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# Le Sueur County, MN

Thursday, November 19, 2015

Regular Session

## Item 1

### Johnson Packet

Staff Contact: Kathy Brockway or Michelle Mettler

# VARIANCE STAFF REPORT

## GENERAL INFORMATION

APPLICANT/OWNER: PELL JOHNSON  
911 ADDRESS: 28002 Maple Lane, Madison Lake MN 56063  
VARIANCE REQUEST: To allow the applicant to install a holding tank 5 feet from the road Right-Of-Way (ROW) and 9 feet from the dwelling.  
VARIANCE NUMBER: 15262  
PARCEL NUMBER: 13.800.0070

## SITE INFORMATION

LOCATION: Lot 7, Wildwood Subdivision, Section 3, Washington 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 Maple Lane

LAKE: Lake Jefferson, Recreational Development

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:

| <u>Variance:</u>            | <u>Request:</u> | <u>Required:</u> | <u>Ordinance:</u> |
|-----------------------------|-----------------|------------------|-------------------|
| a. Septic Tank to structure | 9 feet          | 10 feet          | Section 17        |
| b. Septic Tank to Road ROW: | 5 feet          | 10 feet          | Section 17        |

2. Refer to DNR Guidance Letters:

- a. The Role of the Variances in Shoreland Management Ordinances pg. 9
- b. Bluffs and Steep Slopes pg. 11
- c. Limiting Impervious Surface pg. 15

- d. Non-conforming Lots of Record in Shoreland Areas pg. 19
- e. 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**.

|                       |
|-----------------------|
| <b>CONSIDERATIONS</b> |
|-----------------------|

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.

|                   |
|-------------------|
| <b>CONDITIONS</b> |
|-------------------|

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 FINDINGS OF FACT

Name of Applicant: PELL JOHNSON

Variance # 15262

Variance Request: TO ALLOW THE APPLICANT TO INSTALL A HOLDING TANK 5' FROM THE ROAD ROW AND 9' FROM THE 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

## Variance Application

### I. Applicant:

Name Pell Johnson  
Mailing Address 709 North 9th Street  
City St. Peter State Minnesota Zip 56082  
Phone # 507-934-1312 Phone # \_\_\_\_\_

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

Name Pell E. Johnson  
Property Address 28002 Maple Lane  
City Madison Lake State MN Zip 56063  
Phone # 507/934/1312 Phone # \_\_\_\_\_

### III. Parcel Information:

Parcel Number 13.800.0070 Parcel Acreage 8,585 sq.ft.  
Legal Description-Full legal description must be attached (*not from tax statement*)  
Lot 7 Wildwood Subdivision

### IV. Variance Request:

To construct the holding tank to be in compliance, it is necessary to change the setback distance  
to five feet from the platted street boundary and to nine feet from the easterly side of the house.

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

Washington Township notified on 9/24/15 by letter  
(Township Name) (Date)

Board Member Steve Biehn 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) topsoil and seeded
  - Lakes
  - Rivers
  - Wetlands
  - Streams
  - Ponds
  - Existing structures (within and adjacent to project area)
  - Proposed Structures
  - Lot Dimensions
  - Septic System
  - Well
- \* Remove 291 sq. ft. of asphalt, replace 75 sq.ft. of asphalt

**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
- d. Surveyor Certification
- e. Floor plans and/or blue prints (For structures)
- f. Septic System Compliance Inspection ✓
- g. Erosion control plan ✓
- h. 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. see attachment

**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. see section IV

The only possible location for a holding tank is on the street side of the house because of the location of the existing structure, related site improvements and the neighbors' development.  
Refer to the surveyor's drawing. A variance is needed in the set back distances to bring the needed to bring the needed sanitary facilities to be in compliance.

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

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

4. How will the request maintain the essential character of the locality?  
The disturbed area will be seeded  
The sewer system will be in compliance.

5. Does the alleged practical difficulty involve more than economic considerations?  
Yes. We will lose sanitary service while plumbing modifications take place.

6. Is the request consistent with and supported by the statement of purposes, policies, goals and objectives in the Ordinance?  
I have read the County land use goals and policies. In my opinion I am in compliance with the ordinance.

7. Describe how the request is consistent with the Comprehensive Land Use Plan.  
I have read the County Comprehensive Land Use Plan. In my opinion I am in compliance with the plan.

8. Describe the properties current, and any proposed, onsite sewage treatment and water capabilities.  
The existing septic tank/drain field is not in compliance.  
The proposed holding tank will be in compliance resulting in the improvement of the quality of the ground water.

9. Explain why this request is the minimum variance amount to afford relief.  
The proposed site is the only suitable site for the holding tank.



**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.

[Signature]  
Applicant signature

Oct 12, 2015  
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]  
Land Owner signature

Oct 12, 2015  
Date

**OFFICE USE ONLY**

Date received 10-14-15 Present Zoning Classification RR Feedlot within 500' 1000' (N)  
 Meeting date 11-19-15 Lake Classification RD Erosion Control Plan (Y) N  
 60 Day 12-11-15 Lake Jefferson Water courses Y (N)  
 FEMA Panel # 27079C0000<sup>2450</sup> Flood Zone Xoutside Bluff Y (N)

- Surveyor Certificate
- Ordinance
- Septic (C) / DESIGN NONE
- Site Plan -survey
- Access approval
- Fee \$ 646 ATF / SPEC MTG
- Full legal
- Blue Prints
- Other \_\_\_\_\_
- Application complete
- Written Detail of Var

Michelle R Motter  
Planning & Zoning Department Signature

10-14-15  
Date

15262  
Permit #

04-15-13





ATTACHMENTS to the request for a zoning variance.

**Page 1.** A copy of a cover letter dated Sept. 24, 2015 was sent Steve Biehn, and two other Town Board members describing the request of variance and why it is needed.

**Page 2 VII.** The required survey has been completed and sent to you electronically by Rory Jensen, a registered land surveyor. It was accepted August 18. A stamped copy is included. The drawing shows the location of the proposed holding tank and other required information. Subsequently, The P & Z staff requested additional information. The document has been amended by the surveyor and resubmit to you and includes the area of asphalt removed and the distance the proposed tank is from the Ordinary High Water (OHW). Everything noted on the checklist is shown on the drawing except a reference to our potable water supply. Our water source is part of a cluster well located off site about 200 feet to the east on Parcel number 13.800.0100 and connected to our property by a distribution pipe.

**VIII. Item c,** The county is hereby granted a free access to the construction site.

**Item g. Once the variance has been granted,** I will be soliciting bids from more than one contractor. Contractors are very busy at this time of year and I expect there will be delays in getting quotations.

The request for bids outlines the work required to furnish and install a holding tank and related work. The Proposal form requires the contractor to submit an erosion control plan.

**The contractor is the responsible party to furnish the Erosion Control Plan.**

A copy of the successful constructor's erosion control plan will be submitted to the county with the request for the zoning permit.

**Item h.** See **Item IV.**

**IX. Fees:** I assume the fee for the Zoning Permit (construction fee?) is an additional cost.

**X. Procedure** See comments concerning the Zoning Permit noted above.

Respectfully Submitted.

Pell Johnson My email address is: pelljo@centurylink.net



## Mettler, Michelle

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**From:** Bob Kaveney [bob@rohlfings.com]  
**Sent:** Tuesday, October 13, 2015 12:04 PM  
**To:** Mettler, Michelle  
**Subject:** Pell Johnson

Michelle,

The Washington Township Board on October 12, 2015 approved of Pell Johnson's plan for a holding tank.

Bob Kaveney  
Supervisor  
Washington Township



This email has been checked for viruses by Avast antivirus software.  
[www.avast.com](http://www.avast.com)

# Le Sueur County

## Surveyor Certification

- I. Applicant:  
Name Pell & THERESA JOHNSON
- II. Property Owner (s), if different from above:  
Name \_\_\_\_\_  
Property Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_
- III. Parcel Information:  
Parcel Number 13,800,0070
- IV. Quantities and Submittal Formats:  
a. One reproducible 8.5" x 11" copy of the request and all other supporting documents.  
b. If in color, an aerial, or larger than 8.5" x 11" in size, 10 copies must be submitted.  
c. Electronic version of any supporting documents, if available.  
d. Additional copies may be requested as deemed necessary by the Planning & Zoning Department.  
e. 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 9/17/15 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.

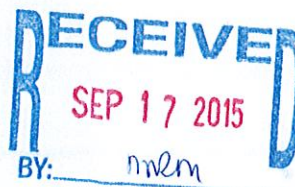
Roy Jensen \_\_\_\_\_ 9/17/15 \_\_\_\_\_ 19789  
Surveyor's signature Date Lic #

**OFFICE USE ONLY**

9-17-15  
Date received

mrm  
Planning & Zoning Authority signature

10-01-11



1



PID 13.800.0070

WATER ELEVATION:  
 AUGUST 23, 2012 = 1016.7  
 OHW = 1018.5

TOTAL LOT AREA  
 8585 SQ FT

EXISTING IMPERVIOUS SURFACES

|                    |                           |
|--------------------|---------------------------|
| HOUSE              | 1596 SQ FT                |
| SHED               | 93 SQ FT                  |
| BITUMINOUS SURFACE | 604 SQ FT                 |
| CONCRETE SURFACE 1 | 168 SQ FT                 |
| CONCRETE SURFACE 2 | 21 SQ FT                  |
| CONCRETE SURFACE 3 | 80 SQ FT                  |
| DECK W/ STEPS      | 276 SQ FT                 |
| CONCRETE STEPS     | 59 SQ FT                  |
| WOOD STEPS         | 11 SQ FT                  |
| <b>TOTAL</b>       | <b>2908 SQ FT (33.9%)</b> |

REMOVAL IMPERVIOUS SURFACE

|                    |           |
|--------------------|-----------|
| BITUMINOUS SURFACE | 291 SQ FT |
|--------------------|-----------|



OWNER  
 PELL E. &  
 THERESA JOHNSON  
 709 9TH ST N.  
 SAINT PETER, MN 56082

SITE ADDRESS  
 28002 MAPLE LANE  
 MADISON LAKE, MN 56063

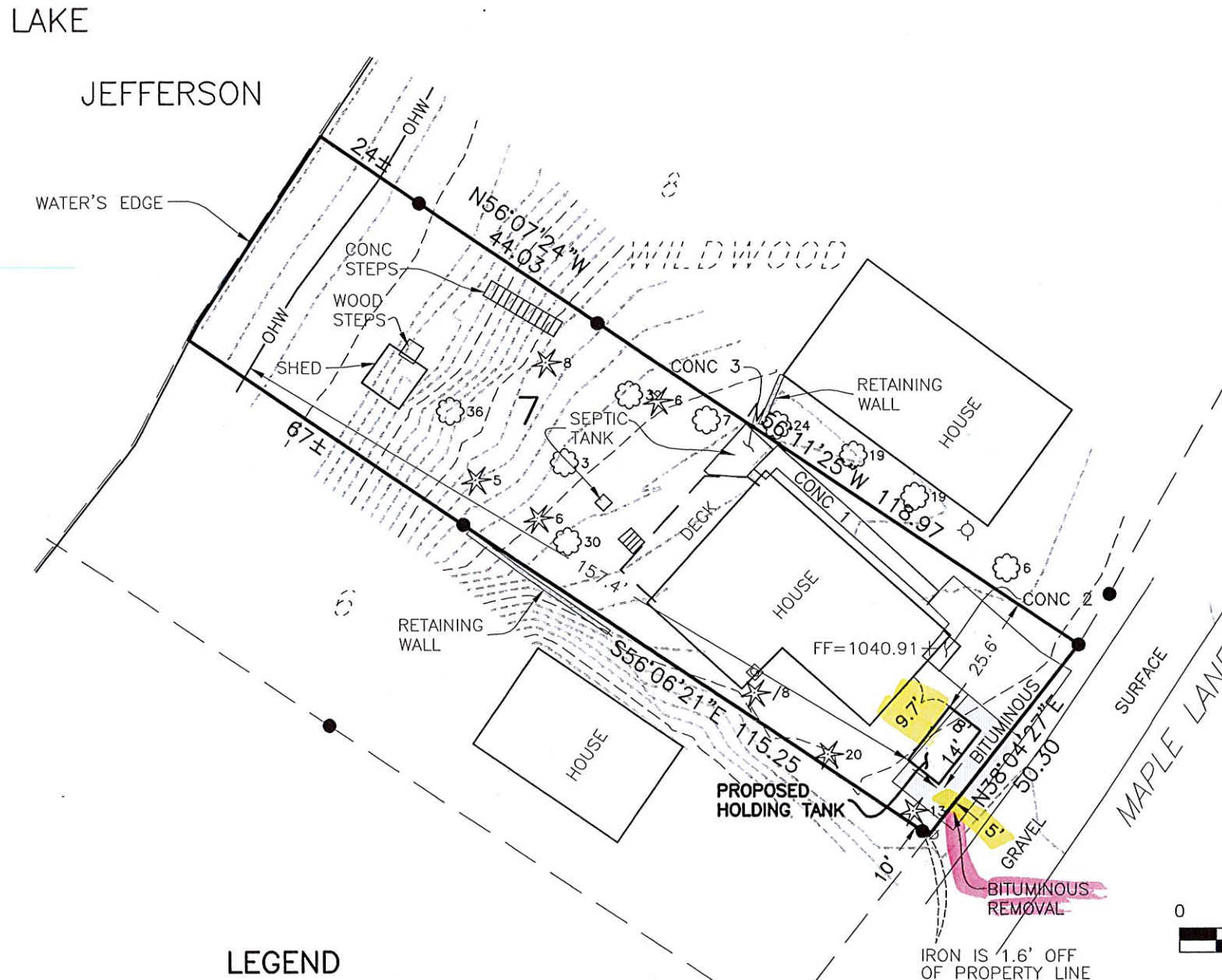
DESCRIPTION OF RECORD  
 LOT 7, WILDWOOD SUBDIVISION

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

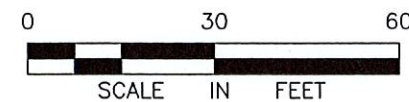
9/16/2015  
 Date



**LEGEND**

- 3/4" IRON PIPE MONUMENT SET  
 MARKED BY REG. NO. 19789
- MONUMENT FOUND

Horizontal Datum: Le Sueur County Coordinate System  
 NAD83, 1996 Adjustment



|  |                             |
|--|-----------------------------|
| VARIANCE SURVEY<br>LE SUEUR COUNTY, MINNESOTA  | LOT 7, WILDWOOD SUBDIVISION |
| <b>BOLTON &amp; MENK, INC.</b><br>Consulting Engineers & Surveyors<br>1960 PREMIER DRIVE, MANKATO, MN 56001 (507) 625-4171<br>MANKATO, FAIRMONT, SLEEPY EYE, BURNSVILLE, WILLMAR, CHASKA, RAMSEY,<br>MAPLEWOOD, BAXTER, ROCHESTER, MINNESOTA & AMES, SPENCER, IOWA | FOR: PELL JOHNSON           |

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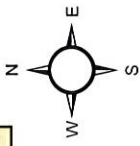
JOB NUMBER: M33.105484 FIELD BOOK: 90E PG 69

DRAWN BY: KRJ

4.0 S3-T109-R25-33



# LE SUEUR COUNTY ENVIRONMENTAL SERVICES



NAME: P. Johnson

PID: 13.800.0070

DATE: 11/19/2015

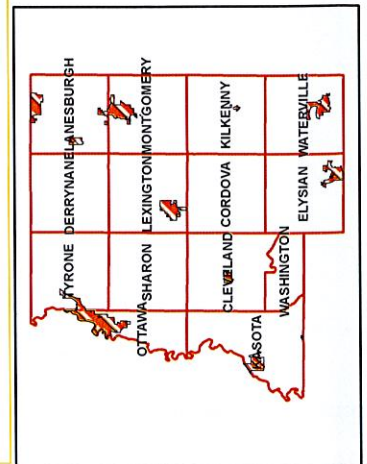
ZONING DISTRICT: **"RR"**



0078.5 Feet

### 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.



### Legend

- Townships
- ParcelPoly
- Cities
- Sections

LE SUEUR COUNTY  
 PLANNING & ZONING  
 507-357-8538

Coordinate System: NAD 1983 HARN Adj MN Le Sueur Feet  
 Photo from April 2005

CREATED BY: KMB