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# **Le Sueur County, MN**

**Thursday, May 21, 2015**

**Regular Session**

## **Item 4**

### **Seely Packet**

**Staff Contact: Kathy Brockway or Michelle Mettler**

# VARIANCE STAFF REPORT

## GENERAL INFORMATION

APPLICANT/OWNER: Mark & Valerie Seely

911 ADDRESS: 46329 Spruce Lane, Cleveland MN

VARIANCE REQUEST: To allow the applicant to construct a single-family dwelling 40 feet from the private road ROW and 4 feet from the septic tank.

VARIANCE NUMBER: 15059

PARCEL NUMBER: 01.103.3700

## SITE INFORMATION

LOCATION: Part of Government Lot 1, Section 3, Cleveland Township

**ZONING & PURPOSE:** 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 Spruce lane

LAKE: Lake Jefferson, 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: 1022.86 Lowest floor must meet RFPE.

## 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. Variance:	Request:	Required:	Ordinance:	Page:
a. Structure to septic tank:	4 feet	10 feet	Section 17. Subdiv.4.D.1.b.	17-9
b. Structure to road ROW:	40 feet	65 feet	Section 13.Subdiv.5.3.	13-43
c. Structure to road ROW exemption:	44 feet	See ordinance	Section 13. Subiv.5.10	13-44

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 |

Page 1 of 2

3. Variances shall only be permitted when they are in harmony with the general purposes and intent of the official controls and are consistent with the comprehensive plan.
4. A Variance may be granted **only** where the strict enforcement of the official controls will result in a **practical difficulty**.
5. It is the responsibility of the **applicant** and/or landowner to prove evidence that a practical difficulty exists.
6. A determination that a **practical difficulty exists** upon the consideration of the **findings of fact**.

#### **CONSIDERATIONS**

1. The following shall be considered at the hearing:
  - a. There are special circumstances or conditions affecting the land, structures or use referred to in the Variance.
  - b. The granting of the application will not be a detriment to the public health, safety, and general welfare or injurious to property or improvements in the area adjacent to the property of the applicant/landowner.
  - c. Consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.
2. **Additional Considerations:**
  - a. Proposed impervious surface is 9.28%.
  - b. Proposed dwelling is farther from the road ROW than the existing dwelling.
  - c. Proposed dwelling is farther from the OHWL than the existing dwelling.

#### **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

<b>APPLICATION DATE:</b> 4/21/2015		<b>PERMIT NUMBER</b> 15059	<b>FEE:</b> \$646.00
<b>60 DAY RULING DATE:</b> 6/19/2015			
<b>APPLICANT:</b> MARK AND VALERIE SEELY		<b>PROPERTY OWNER:</b> MARK AND VALERIE SEELY	
<b>ADDRESS:</b> 46329 SPRUCE LANE		<b>ADDRESS:</b> 46329 SPRUCE LANE	
<b>CITY:</b> CLEVELAND		<b>CITY:</b> CLEVELAND	
<b>STATE:</b> MN	<b>ZIP:</b> 56017	<b>STATE:</b> MN	<b>ZIP:</b> 56017
<b>PHONE:</b> 507-995-2923		<b>PHONE:</b> 507-995-2923	
<b>PARCEL NO:</b> 01.103.3700		<b>TOWNSHIP:</b> CLEVELAND	<b>911:</b> 46329 SPRUCE LANE
<b>SEC:</b> 3	<b>SUBDIV:</b>		
<b>TWP:</b> 109	<b>LOT:</b>	<b>ZONE:</b>	RR
<b>RANGE:</b> 25	<b>BLOCK:</b>	<b>FEMA PANEL #:</b>	27079C0270D
<b>Q/Q:</b>	<b>ROAD:</b> PVT	<b>FLOOD ZONE:</b>	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 applicants to construct a SFD 40' from the private road right away and utilize an existing septic tank <sup>4</sup> ft from the new dwelling.

**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:

Valerie Seely  
APPLICANT/PROPERTY OWNER

4-21-15  
DATE

Kathy Brockway  
LE SUEUR COUNTY PLANNING AND ZONING AUTHORITY

4/21/15  
DATE

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

<b>ON-SITE TOUR DATE:</b> _____	
<b>PUBLIC HEARING DATE:</b> <u>5/21/2015</u>	<b>ACTION:</b> _____
<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: MARK AND VALERIE SEELY

Variance # 15059

**Variance Request:** To allow the applicants to construct a SFD 40' from the private road right away and utilize an existing septic tank 8 ft from the new dwelling.

- 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  
☐ ☐ ☐ ☐ ☐

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

Explain \_\_\_\_\_

JM JW JD CH FC  
☐ ☐ ☐ ☐ ☐

Y N 3. Were the circumstances causing the practical difficulty 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 practical difficulty 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

## Use Variance Application

- I. **Applicant:**  
Name Mark + Valerie Seely  
Mailing Address 46329 Spruce Lane  
City Cleveland State mn Zip 56017  
Phone # 507-995-2923 Phone # \_\_\_\_\_
- II. **Land Owner (s), if different from above:**  
Name \_\_\_\_\_  
Property Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
Phone # \_\_\_\_\_ Phone # \_\_\_\_\_
- III. **Parcel Information:**  
Parcel Number 01.103.3700 Parcel Acreage \_\_\_\_\_  
Legal Description-Full legal description must be attached (not from tax statement)  
\_\_\_\_\_
- IV. **Variance Request:**  
Constructed new Dwelling - 40' from road r.o.w.  
+ required 5' setback - Dwelling is 30'x70' w/  
front + rear attached / covered porches
- V. **Township Notification:** Township must be notified of proposed request prior to application.  
Ext. Septic tank 165'  
4' from new dwelling.  
Cleveland Township notified on 4/16/2015  
(Township Name) (Date)  
Board Member Susan Ely 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.  
We are changing the location/position of our current home to better meet setbacks from driveway and lake. (We are replacing current manufactured home with new ~~GBE~~ Home & Foundation)  
Utilize ext. septic tank 8' from new home.
2. What are the unique circumstances of this property that prevent compliance with the Zoning Ordinance that will result in a practical difficulty?  
New right of way mapping impedes on property. Project is to replace existing home with new home and foundation farther away than current setbacks
3. Describe how the unique circumstances causing the practical difficulty were created by someone other than the applicant/landowner.  
New classification of "driveway" is a "road" created new setback requirement.
4. How will the request maintain the essential character of the locality?  
No change except for home positioning to better meet setback requirements
5. Does the alleged practical difficulty involve more than economic considerations?  
Yes - Adding full foundation and septic for environmental and safety benefits
6. Is the request consistent with and supported by the statement of purposes, policies, goals and objectives in the Ordinance?  
Yes, SFD allowed in RR District.
7. Describe how the request is consistent with the Comprehensive Land Use Plan.  
NO change to current usage.
8. Describe the properties current, and any proposed, onsite sewage treatment and water capabilities.  
Current: "Fessel Aerobic Septic" as installed. (Failed)  
New: "Mound" to be installed upon approval by P&Z.  
No well on site - shared.  
Utilize ext. tank 8' from SFD.
9. Explain why this request is the minimum variance amount to afford relief.  
The home will be at the optimum position to avoid the lakeshore setback all together while still increasing the driveway setback from current home.



**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 Valerie Seely  
Applicant signature

4/21/15  
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.

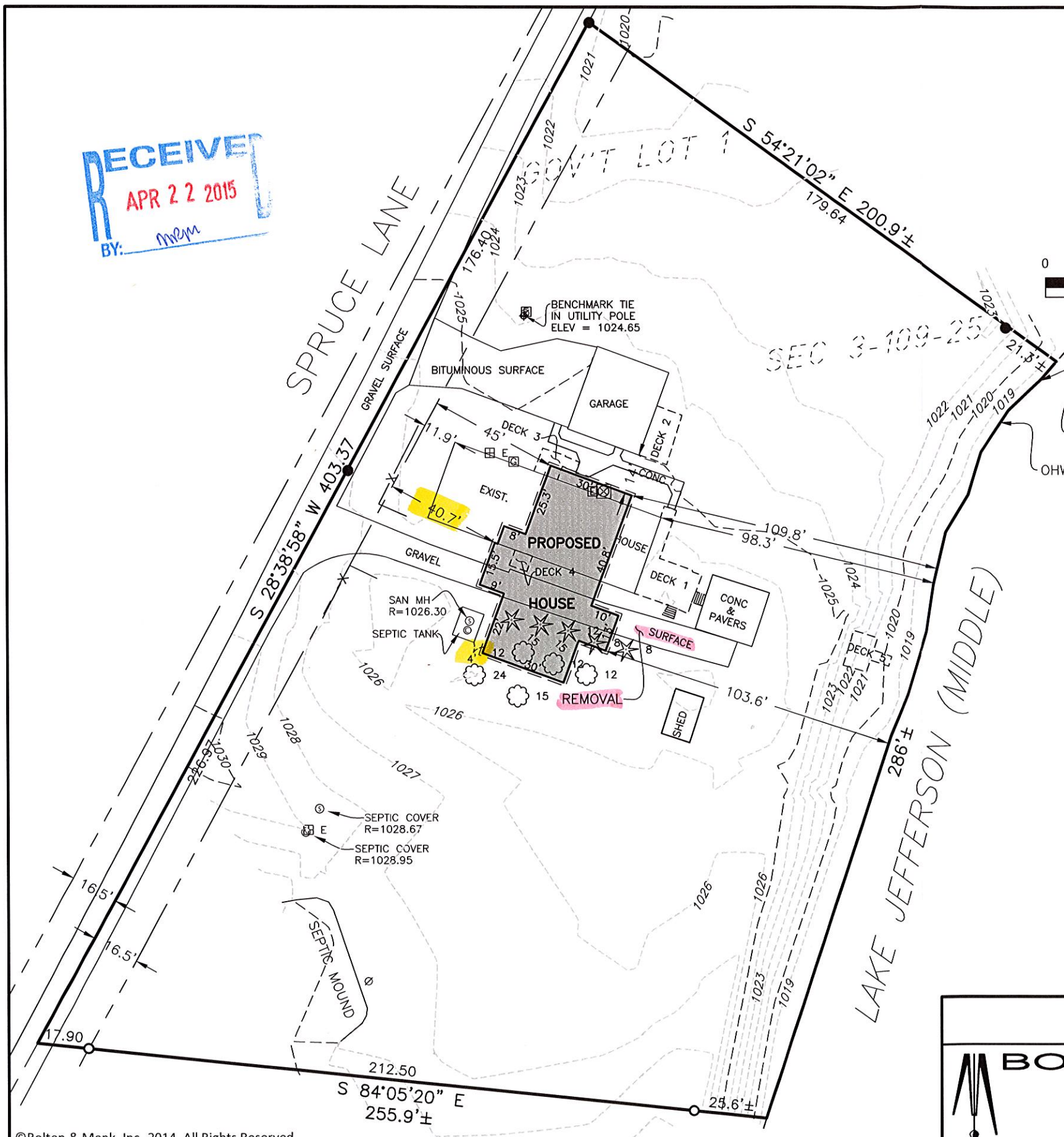
M Seely  
Land Owner signature

4/21/15  
Date

OFFICE USE ONLY			
Date received <u>4/21</u>	Present Zoning Classification <u>RR</u>	Feedlot within 500' 1000' <u>N</u>	
Meeting date <u>5/21</u>	Lake Classification <u>RD</u>	Erosion Control Plan Y N	
60 Day <u>6/19</u>	Lake _____	Water courses Y N	
FEMA Panel # _____	Flood Zone _____	Bluff Y N	
<input type="checkbox"/> Surveyor Certificate	<input type="checkbox"/> Ordinance	<input checked="" type="checkbox"/> Septic _____	CI / <u>DESIGN</u>
<input checked="" type="checkbox"/> Site Plan -survey	<input checked="" type="checkbox"/> Access approval <u>Ext</u>	<input type="checkbox"/> Fee \$ <u>646.</u>	ATF / SPEC MTG
<input checked="" type="checkbox"/> Full legal	<input checked="" type="checkbox"/> Blue Prints	<input type="checkbox"/> Other _____	
<input type="checkbox"/> Application complete	<input type="checkbox"/> Written Detail of Var		
<u>K Brockway</u>	<u>4/21/15</u>		
Planning & Zoning Department Signature	Date	Permit #	

04-15-13

RECEIVED  
APR 22 2015  
BY: *mem*



TOTAL LOT AREA  
73100 SQ FT

EXISTING IMPERVIOUS SURFACE

HOUSE W/ OVERHANG	2335 SQ FT
GARAGE W/ OVERHANG	898 SQ FT
BITUMINOUS SURFACE	1271 SQ FT
DECKS	736 SQ FT
CONCRETE SURFACE & PAVERS	643 SQ FT
GRAVEL SURFACE	2077 SQ FT
SHED	171 SQ FT
TOTAL	8131 SQ FT (11.12%)

IMPERVIOUS SURFACE REMOVALS

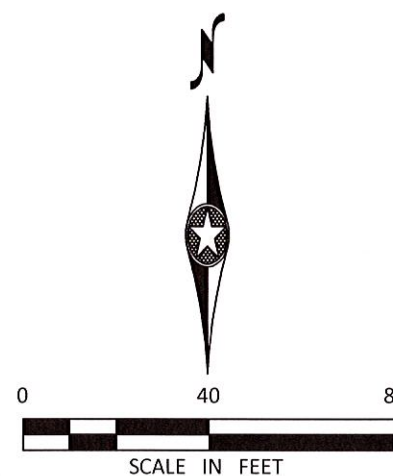
EXISTING HOUSE W/ OVERHANG	2335 SQ FT
GRAVEL SURFACE	1528 SQ FT
DECK 3	88 SQ FT
DECK 4	33 SQ FT
TOTAL	3984 SQ FT

PROPOSED IMPERVIOUS SURFACES

HOUSE W/ OVERHANG	2642 SQ FT
TOTAL	2642 SQ FT

TOTALS

EXISTING	8131 SQ FT
REMOVALS	-3984 SQ FT
PROPOSED	+2642 SQ FT
TOTAL IMPERVIOUS SURFACE	6789 SQ FT (9.28%)



WATER'S EDGE (6-2-14)  
ELEV = 1018.35'  
OHW LINE = 1018.5  
RFPE = 1022.86

LEGEND

- MONUMENT FOUND
- ⊕ BENCH MARK
- ⊞ ELECTRIC METER
- ⊘ UTILITY POLE
- ⊞E ELECTRIC PEDESTAL
- ⊞ GAS METER
- ⊞ AIR CONDITIONER
- ⊙ SANITARY MANHOLE
- ⊙ CLEAN OUT
- ⊙ DECIDUOUS TREE
- ⊙ CONIFEROUS TREE

OWNER

MARK SEELY  
46329 SPRUCE LANE  
CLEVELAND, MN 56017

SITE ADDRESS

46329 SPRUCE LANE  
CLEVELAND, MN 56017

SURVEYOR'S CERTIFICATION

I hereby certify that this survey 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

4/21/15  
Date

VARIANCE EXHIBIT  
LE SUEUR COUNTY, MINNESOTA

**BOLTON & MENK, INC.**  
Consulting Engineers & Surveyors

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

PART OF GOV'T LOT 1 OF SECTION 3, TOWNSHIP  
109 NORTH, RANGE 25 WEST, CLEVELAND  
TOWNSHIP, LE SUEUR COUNTY, MINNESOTA

FOR: MARK SEELY

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H:\PRIV\_SURVEY\M33108310\CAD\C3D\108310BD3.DWG 04-21-2015 11:22a.m. SDB108310H

JOB NUMBER: M33.108310

FIELD BOOK: 90G PG 40

DRAWN BY: JLA

4.0 S3-T109-R25







# Le Sueur County

## Surveyor Certification

- I. Applicant:  
Name MARK SEELY
- II. Property Owner (s), if different from above:  
Name \_\_\_\_\_  
Property Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_
- III. Parcel Information:  
Parcel Number 01.103.3700
- 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
- lakes
- existing structures (within and adjacent to project area)
- setbacks
- rivers
- proposed structures
- property lines
- wetlands, ponds
- lot dimensions
- road right-of-way
- streams
- septic system
- easements
- well
- access
- 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)

- VI. The proposed improvements have been physically staked onsite then surveyed on 7/02/14, to reflect an accurate account of current and proposed conditions of the property identified above.

VII. Signatures:

*We will stake the new house by MAY 8, 2015.*

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.

Rory Jensen  
Surveyor's signature

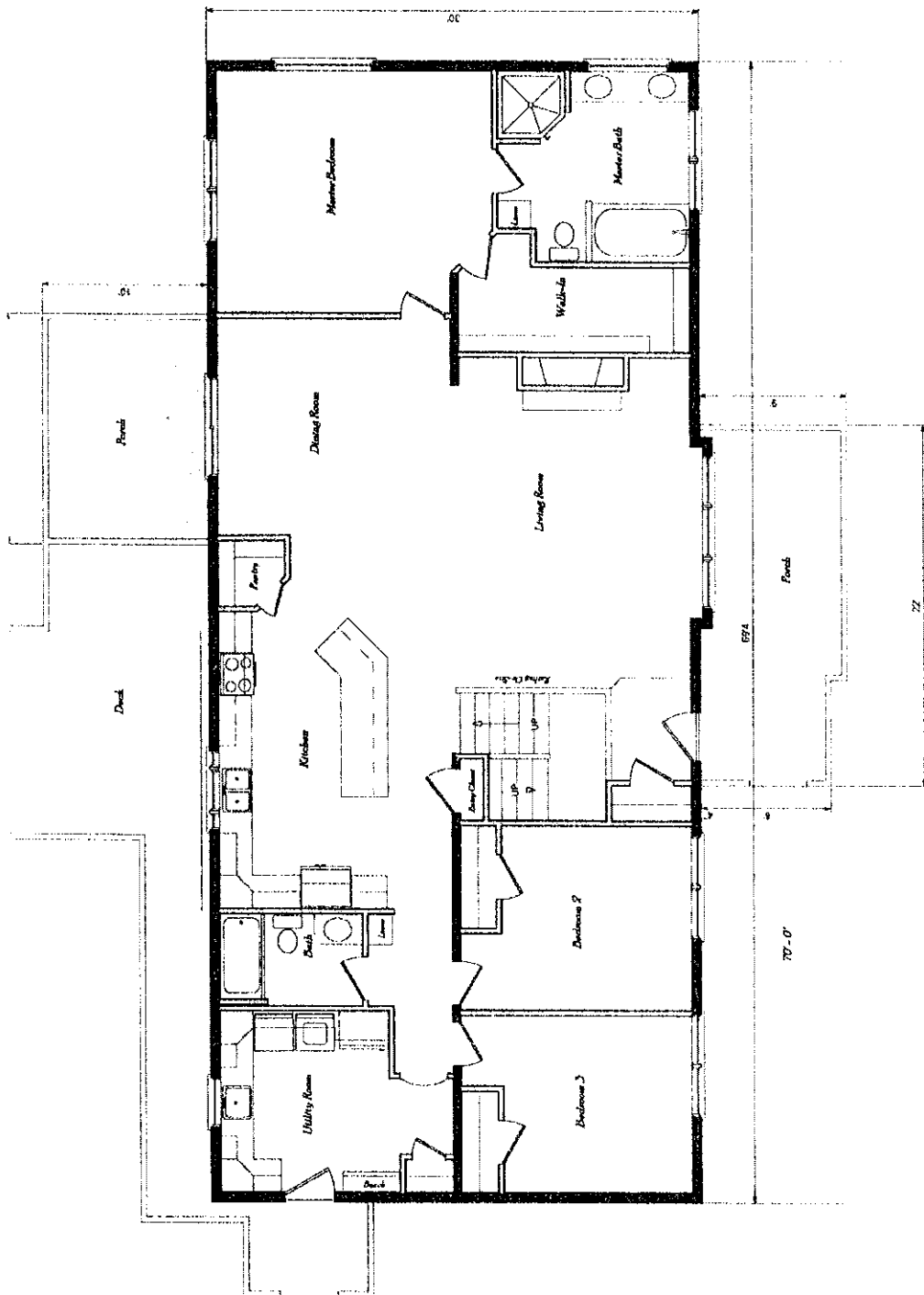
4/21/15  
Date

19789  
Lic #

4/21/15  
Date received

OFFICE USE ONLY  
K. Brockway  
Planning & Zoning Authority signature

10-01-11





NAME: Seely  
PID: 04-21-15  
DATE: 5-5-15  
FIRM #: 27079C0270D  
F-Zone: X-Outside  
RFPE: 1022.86  
District: Recreational Residential



Map Disclaimer

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

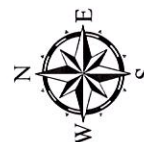


Photo dated April/May 2013

Created By: MRM

LE SUEUR COUNTY  
ENVIRONMENTAL SERVICES  
507-357-8538

Cadastral_Line	AlphaTag
	<all other values>
	Corp Line
	County Line
—	Easement Line
	Geo Twp Line
- - -	Gov Lot
- - -	Misc Line
	Parcel Line
	Pol Twp Line
	Railroad Centerline
—	Railroad ROW
- - -	Road Centerline
—	Road ROW
- - -	Road ROW Vac
	Section Line
	Sub Line 400
- - -	Water
	Parcel

