject to any and all easements of record.

### LEGAL DESCRIPTION PARCEL 2:

That part of the Southeast Quarter of the Northwest Quarter of Section 28, Township 110 North, Range 25 West, Le Sueur County, Minnesota, described as: Commencing at the West Quarter corner of Section 28; (the East - West centerline of Section 28 to have an assumed bearing of North 90 degrees 00 minutes 00 seconds East); thence North 67 degrees 51 minutes 20 seconds East, a distance of 1928.95 feet to a point on the centerline of the Township Road; said point being the point of beginning; thence South 05 degrees 51 minutes 20 seconds West; 300.37 feet; thence South 76 degrees 16 minutes 20 seconds East, 406.96 feet; thence North 85 degrees 01 minutes 37 seconds West, 576.86 feet; thence North 00 degrees 00 minutes 00 seconds East, 411.40 feet to a point on the center line of the Township Road; thence South 72 degrees 32 minutes 49 seconds East, along said center line, 220.13 feet to the point of beginning.

### SCOPE OF WORK & LIMITATIONS:

1. Showing the length and direction of boundary lines of the above legal descriptions. The scope of services does not include determining what you own, that is a legal matter. Please check the legal description with your records or consult with competent legal counsel, if necessary, to make sure that they are correct, and that any matters of record, such as easements, that you wish to be shown on the survey, have been shown.
2. Setting new monuments or verifying old monuments to mark the corners of the property, as shown.
3. While I show proposed improvements to your property, I am not as familiar with your plans as you are nor am I as familiar with the requirements of governmental agencies as their employees are. I suggest that you review the survey to confirm that the proposals I show are what you intend and submit the survey to the governmental agencies that may have jurisdiction over your project and gain their approval before beginning construction or planning further improvements to the property.
4. Showing the location of existing improvements deemed significant.

### STANDARD SYMBOLS & CONVENTIONS:

"●" Denotes 1/2" ID pipe with plastic plug bearing State License Number 43503, set, unless otherwise noted.

### CERTIFICATION:

I hereby certify that this survey was prepared by me or under my direct supervision and I am a Professional Surveyor under the Laws of the State of Minnesota.

*Wayne Preuhs*

Wayne William Preuhs, P.S. No. 43503

EAST - WEST CENTERLINE  
 SECTION 28  
 S 90°00'00" E



# Le Sueur County

## Surveyor Certification

I. Applicant:  
Name Mark Perkins

II. Land Owner (s), if different from above:  
Name \_\_\_\_\_  
Property Address 28717 440<sup>th</sup> St.  
City Cleveland State Mn Zip 56017

III. Parcel Information:  
Parcel Number 01.028.0700

### IV. Quantities and Submittal Formats:

- a. One (1) reproducible 8.5" x 11" copy of the request and all other supporting documents.
- b. Ten (10) copies must be submitted, if in color, an aerial, or larger than 8.5" x 11" in size.
- c. Electronic version of any supporting documents if available.
- d. Additional copies may be requested as deemed necessary by the Department.
- e. Application must be made in person by the applicant and/or owner no later than 12 P.M. on the date of application deadline. **Appointment is necessary.**
- f. All required information must be correct and submitted **at the time of application**, or the application will not be accepted.
- g. Applications **will not** be accepted by mail.

### V. Site Plan-must be a survey and shall include but limited to the following:

- North point
- Lakes
- Existing structures (*within and adjacent to project area*)
- Setbacks
- Rivers
- Proposed Structures
- Property lines
- Wetlands
- Lot Dimensions
- Road Right-Of-Way
- Streams
- Septic System
- Easements
- Ponds
- Well
- 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*)

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

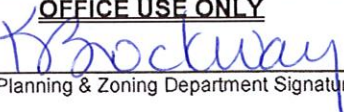
VI. The proposed improvements have been physically staked onsite then surveyed on \_\_\_\_\_, to reflect an accurate account of current and proposed conditions of the property identified above.

### 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.

      2/17/15      43503  
Surveyor's signature      Date      Lic #

2/17/15  
Date Received

**OFFICE USE ONLY**  
  
Planning & Zoning Department Signature

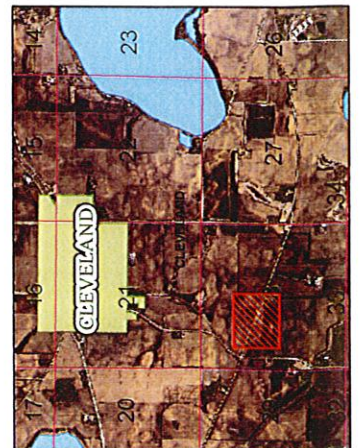
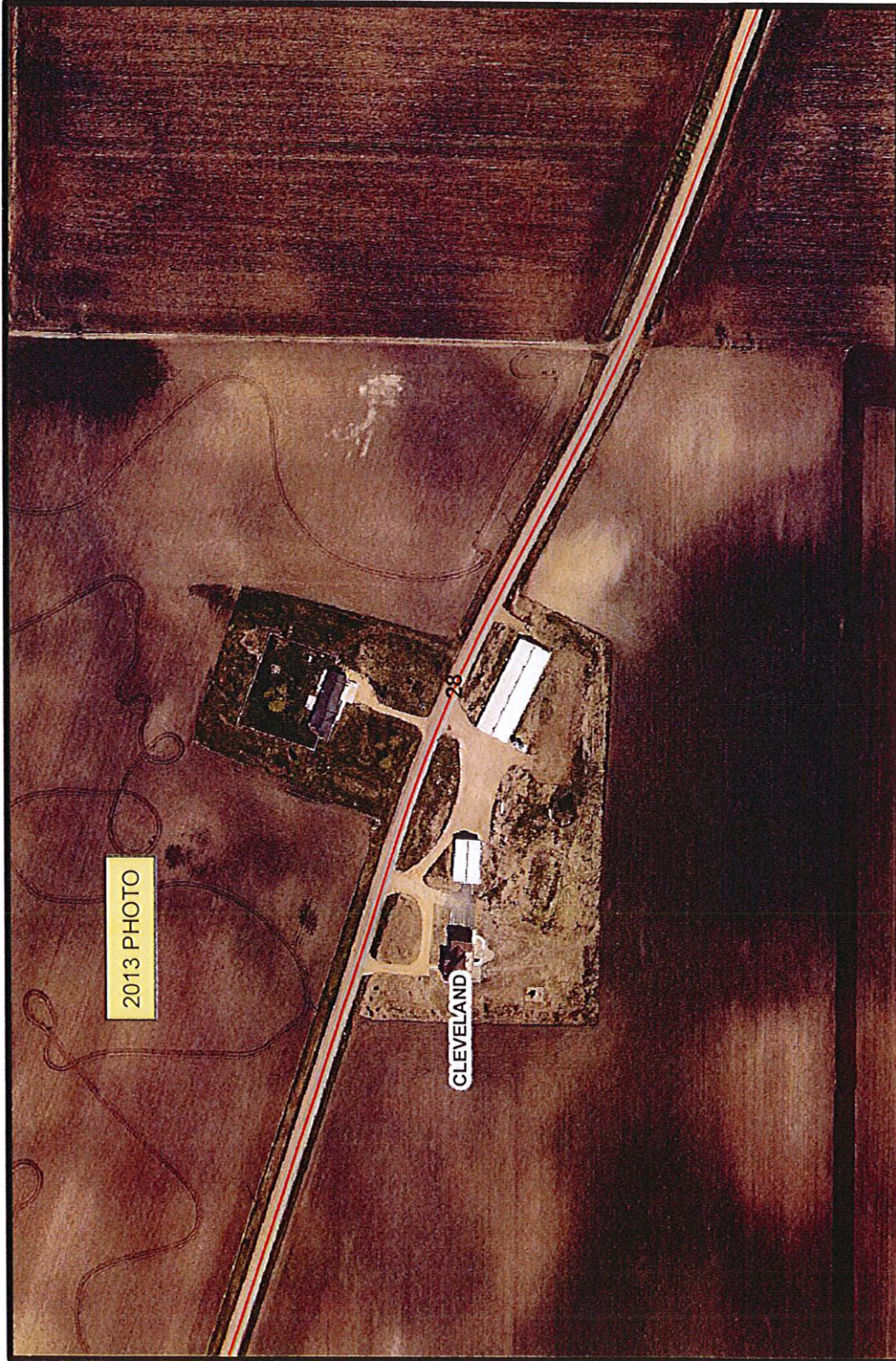
04-15-13

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# LE SUEUR COUNTY ENVIRONMENTAL SERVICES

**NAME:** Perkins  
**PID:** 01.028.0700  
**DATE:** 04-06-15  
**FIRM #:** 27079C0 265D  
**F-Zone:** Xoutside  
**RFPE:** NA  
**District:** Agriculture



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.



Roads	Road Code
US Highway	[Red line]
MN Highway	[Blue line]
CSAH	[Black line]
County Road	[Grey line]
Township Road	[Red line]
Municipal Street	[Blue line]
Unspecified	[Green line]
Incorporated	[Purple box]
Townships	[Blue box]
Sections	[Green box]

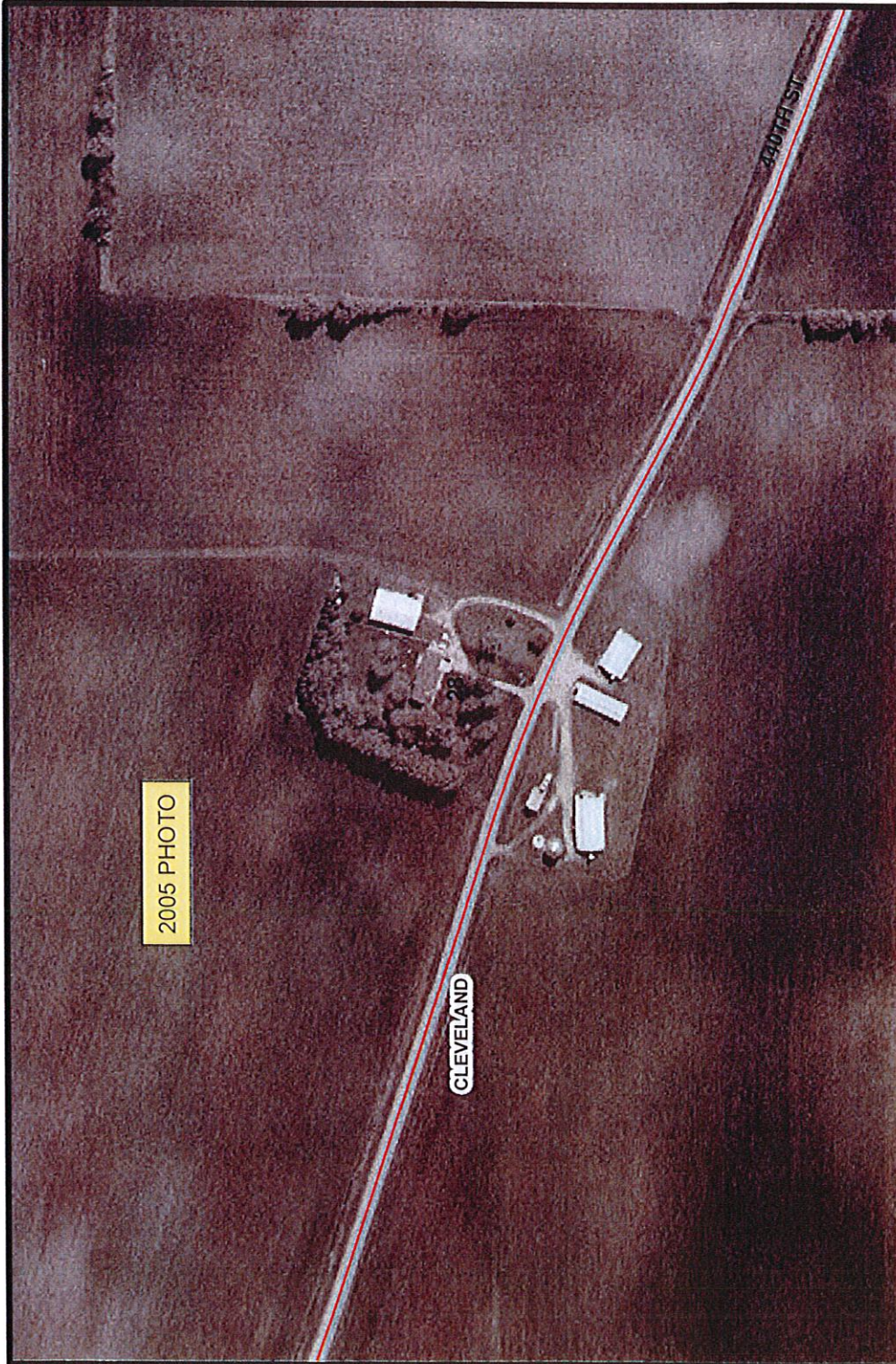
LE SUEUR COUNTY  
 ENVIRONMENTAL SERVICES  
 507-357-8538

Coordinate System: NAD 1983 HARN Adj MN Le Sueur Feet  
 Photo dated April/May 2013  
 Created By: MRM



# LE SUEUR COUNTY ENVIRONMENTAL SERVICES

NAME: Perkins  
 PID: 01.028.0700  
 DATE: 04-06-15  
 FIRM #: 27079C0 265D  
 F-Zone: Xoutside  
 RFPE: NA  
 District: Agriculture



Roads	Road Code
	US Highway
	MN Highway
	CSAH
	County Road
	Township Road
	Municipal Street
	Unspecified
	Incorporated
	Townships
	Sections
	LesueurMNHIGH-LCCS.scw

Value High : 255  
 Low : 0

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.  
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Coordinate System: NAD 1983 HARN Adj MN Le Sueur Feet  
 Photo dated April/May 2013

LE SUEUR COUNTY  
 ENVIRONMENTAL SERVICES  
 507-357-8538

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