



Le Sueur County, MN

Thursday, November 19, 2015

Regular Session

Item 3

Mostaghini Packet

Staff Contact: Kathy Brockway or Michelle Mettler

VARIANCE STAFF REPORT

GENERAL INFORMATION

APPLICANT/OWNER: ESMail & BARBARA MOSTAGHIMI
911 ADDRESS: 50411 MORTENSEN LANE, WATERVILLE MN 56096
VARIANCE REQUEST: To allow the applicant to install a septic tank 3 feet from the dwelling, 9 feet from the property line, and 45 feet from the Ordinary High Water Level (OHWL).
VARIANCE NUMBER: 15268
PARCEL NUMBER: 14.140.0100

SITE INFORMATION

LOCATION: Lot 11, Auditor's Subdivision and part of Government Lot 3, Section 28, Waterville 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 access off Mortensen Lane

LAKE: Recreational Development "RD" lake, Lake Tetonka.

RFPE: Regulatory Flood Protection Elevation: 1006.08 Lowest floor must meet RFPE.

ATTACHMENTS

Application, 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> |
|---|-----------------|------------------|-------------------|
| a. Septic Tank to Structure: | 3 feet | 10 feet | Section 17 |
| b. Septic Tank to OHWL: | 45 feet | 75 feet | Section 17 |
| c. Septic Tank to Property Line: | 9 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**.

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 FINDINGS OF FACT

Name of Applicant: ESMAIL & BARBARA MOSTAGHIMI

Variance # 15268

Variance Request: To allow the applicant to install a new septic tanks 3' from the dwelling, 45 ft from the Ordinary High Water Level(OHWL) and ^{KB}9 ft to the property line

- 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: _____

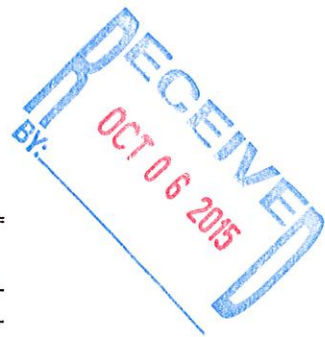
Applicant response to conditions: Agree () Disagree ()

Reasons: _____

Board of Adjustment Chairman

Date

Le Sueur County



Variance Application

I. Applicant:
Name Essie Mostaghini
Mailing Address 113 S Park Lane
City LeSueur State MN Zip 56058
Phone # 507-351-6644 Phone # _____

II. Land Owner (s), if different from above:
Name _____
Property Address 50411 Mortensen Lane
City Waterville State MN Zip 56096
Phone # _____ Phone # _____

III. Parcel Information:
Parcel Number 14,420,0100 Parcel Acreage _____
Legal Description-Full legal description must be attached (not from tax statement)

IV. Variance Request:
1. Setback from lake to tanks 45'
2. Setback from house to tank 3'
3. Setback from prop line to tank 7' 9' (survey)

V. Township Notification: Township must be notified of proposed request prior to application.
Waterville Township notified on 9-30-15
(Township Name) (Date)

Board Member Judy Hering regarding the proposed request.
(Name)

VI. 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 landowner 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.**

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

9-30-15
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.

[Signature]
Land Owner signature

10-20-15
Date

OFFICE USE ONLY

Date received 9/20 Present Zoning Classification RR Feedlot within 500' 1000' N

Meeting date 11/19 Lake Classification RD Erosion Control Plan Y N

60 Day 12/1 Lake Tetonka Water courses Y N

FEMA Panel # 27079C043D Flood Zone Outside / AE Bluff Y N

Surveyor Certificate Ordinance Septic CIV DESIGN

Site Plan -survey Access approval Fee \$ 1046 ATF / SPEC MTG

Full legal Blue Prints Other _____

Application complete Written Detail of Var

[Signature]
Planning & Zoning Department Signature

10/20/15
Date

15268
Permit #

04-15-13



Le Sueur County

Surveyor Certification

I. Applicant:

Name JOHN VERJOEVEN

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

Name ESSIE MOSTAGHIMI

Property Address 50411 MORTENSEN LANE

City WATERVILLE State MN Zip 56096

III. Parcel Information:

Parcel Number 14.420.0100

IV. 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 owner 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.

V. Site Plan-must be a survey and shall include but 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.

- VI. The proposed improvements have been physically staked onsite then surveyed on 09-26-2015 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.

John Verjoeven
Surveyor's signature

09-29-2015
Date

41820
Lic #

OFFICE USE ONLY



Planning & Zoning Department Signature

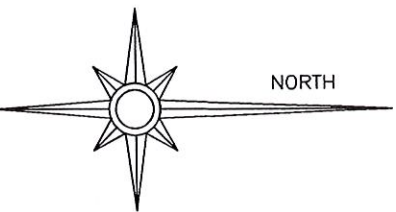
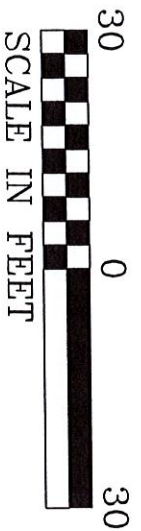
1

EXISTING LEGAL DESCRIPTION
 DOC. NO. 396864

LOT NUMBERED 11 OF AUDITOR'S SUBDIVISION OF A PART OF GOVERNMENT LOTS NUMBERED 3 AND 4 OF SECTION NUMBERED 28, IN TOWNSHIP NUMBERED 109 NORTH, RANGE 23 WEST ACCORDING TO THE PLAT THEREOF ON FILE AND OF RECORD IN THE OFFICE OF THE COUNTY RECORDER IN LE SUEUR COUNTY, MINNESOTA, IN BOOK B OF PLATS PAGE 45, TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS ON A CARWAY OVER AND ACROSS GOVERNMENT LOTS 3 AND 4 FROM THE ABOVE DESCRIBED TRACT, THENCE SOUTHWESTERLY TO COUNTY ROAD "L" AND SUBJECT TO THE USE OF THE GATE AT THE ENTRANCE OF SAID HIGHWAY AND THAT THE LAND CONVEYED HEREBY SHALL BE USED FOR NO OTHER PURPOSE THAN FOR THE PRIVATE RESIDENTIAL PURPOSES ONLY WHICH COVENANT SHALL CONTINUE AND RUN WITH THE LAND.

ALSO COMMENCING AT THE SOUTHWEST CORNER OF LOT NUMBERED 11 AUDITOR'S SUBDIVISION OF A PART OF GOVERNMENT LOTS 3 AND 4 IN SECTION NUMBERED 28, TOWNSHIP NUMBERED 109 NORTH, RANGE NUMBERED 23 WEST PER THE RECORDED PLAT OF SUCH SUBDIVISION, THENCE RUNNING SOUTH 35 FEET AS A CONTINUATION OF THE WEST LINE OF SAID LOT 11, THENCE EASTERLY PARALLEL TO THE SOUTH LINE OF SAID LOT NUMBERED 11 A DISTANCE OF 60 FEET, THENCE NORTHEASTERLY TO THE SOUTHEAST CORNER OF SAID LOT 11 AND THENCE WESTERLY ALONG THE SOUTH LINE OF SAID LOT 11 TO PLACE OF BEGINNING, LE SUEUR COUNTY, MINNESOTA.

- LEGEND**
- INDICATES FOUND IRON MONUMENT
 - INDICATES 1/2" DIA. 18" LONG SOLID IRON MONUMENT SET WITH PLASTIC CAP MARKED PRAIRIE, LS 41820
 - § SEPTIC CORNER FLAG PLACED BY JADD SEPPMANN & SONS



Area Computation

Total Property Area 8669 SqFt
 (25% Impervious Coverage Allowed)
8669 x 25% = 2167.2 SqFt

Existing Impervious Surface

- House: 861 SqFt
- Boat & Well House: 514 SqFt
- Deck: 408 SqFt
- Concrete Surface: 662 SqFt
- Gravel Drive: 586 SqFt

Total Impervious: 3031 SqFt
3031 / 8669 = 35% Coverage

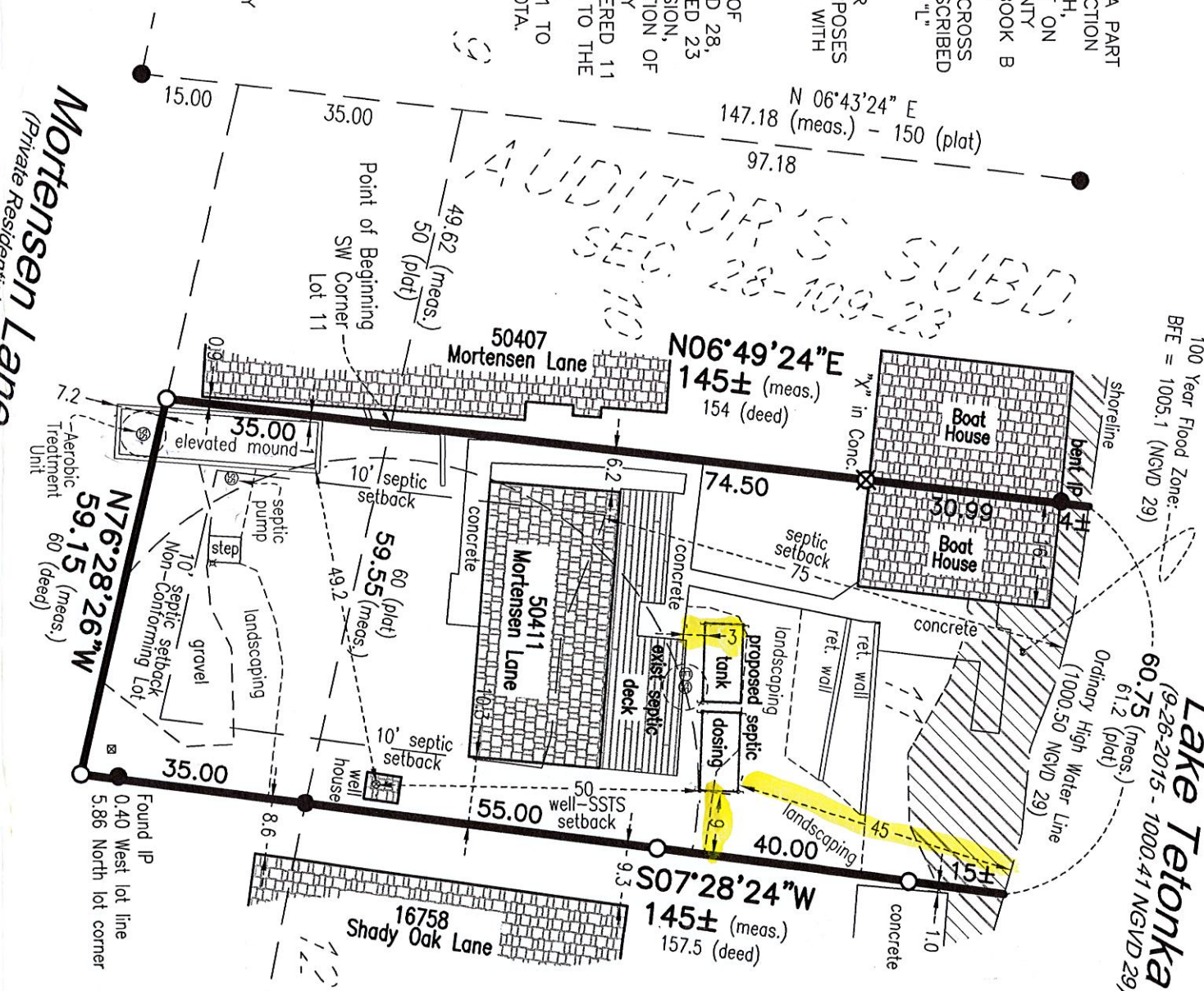
Building Setback

- 10' Side Setback
- 65' Front Setback
- 100' Rear from OHWL

Note Building setback are not mapped because current lot is Nonconforming (front and rear setback overlap each other.)

Note:

Proposed Septic Holding Tank will be restored to design standards or close to what currently exist. Septic design will be installed by Jadd Seppmann & Sons.



100 Year Flood Zone:
 BFE = 1005.1 (NGVD 29)

Lake Tetonka
 (9-28-2015 - 1000.41 NGVD 29)
 60.75 (meas.)
 61.2 (plat)

Ordinary High Water Line
 (1000.50 NGVD 29)

CERTIFICATE OF SURVEY
 ESMAIL & BARB MOSTAGHIMI

50411 Mortensen Lane, Waterville, MN 56096
 Lot 11, Auditor's Subdivision & 35' S. parcel, of Gov't Lot 3 & 4, Sec. 28-109-23, Le Sueur Co.
 Record Deed Doc. No. 396864

PLS DRAFTER: JDV
 CRD FILE: 1432 Mostaghimi JOB No: 15-1432
 FILING: Le Sueur Co., NW/4 Sec. 28-109-23
 REV. DATES:

I HEREBY CERTIFY THAT THIS SURVEY, PLAN OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

John Verbeven
 John Verbeven

DATE: 09-29-2015
 LICENSE NO. 41820

Prairie Land Surveying

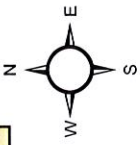
1047 East Main Street
 Mankato, MN 56001
 jverbeven@charter.net
 (507) 469-5997
 PrairieLandSurveying.com

- Boundary
- Construction
- Subdivisions
- ALTA
- Topographic

Reliable, On-Time Surveys.



LE SUEUR COUNTY ENVIRONMENTAL SERVICES



NAME: Mostaghimi

PID: 14.420.0100

DATE: 11-19-15

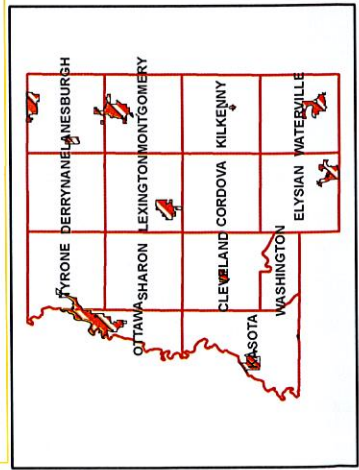
ZONING DISTRICT: **"RR"**



10/30/18 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