GOODHUE COUNTY MINNESOTA

TO EFFECTIVELY PROMOTE THE SAFETY, HEALTH, AND WELL-BEING OF OUR RESIDENTS

Goodhue County Board of Adjustment
Government Center- Board Room
509 West 5th St, Red Wing MN 55066

Monday, September 26, 2016
5:30 PM

Call Meeting To Order

Approval Of Minutes From Previous Meeting

Documents:

MINUTES_AUGUST-22-2016_BOA_DRAFT 9.26.16 MEETING.PDF

Approval Of Current Agenda

Conflic/Disclosure Of Interests

PUBLIC HEARING AGENDA ITEM: Daniel Lubahn Appeal:
Appeal of Zoning Administrator's denial of a replacement dwelling request at 19000 Block of 360th Street, Goodhue, MN; in Goodhue Township.

Documents:

LUBAHN PACKET WITH NOTICE MAP.PDF

PUBLIC HEARING AGENDA ITEM: Deloris Clemens Variance:
Variance request from the A2 Agricultural District, General District Regulations, Density Requirements, which limits each Section to 12 dwellings (currently there are 15 dwellings) and limits development to one dwelling per ¼ ¼ section (currently there is 1 dwelling); to build a residence at 13489 Sunset Trail in Vasa Township.

Documents:

CLEMENS PACKET_REDACTED.PDF

PUBLIC HEARING AGENDA ITEM: O'Flaherty Variance:
Variance request from the A-2 Agricultural District's General District Regulation's Lot Size requirement, to subdivide a lot less than 2 acres (7,000 square feet) for a septic system; and from the MN Rules 7080 Septic System Front Yard setback at 33073 Lake View Drive in Florence Township

Documents:

OFLAHERTY PACKET WITH NOTICE MAP.PDF

PUBLIC HEARING AGENDA ITEM: Tonya Witte Variance:
Variance request from the MN Rules 7080.2400 Septic System Drain Field Medium, to use a non-registered septic product for a replacement dwelling at 7005 County 9 Blvd in Leon Township.

Documents:

WITTE PACKET_REDACTED.PDF

PUBLIC HEARING AGENDA ITEM: David Bye Variance:
Variance request from Goodhue County Zoning Ordinance, Article 13 (Confined Feedlot Regulations), Section 7 (Required Setbacks for New Facilities), Subd. 6: “New feedlots shall not be located within 1,000 feet from any existing dwelling (other than those designated as an accessory to a feedlot or the feedlot operator’s dwelling)”. The request is to build a feedlot at 50130 158th Avenue (on the west side 158th Avenue - NW ¼ of the NE ¼, Section 27) in Roscoe Township.

Documents:

BYE PACKET.PDF

Old Business

**Anyone interested is invited to attend. Agenda items may be subject to change.**

# Goodhue County Land Use Management

**◆ Goodhue County Government Center ◆ 509 West Fifth Street ◆ Red Wing ◆ Minnesota ◆ 55066 ◆**
**◆ Building ◆ Planning ◆ Zoning ◆ Telephone: 651/385-3104 ◆ Fax: 651/385-3106 ◆**

# BOARD OF ADJUSTMENT
# GOODHUE COUNTY, MN
# August 22, 2016 MEETING MINUTES
**DRAFT**

The meeting of the Goodhue County Board of Adjustment was called to order at 5:30 pm on August 22, 2016 by Chair Bob Benson in the Goodhue County Board room in Red Wing, Minnesota.

## 1. Roll Call

Commissioners Present: Robert Benson, Richard Ellingsberg, Brandon Schafer, Mike Hinsch, and Howard Stenerson,

Commissioners Absent: Richard Mallan,

Staff Present: Planner/Zoning Administrator Wozniak, and Zoning Assistant Casey MacCallum

## 2. Approval of Agenda

[1]Motion by Commissioner Stenerson and seconded by Commissioner Hinsch to approve the agenda for the August 22, 2016 meeting. Motion carried 5:0.

## 3. Approval of Minutes

[2]Motion by Commissioner Schafer and seconded by Commissioner Ellingsberg to approve the July 25, 2016 minutes. Motion carried 5:0.

## 4. Conflict/Disclosure of Interest

None of the Board members declared a conflict of interest.

**PUBLIC HEARING: John & Cynthia Lucking:** Variance request from the A3 Urban Fringe District, General District Regulations, Lot Area requirement to build a residence on a parcel less than 35 acres and at 31815 Willow Trail. Part of the NE ¼ of the SE ¼ of Section 14 in Stanton Township; PID 41.024.2200.

Zoning Administrator Mike Wozniak presented the staff report and attachments.

John & Cynthia Lucking were present. *The Applicant informed the Board that they would like to build a house on the property they have owned since 1991.*

Chair Benson opened the public hearing: no one commented.

[3] **Chair Benson asked three times for comment. After hearing none, it was moved by Commissioner Schafer and seconded by Commissioner Hinsch to close the public hearing.**

**Motion carried 5:0**

*Commissioner Stenerson asked about the proposed location of the dwelling and the current use of the structures on the property. Jack Lucking informed the Board that the proposed placement of the dwelling is on the western 1/3 of the property; and one of the accessory structures is for storage and the other structure is an agricultural office.*

*Commissioner Stenerson inquired about the Township's comfort with the density. Chair Benson informed the Board that the Township did not have a problem with the variance.*

*Zoning Administrator Wozniak informed the Board about the history of the area and development inquiries.*

*Commissioner Stenerson inquired about adding a condition to combine the parcels. Chair Benson noted the increase in taxes and Zoning Administrator Wozniak noted the difference in*

*use and inability to construct a dwelling on the parcel with the orchard because it doesn't meet the lot area requirement.*

[4]**Motion by Commissioner Schafer, second by Commissioner Ellingsberg, that the Board of Adjustment:**

- **adopt the staff report into the record (dated August 12th , 2016);**
- **adopt the findings of fact,**
- **and based on the application, testimony, exhibits, and other evidence presented:**

**APPROVE the variance request of John and Cynthia Lucking from the A3 Urban Fringe District, General District Regulations, Lot Area requirement to build a residence on a parcel less than 35 acres, and**

**Subject to the following conditions:**

1. **Conformance with the application submitted to Goodhue County Land Use Management Office dated June 21, 2016,**

**at 31815 Willow Trail. Part of the NE ¼ of the SE ¼ of Section 14 in Stanton Township; 41.024.2200.**

**Motion carried 5:0**

**PUBLIC HEARING: Ronald & Cheryl Clemens.** Variance request from the A2 Agricultural District, General District Regulations, Density Requirements, which limits each Section to 12 dwellings (currently there are 15 dwellings) and limits development to one dwelling per ¼ ¼ section (currently there are 3 dwellings), to build a residence at 13482 Sunset Trail. Part of E ½ of the NW ¼ of Section 5 in Vasa Township.

Mike Wozniak presented the staff report and attachments, and noted the Clemon's Variance request reflected a reasonable use of the subject property and that a dwelling may be the most appropriate use for the property.

Ronald & Cheryl Clemens were present. *The Applicants noted the history of development in the area; and difficulty with neighborhood development approvals. Ronald Clemens informed the Board that the land is not good for any other use.*

*Commissioner Hinsch asked for the lot size. The Applicant informed the Board that the lot is 5.4 Acres.*

*Commissioner Hinsch asked for clarity on the map attached to the staff report.*

*Commissioner Schafer asked the applicants how much frontage they had, and noted the impact on the neighbors. The Applicant assumed the frontage was 400 to 500 feet. Zoning Administrator Wozniak pulled up the online GIS and informed the Board that the property has more than 500 feet of frontage.*

*Commissioner Stenerson asked for clarification on the Applicant's parcel and other parcels in the area with the same last name. The Applicant explained his families ownership of several properties throughout the neighborhood. Commissioner Stenerson also asked about the topography and ecology of the property.*

Chair Benson opened the public hearing:

*Patty Reed: supports the variance. Her family has lived next door to the parcel for 3 years. She noted that the Clemens are good neighbors and have taken good care of the property; and she acknowledged the strife in the neighborhood.*

[5]**Chair Benson asked three times for further comment. After hearing none, it was moved by Commissioner Stenerson and seconded by Commissioner Hinsch to close the public hearing.**

**Motion carried 5:0**

*Commissioner Stenerson inquired about the topography of the parcel. He noted concern for the development window and placement for two septic systems. The Applicant described the topography and land cover of the property. Zoning Administrator Wozniak noted the process of development requires review by Environmental Health for every new septic system.*

*Commissioner Ellingsberg discussed examples of septic system development on difficult properties.*

*Commissioner Stenerson inquired about the purchase of the land. The Applicants noted that they purchased the parcel in 2001. Stenerson discussed difficulty he has with the practical difficulties for this variance.*

*Commissioner Schafer informed the Board about the Planning Advisory Commission's development of the Comp Plan, and how this specific area was reviewed during the Housing Element discussions.*

*Zoning Administrator Wozniak noted that the County allowed this parcel to be created.*

*Commissioner Stenerson and Commissioner Schafer noted the practical difficulty is met due to the County's approval of the parcel split and the lack of other appropriate uses for the property. Commissioner Stenerson noted the quality housing that has been built in the area.*

[6]**Motion Commissioner Stenerson, second by Commissioner Schafer, that the Board of Adjustment**

- **adopt the staff report into the record (dated August 8, 2016);**
- **adopt the findings of fact; and**
- **based on the application, testimony, exhibits, and other evidence presented,**

**<u>APPROVE</u> the variance request of Ronald & Cheryl Clemens from the A2 Agricultural District, General District Regulations, Density Requirements, which limits each Section to 12 dwellings (currently there are 15 dwellings) and limits development to one dwelling per ¼ ¼ section (currently there are 3 dwellings);**

**Subject to the following conditions:**

1. **Conformance with the application submitted to Goodhue County Land Use Management Office dated July 25, 2016,**
2. **Compliance with all necessary State and Federal permits and licensing,**
3. **<u>Proper siting of septic, and</u>**
4. **<u>Subject to no infringement of wetlands</u>**

**to build a residence at 13482 Sunset Trail. Part of E ½ of the NW ¼ of Section 5 in Vasa Township.**

**Motion carried 5:0.**

**BOARD OF ADJUSTMENT**
**GOODHUE COUNTY, MN**
**August 22, 2016 MEETING MINUTES**
**DRAFT**

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**5. Other Business**

None

**6. Staff Updates**

*Zoning Administrator Wozniak informed the Board of future planning initiatives:*

1. *Publication of the Comprehensive Plan,*
2. *The "opt out" provisions the County will propose for "Granny Flats", and*
3. *The revisions to the A3 District*

*Commissioner Stenerson noted his discomfort with the Comp Plan's affect that might increase pressure on the BOA to increase density piecemeal. He would like criteria from the PAC on approval for density variances.*

*Commissioner Schafer noted the intent of the Comp Plan to have a vague but purposeful increase in density. Agrees with Commissioner Stenerson's request for criteria. He noted the economic connection to increased housing density and the loss of feed lots that decreases the production of grain and decrease of towns.*

*Zoning Administrator Wozniak noted that the 2016 Comprehensive Plan clearly favors Agricultural uses. He noted that the splitting of farm dwellings from the farm land can create a situation where the occupants of rural dwellings are disconnected from farming and the sights, sounds and smells associated with agricultural uses.*

*Commissioner Schafer informed the Board that the PAC's intent is for the BOA to figure out the proper and practical cases that are exceptions to the Zoning Code.*

*Commissioner Stenerson requested that the PAC to help inform the Board on how to evaluate variances, and the Board needs suggested guidelines for density variances.*

*Commissioner Schafer recommends the PAC discuss the criteria during next month's meeting. Zoning Administrator Wozniak stated that each request should be considered on its own merits, but not to forget the general framework to guide growth and change established in the 2016 Goodhue County Comprehensive Plan.*

[7]**Adjourn: Moved by Commissioner Schafer , second by Commissioner Hinsch , to adjourn the August 22, 2016 Board of Adjustment meeting at 6:53 p.m.**

**Motion carried 5:0.**

Respectfully Submitted,

Casey MacCallum
Zoning Assistant

_____

# BOARD OF ADJUSTMENT
# GOODHUE COUNTY, MN
# August 22, 2016 MEETING MINUTES
**DRAFT**

MOTIONS

[1] APPROVE the BOA meeting agenda. Motion carried 5:0.
[2] APPROVE the July ,2016 minutes. Motion carried 5:0.
[3] CLOSE the Public Hearing. Motion carried 5:0.
[4] APPROVE the variance. Motion carried 5:0.
[5] CLOSE the Public Hearing. Motion carried 5:0.
[6] APPROVE the variance. Motion carried 5:0.
[7] ADJOURN the August 22, 2016 Board of Adjustment meeting. Motion carried 5:0

# Goodhue County Land Use Management

**Goodhue County Government Center | 509 West Fifth Street | Red Wing, Minnesota 55066**

Building | Planning | Zoning
Telephone: 651.385.3104
Fax: 651.385.3106

Environmental Health | Land Surveying | GIS
Telephone: 651.385.3223
Fax: 651.385.3098

**To:** Board of Adjustment
**From:** Land Use Management
**Report Date:** September 16, 2016
**Meeting Date:** September 26, 2016

**Application Information:**

Applicant: Daniel & Chelsea Lubahn
Address of Zoning request: 19809 360th St., Goodhue MN
Zoning district: A1
Township Information: Goodhue Township has signed the application and has offered no comments.

**Attachments:**

Site Map
Applicant Statement
Applicant Site Pictures
Aerials from 1932
Plat Book copy from 1869
Goodhue County Zoning Ordinance: Articles 5 Section 4

**Notice:** Appeal of Zoning Administrator's denial of a replacement dwelling request at 19809 360th Street, Goodhue, MN; E ½ of the NE ¼ of Section 17, Township 111, Range 15 in Goodhue Township.

**Background:** The purpose of this appeal is for the applicant to gain zoning approval to build a dwelling on parcel 33.017.0100. Under Article 21 A-1 Agricultural Protection District, Section 5 General District Regulations Subdivision 2.1 up to 4 dwellings may be allowed per Section. There are currently dwellings in Section 17. Under the current A-1 Zoning, the only option available to construct a dwelling on the subject property is to qualify as a "replacement dwelling site". Article 10 Rules and Regulations, Section 2 Definitions, Subdivision 34, specifies that replacement dwelling sites, are allowed if the site meets two of the following three criteria 1) A defined farmyard, 2) Standing Accessory building, and 3) Existing dwelling or foundation.

It was determined by the Zoning Administrator that none of the criteria for a replacement dwelling were completely met. The farmyard is not clearly defined in recent aerials, there is no standing accessory building, and the foundation, although likely from a dwelling cannot with certainty be identified as such.

The Applicant has provided the Board with evidence for the presence of a dwelling on the site that includes: Aerial imagery from 1938, a copy of a County Plat Book from 1869, a note (confirmed by LUM staff) stating Richard Nibbe affirms the presence of a

dwelling, a letter from Daniel Nibbe (owner) that states his father said there was a barn on the property until the 1930's, and pictures that show a foundation and a well.

**Article 10 Rules and Definitions, Section 2 Definitions, Subd. 34 Dwelling, Replacement Site:** Replacement Dwelling sites must meet two of the following three criteria:

1) A defined Farmyard
2) Standing Accessory Building
3) Existing dwelling or foundation

**Article 5, Section 4, Subdivision 2:** The Board of Adjustment may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and to that end shall have all the powers of the officer from whom the appeal was taken and may direct the issuance of a permit.

**Findings of Fact:**
The Board of Adjustment shall hear and determine appeals when:

Where it is alleged there is error or abuse of discretion in any order, requirement, decision or determination made by any administrative official or Zoning Administrator in the enforcement of the provisions of any ordinance adopted by the County Board creating zoning districts or regulating the use of property in the County; or

1) **The Applicant is requesting that the Board of Adjustment consider the below referenced evidence that documents that a dwelling once existed on the subject property as a basis for determining that the site should qualify as a "replacement dwelling site": In regards to a defined farm yard the Applicant has provided an aerial from 1938 that shows more tree coverage than the 2016 aerials, which may be determined as a defined farm yard.**
2) **In regards to the standing accessory building the Applicant has provided a letter from the owner that states the owners father talked about a barn on the property; and pictures of a well.**
3) **In regards to an existing or past dwelling on the property the Applicant has provided pictures of a cement well and pictures of a foundation that could be determined to be a foundation of a dwelling. The Applicant has also supplied a note (confirmed by LUM staff) that Richard Nibbe (the Applicant's Uncle) worked on and knew of people living on the property.**

**It is the Board's discretion whether the Applicant has provided enough evidence to meet two of the three criteria.**

*The following should be edited to reflect any concerns raised at the* September 26, 2016 *BOA meeting and public hearing:*

**Staff Comments:**
Staff does not make a recommendation to the Board of Adjustment on appeals. Whether approved or denied the Board should adopt the staff report into the record (dated September 16, 2016); adopt the findings of fact; and based on the application,

testimony, exhibits, and other evidence presented make a determination to: affirm or deny the appeal of Zoning Administrator's denial of a replacement dwelling request of Daniel and Chelsea Lubahan at 19809 360th Street, Goodhue, MN; E ½ of the NE ¼ of Section 17, Township 111, Range 15 in Goodhue Township;

Subject to the following conditions:

1. Compliance with all applicable Local, State and Federal Laws, Rules, or Regulations
2. Compliance with the building code and Goodhue County's building permitting process, and
3. Compliance with Goodhue County's Well and Septic regulations and permitting process.

APPLICATION FOR

# Appeal

RECEIVED

AUG 24 2016

Land Use Management

**Application for Appeal**

APPEAL NUMBER: For Land Use Only 2160001

$350 RECEIPT# 15510 DATE 8/24/16

## 1. Owner/Applicant Information

PROPERTY OWNER'S NAME:
Daniel Nibbe

PROPERTY OWNER'S ADDRESS:
[redacted]
Goodhue, MN 55027

TELEPHONE:
[redacted]

EMAIL:
n/a

APPLICANT OR AUTHORIZED AGENT'S NAME:
Daniel + Chelsea Lubahn

Same as Above ☐

APPLICANT'S ADDRESS:
39889 90th Ave
Cannon Falls, MN 55009

TELEPHONE:
(507) 421-9837

EMAIL:
[redacted]

CONTACT FOR PROJECT INFORMATION:
Daniel Lubahn

Same as Above ☒

ADDRESS:

TELEPHONE:
( )

EMAIL:

## 2. Location and Classification

STREET ADDRESS OF PROJECT:
19000 Block of 360th St. Goodhue, MN

ZIP CODE:
55027

LEGAL DESCRIPTION:
ID# 33-0000-12700 E ½ of NE¼ Sec 17 111 15 Doc# 514780

Attached ☒

IF YOU ARE NOT SURE OF THE EVENTUAL SIZE OF THE FINAL PROJECT, PROVIDE THE MAXIMUM ESTIMATES

| PID#. | ZONING DISTRICT | LOT AREA (SQ FT): | LOT DIMENSIONS: | STRUCTURE DIMENSIONS (if applicable): |
|---|---|---|---|---|
| 33.017.0100 | A2-Goodhue, MN | 261,360 | 330 ft x 800 ft | 30 ft x 100 ft |

( Please check all that apply )

- ☒ New Building on vacant land
- ☐ New Addition to existing building
- ☐ Animal Building
- ☐ Storage building
- ☐ Other Please clarify

ADDITIONS TO BUILDING:

- ☐ Rear
- ☐ Front
- ☐ Side

PRESENT OR PREVIOUS USE:
Previous farm dwelling

PROPOSED USE:
Replacement farm dwelling

BUILDING APPLICATION PERMIT NO.: (if filed)

DATE FILED:

TOWNSHIP:
By signing this form, the Township acknowledges being made aware of the request stated above. In no way does signing this application indicate the Township's official approval or denial of the variance request.

Attached ☐

| TOWNSHIP OFFICAL'S PRINTED NAME AND TITLE | TOWNSHIP OFFICAL'S SIGNATURE | DATE |
|---|---|---|
| Dale Dicke Chairman | Dale Dicke | aug 15, 16 |

## 3. Applicant's Affidavit

Under penalty of perjury the following declarations are made:

1. The undersigned is the owner or authorized agent of the owner of this property.
2. The information presented is true and correct to the best of my knowledge.
3. If I am unable to be present at the meeting where my request is decided, I agree to accept the Notice of Decision by certified USPS.
4. Other information or applications may be required.

Signature: Daniel Nibbe Date: 8/14/16

Print name: Daniel Nibbe owner or authorized agent (circle one)

**Please state the nature of the appeal**

We wish to appeal the county staff's decision that the building site location does not meet the definition of a replacement dwelling. We are hopeful for the Board to determine that the location may qualify as a replacement dwelling with the supporting evidence we have found.

1. **State exactly what is intended to be done on or with the property which conflicts with the zoning Administrator's order, requirement, decision or determination.**

   Our intention is to build a replacement dwelling on parcel number 33.017.0100.

2. **Identify how the Zoning Administrator's decision is not clearly supported by the text of the appropriate sections of the Goodhue County Zoning Ordinance and/or how the Zoning Administrator's decision is contrary to the intend of the Goodhue County Zoning Ordinance or Comprehensive Plan.**

   Per subd. 34 requirements, we do have an existing foundation but lack a defined farmyard and standing accessory buildings. However, we do have aerial evidence as well as a plat book image that clearly view a previous dwelling on this parcel.

3. **What unique and unusual adverse effect does the Zoning Administrator's decision have or will it have on the reasonable use, enjoyment and value of the property?**

   The Nibbe farm, which includes the parcel under appeal, has been a family farm for over 100 years. The farm is currently run by Chelsea's uncles Dan and Steven Nibbe, both who are single with no children. We have been actively farming with them for the last four years and with Steven's increasing disability it is their wish that we work our way into taking over the family farm. By building a replacement dwelling on the property, we would be able to enjoy the privacy of raising our three girls in a farm setting. This would also allow Dan to continue his partnership with farming operations, and then retire on the home farm when he feels ready. This woulda fill our strong desire to join the Goodhue community and all of its small town benefits.

To Whom It May Concern,

This letter is to verify that I am the land owner of parcel number 33.017.0100 and it is my plan to sell Dan and Chelsea Lubahn a building site for the replacement dwelling on this parcel should their appeal be granted.

There is a former building site with physical evidence on this parcel. My father Jack Nibbe always said there was a barn still there in the 1930's.

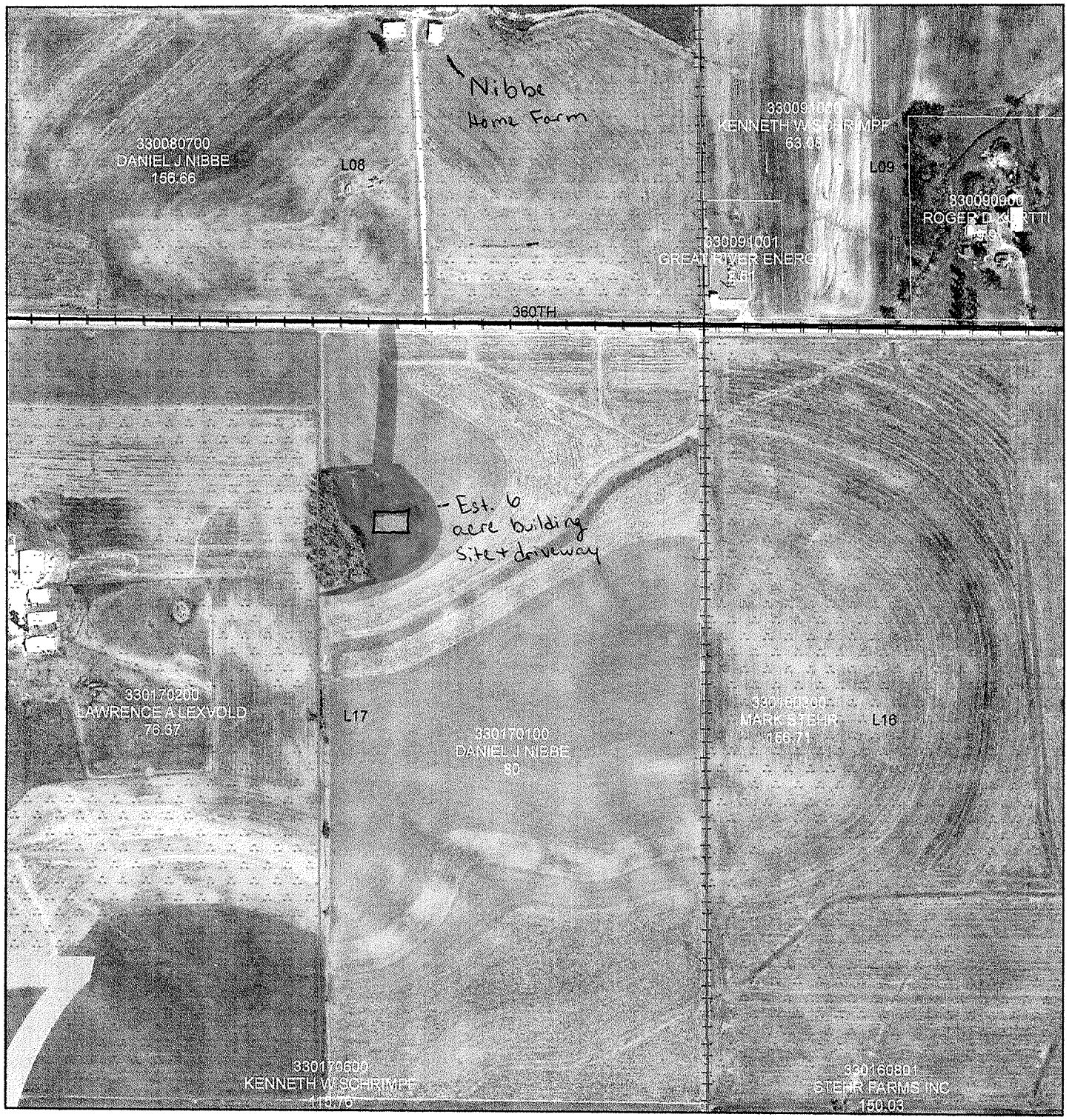
My niece Chelsea and her husband Dan would like to take over the family farm someday. They have been working on the farm for the past four years and have three daughters they would like to raise on the farm. I am 58 and in good health and would like to stay on the farm as long as possible. If Dan and Chelsea are able to rebuild on the old site, they would be able to help me get things done more efficiently.

Please help us keep the family farm going!

Sincerely,

Daniel Nibbe

Daniel Nibbe




PID # 330170100
Zoning District: A2

The following information is required for a Site Plan:

1. Location, size and shape of any structures Clearly distinguish between existing and proposed;
2. Distances from structures to property lines;
3. Distances between structures, porches and decks;
4. All wells and sanitary sewer systems (including any abandoned) and the distance to nearby structures
5. The existing and intended use of the property
6. All landscape, screening, and fencing plans;

Upon review, projects may require other information

* Driveway not along fence line due to land topography. Crest of hill not safe for a driveway entry or school bus stop

**Legend**

- Road
- 2014 Feedlot parcel
- Tax Parcel
- Section Line
- Municipal Boundaries
- Dwelling Point

0 110 220 440 660 880 Feet

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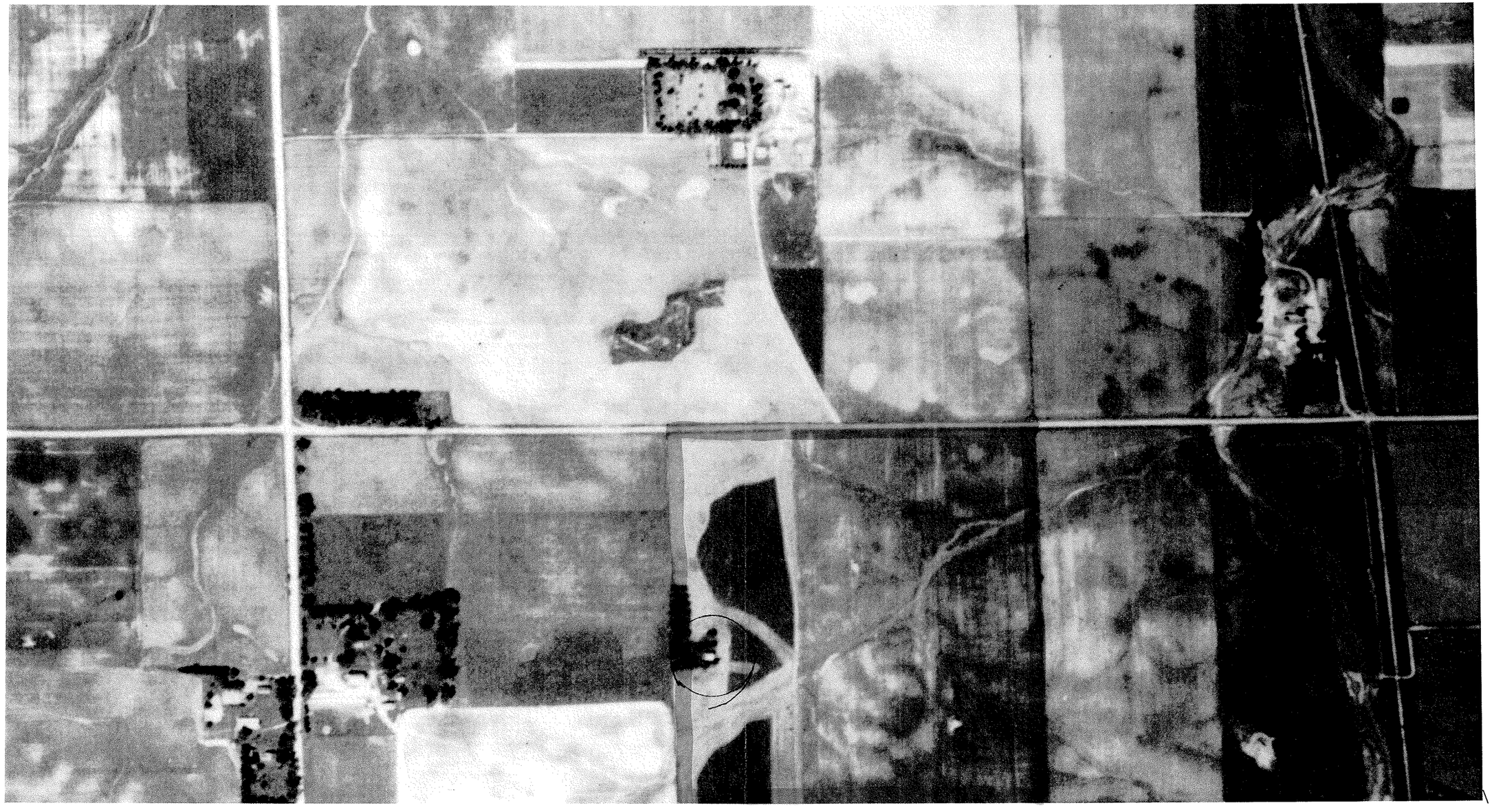
2014 Aerial Imagery

Map Created 2016 Land Use Management



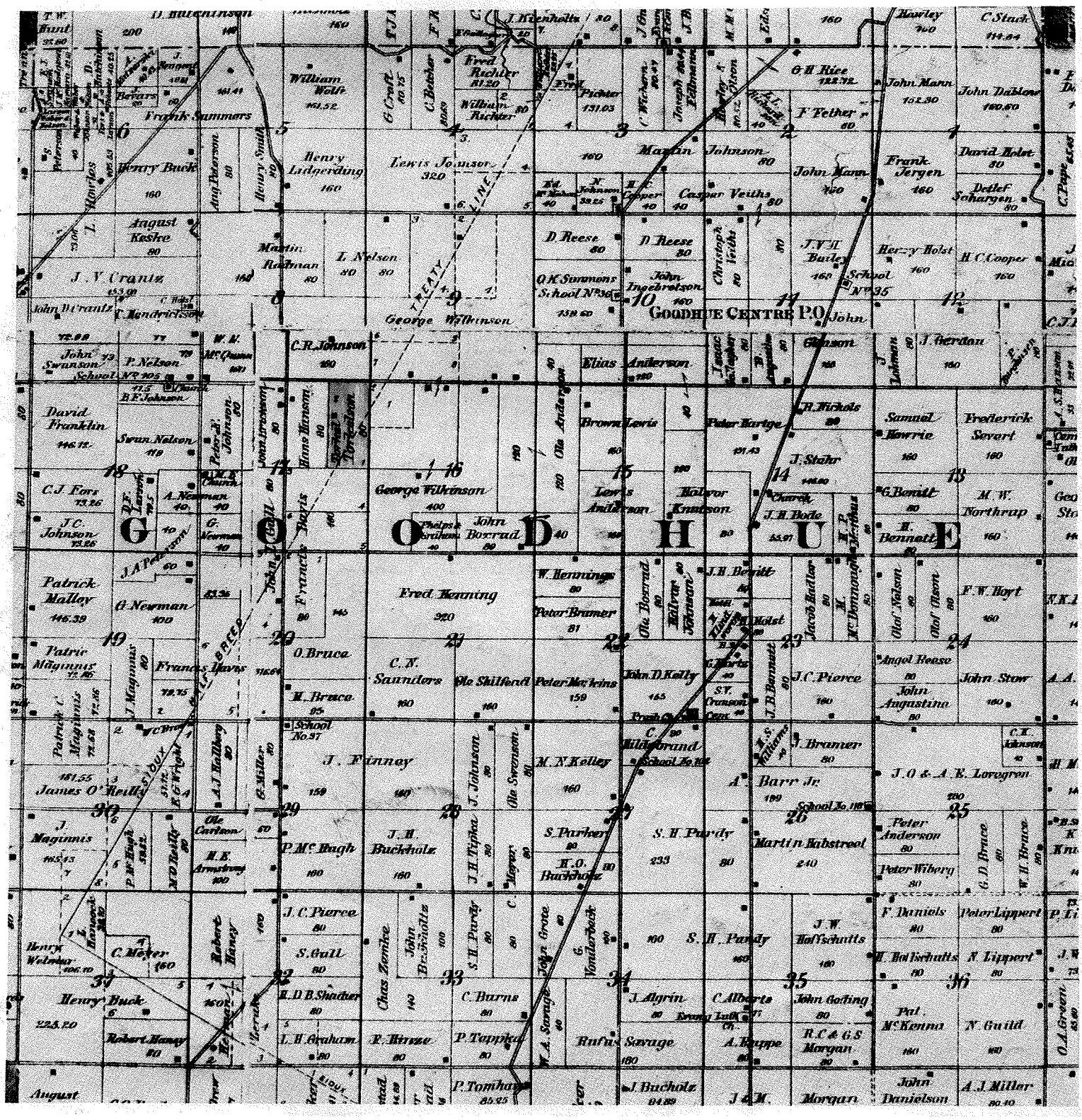
1938 Goodhue Twp Imagery, Section 17, Goodhue County Survey/GIS Office 08/2016

Between 1869 + 1878

# Goodhue Township

Township 111 North

Range 15 West



-1/25/2016

I spoke to a Cousin, Richard Nibbe, last week. He lived with the Nibbe family on our farm in the 1950's. He said "absolutely there was a building site on the acres in question". He can be contacted at 507-457-9985. Winona

Janice Nibbe

Subd 33. **DWELLING.** Two or more rooms within a structure which are arranged, designed or used as living quarters for one (1) family only. Individual bathrooms and complete kitchen facilities, permanently installed shall be included for each dwelling. A manufactured home with the above accommodations located in areas approved for manufactured homes shall be considered a dwelling unit. A house trailer, camper trailer, camper bus, or tent are not considered dwelling units. Garage space, whether in an attached or detached garage, shall not be deemed a part of a dwelling.

a. **Dwelling, Farm.** A dwelling located on a farm which the residents of said dwelling either operates or is employed thereon.

b. **Dwelling, Non-Farm.** A dwelling located on a parcel of land contiguous to or surrounded by farmland which is under separate ownership and which the resident of said dwelling neither operates nor is employed thereon.

c. **Dwelling, Single Family.** A dwelling occupied by only one (1) family, and so designed and arranged as to provide cooking and kitchen accommodations and sanitary facilities for one (1) family only, together with such domestic help as may be necessary to service and maintain the premises and their occupants.

d. **Dwelling, Two Family.** A dwelling so designed and arranged to provide cooking and kitchen accommodations and sanitary facilities for occupancy by two (2) families.

e. **Dwelling, Multiple.** A building used or intended to be used as a dwelling by three (3) or more families.

f. **Dwelling, Second Farm.** A temporary dwelling located in the farmyard and with the same tax parcel, to house farm labor. The dwelling shall be removed when the need is terminated. No such dwelling shall be allowed to become permanent, nor shall it give rise to a right to create a separate building site.

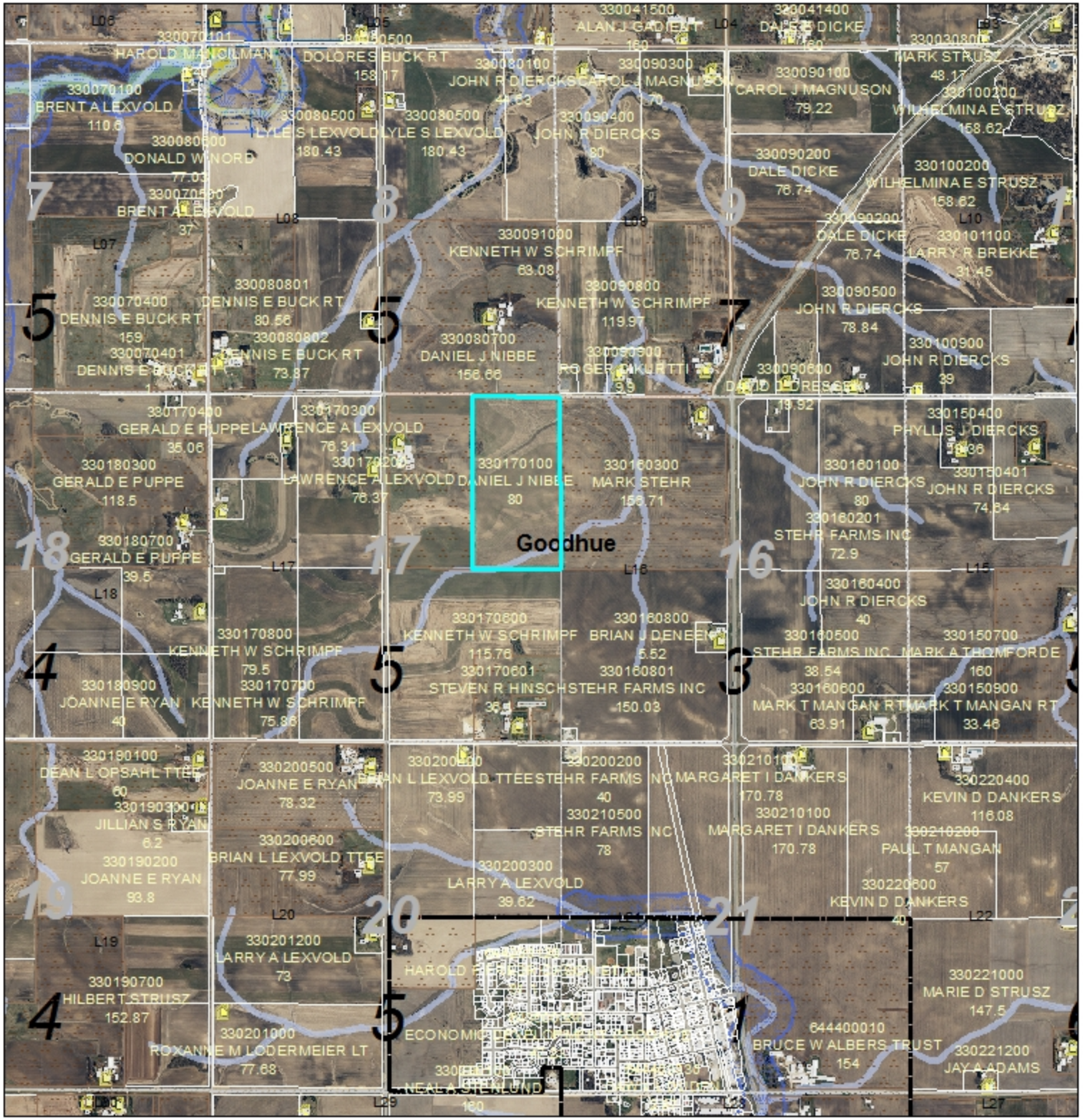
Subd 34. **DWELLING, REPLACEMENT SITE.** Dwelling, Replacement Site, Replacement Dwelling sites must meet two of the following three criteria:

a. A Defined Farmyard.

b. Standing Accessory Buildings.

c. Existing Dwelling or Foundation.

PUBLIC HEARING:
Daniel Lubahn – Appeal of Zoning Administrator's denial of a replacement dwelling request at 19000 Block of 360th Street, Goodhue, MN; the east ½ of the northeast ¼ of Section 17, Township 111, Range 15 in Goodhue Township.

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2016 Aerial Imagery

Map Created 2016 Casey MacCallum

# Goodhue County Land Use Management

**Goodhue County Government Center | 509 West Fifth Street | Red Wing, Minnesota 55066**

Building | Planning | Zoning
Telephone: 651.385.3104
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Environmental Health | Land Surveying | GIS
Telephone: 651.385.3223
Fax: 651.385.3098

**To:** Board of Adjustment
**From:** Land Use Management
**Report Date:** September 16, 2016
**Meeting Date:** September 26, 2016

**Application Information:**

Applicant: Deloris Clemens
Address of Zoning request: 13489 Sunset Trails, Welch MN
Zoning district: A2
Township Information: Vasa Township has not signed the application.

**Attachments:**

Site Map
Applicant Statement
Goodhue County Zoning Ordinance: Articles 22

**Notice: Deloris Clemens –** Variance request from the A2 Agricultural District, General District Regulations, Density Requirements, which limits each Section to 12 dwellings (currently there are 15 dwellings) and limits development to one dwelling per ¼ , ¼ section (currently there are 1 dwellings); to build a residence at 13482 Sunset Trail. Part of E ½ of the NW ¼ of Section 5 in Vasa Township.

**Background:** The purpose of this variance is to seek approval to build a dwelling on parcel 42.005.1105. Article 22 Agricultural District, Section 5 General District Regulations, Subdivision 2 limits the number dwellings to 12 dwellings per Section and a limit of one dwelling per ¼ ¼ Section. Section 5 of Vasa Township currently has 15 dwellings and the NE ¼ of the NW ¼ of Section 5 currently has 1 dwelling. It should be noted that a variance to allow a dwelling to be constructed on Parcel #420051104 (part of the SE ¼ of the NW ¼ of Section 5) was approved by the BOA on August 22, 2016.

Delores Clemons has referenced, the following reasons to support the granting a density variance to allow construction of a dwelling on their property:

- There is no other use for this property in the A-2 Zone.
- The property is sloped, rocky and not good for agriculture.
- The want to use their land as neighboring property owners do
- They already own the property and would like to build a dwelling to live on the parcel not for financial gain.

Only 1/3 of the land in Section 5 is currently in agriculture use due to the rugged topography included wooded bluffs or sloped areas and the presence of 15 dwellings. The properties along Sunset Trail in the North ½ of Section 5, lend themselves to residential use and are not well suited for agricultural use.

**Findings of Fact:**

Before any such variance may be granted, the Board of Adjustment shall specify in their findings, the facts in each case. Variances shall only be permitted when:

1) They are in harmony with the general purposes and intent of the official control;

   *The intent and general purpose of the A2 District is to maintain and conserve agricultural investments and prime agricultural farmland, but provide for a slightly higher density of dwellings than the A1 District. The A2 district is intended to apply to those areas where large farms and feedlots are more scattered and greater numbers of non-farm uses or small parcels are present.*

   **A decision by the Board of Adjustment to allow the construction of a dwelling on the Applicant's property will not impact agricultural land use due to its small size, sloped topography and the presence of abutting dwelling sites.**

2) The variances are consistent with the comprehensive plan;
   **The 2016 Comprehensive Plan speaks to this variance in the Housing Element.**

*ELEMENT 3: Housing*

*Objective #1: "Direct the location of new or replacement dwelling sites in areas that minimize loss or conversion of prime agriculture soils."*
**Approval of the Applicant's request for a variance to construct a home on the site in question would "direct the location of a new dwelling sites to an areas that will minimize loss" of Ag land because this land is viable for agricultural use and abutting and nearby properties along Sunset Trail are also residential.**

**Agricultural use of the Applicant's property may be detrimental to the surrounding parcels and neighborhood. If the Board allowed the construction of a dwelling on the Applicant's property no tillable prime agricultural land would be removed because most of the soils are not considered prime agriculture soils.**

*Objective #2: "Consider adjustments to the density of Agricultural Zoning Standards, ¼ ¼ Limit in A-2 Zone or other standards to allow limited additional rural dwelling sites in agriculture zones."*
**Adjustments to the A2 Zone, specifically the ¼ ¼, would alleviate the need for part of this variance. Approval of this variance would "allow limited additional rural dwelling sites in agriculture zones."**

*Objective #12: "Provide opportunities for smaller communities to thrive through more compact land development practices, diversity of business land uses, mixed use development and pedestrian orientated design."*

**Approval of the variance would "provide opportunities for smaller communities to thrive through more compact land development practices."**

*Objective #13: "Provide more housing choices for rural residents"*
**Approval of the variance would "provide more housing choices".**

*Implementation strategy #1: "Explore other housing density criteria instead of the current Section based limits; take into account land use, topography, scenic views, and access to roads."*
**The surrounding "land use, topography, scenic views," and road access make the Applicants property a suitable residential site.**

*ELEMENT 1: Agriculture*

*Plant Agriculture Objective #4: "If residential development occurs, it should be compact and designed to preserve the prime farmland for agricultural uses or other compatible uses to minimize conflicts between agricultural and non-agricultural uses."*
**Approval of the Variance would be consistent with Objective #4, by contributing to a "compact" residential area and preserving prime farmland.**

3) There are practical difficulties in complying with the official control. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner, not permitted by an official control. Economic considerations alone do not constitute practical difficulties.

   **The intent of the A2 District is to encourage long-term agricultural uses and preserve prime agricultural farmland by restricting the location and density of non-farm dwellings.**

   **The property cannot be practically used as a farm nor any other use allowed in the district besides a residence. Sunset Trail is rural residential in nature and a farm, feed lot, or timber harvesting would be detrimental to the neighborhood and financially infeasible.**

4) The plight of the landowner is due to circumstances unique to the property not created by the landowner; and
   **The Applicant received the property as a gift from Ralph Clemens, the Applicant's father, in 2004. The Applicant did not contribute to the properties inability to be used for any other permitted use.**

5) The variance, if granted, will not alter the essential character of the locality.
   **The surrounding neighborhood's character will not change. In fact, construction of a dwelling on the subject property may well reinforce the character of the neighborhood.**

6) No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located.
   **Residences are allowed within the A2 Zone.**

7) The Board of Adjustment may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.
**If the variance is approved than, in accordance with this provision, conditions the Board of Adjustment impose conditions.**

*The following should be edited to reflect any concerns raised at the* September 26, 2016 *BOA meeting and public hearing:*

**Staff Recommendation:**
Staff recommends the Board of Adjustment adopt the staff report into the record (dated September 16, 2016); adopt the findings of fact; and based on the application, testimony, exhibits, and other evidence presented: approve the variance request of Delores Clemons from the A2 Agricultural District, General District Regulations, Density Requirements, which limits each Section to 12 dwellings (currently there are 15 dwellings) and limits development to one dwelling per ¼ , ¼ section (currently there are 3 dwellings); to build a residence at 13489 Sunset Trail. Part of E ½ of the NW ¼ of Section 5 in Vasa Township.

Subject to the following conditions:
1. Conformance with the application submitted to Goodhue County Land Use Management Office dated August 24, 2016,
2. Compliance with all necessary state and federal permits and licensing,

APPLICATION FOR

# Variance

**Application for Variance**

VARIANCE NUMBER: For Staff Use only Z16-0063

$350 RECEIPT# 15513 DATE 8/24/16

## 1. Owner/Applicant Information

PROPERTY OWNER'S NAME: Jeffrey Clemens & Deloris Clemens

PROPERTY OWNER'S ADDRESS: [redacted]

TELEPHONE: [redacted]

EMAIL:

APPLICANT OR AUTHORIZED AGENT'S NAME:

Same as Above ☑

APPLICANT'S ADDRESS:

TELEPHONE: ( )

EMAIL:

CONTACT FOR PROJECT INFORMATION:

Same as Above ☑

ADDRESS:

TELEPHONE: ( )

EMAIL:

## 2. Location and Classification

STREET ADDRESS OF PROJECT: 13489 Sunset trail welch mn [redacted]

ZIP CODE: 55089

LEGAL DESCRIPTION: Section -05 - Twp -112 Range -016

Attached ☐

IF YOU ARE NOT SURE OF THE EVENTUAL SIZE OF THE FINAL PROJECT, PROVIDE THE MAXIMUM ESTIMATES

PID#: 42.005-1105

ZONING DISTRICT

LOT AREA (SQ FT):

LOT DIMENSIONS:

STRUCTURE DIMENSIONS (if applicable):

( Please check all that apply )

☒ New Building on vacant land

☐ New Addition to existing building

☐ Animal Building

☐ Storage building ☐ Other Please clarify

ADDITIONS TO BUILDING:

☐ Rear

☐ Front

☐ Side

PRESENT OR PREVIOUS USE:

PROPOSED USE:

BUILDING APPLICATION PERMIT NO.: (if filed)

DATE FILED:

TOWNSHIP:

By signing this form, the Township acknowledges being made aware of the request stated above. In no way does signing this application indicate the Township's official approval or denial of the variance request.

Attached ☐

TOWNSHIP OFFICAL'S PRINTED NAME AND TITLE

TOWNSHIP OFFICAL'S SIGNATURE

DATE

## 3. Applicant's Affidavit

Under penalty of perjury the following declarations are made:

1. The undersigned is the owner or authorized agent of the owner of this property.
2. The information presented is true and correct to the best of my knowledge.
3. If I am unable to be present at the meeting where my request is decided, I agree to accept the Notice of Decision by certified USPS.
4. Other information or applications may be required.

Signature: [signature] Date: 8-19-2016

Print name: Jeffrey Clemens owner or authorized agent (circle one)

Application for Variance

VARIANCE NUMBER
For Staff Use only

## Project Summary (Attach a separate sheet if more space is needed)

Please state which section(s) of the Ordinance from which you are requesting a variance.

Section -05 -Twp-112-Range-016

## Variance Findings

Pursuant to Goodhue County Zoning Ordinance Article 5, before approving a variance application, the Board of Adjustment needs to find that the facts presented are such to establish the findings stated below. In the space below and on separate paper, if necessary, please present facts sufficient to establish each finding. The Board of Adjustment may grant a variance only if the variance request complies with each and every one of these findings in full. The responsibility for completing the variance questionnaire rests solely with the applicant. If the description of how the project meets all of the criteria are not fully supported with written information and appropriate drawings or pictures, the Board may find the information insufficient and the criteria are not satisfied.

Please state how the project is consistent or inconsistent with each policy. Each statement should refer to specific circumstances or conditions applicable to the property. Each policy must have a response. IF A GIVEN POLICY DOES NOT APPLY TO YOUR PROJECT, EXPLAIN WHY IT DOES NOT.

1. What are the special circumstances of the proposal site which distinguish it from nearby properties with the same zoning? (relating to size, shape, topography, location, surroundings and features of the subject property).

   No other use for this property in this District
   Would like to make improvements to the property with a new Home

2. Who or What created the circumstances?

   Joanne woods

3. What is the character of the area (ie- rural, residential, agricultural, commercial, etc. ) and how is the request consistent with this character?

   Sloped, rocky, not good for Agriculture

4. Describe how the rules in the zoning ordinance deprive you of rights commonly enjoyed by other properties in the same zoning district.

   ~~other~~ want to use my land the Same as others. Do.

5. Indicate why the requested variance will not result in your receiving any special privileges that are denied by the zoning ordinance to others in the same zoning district.

   Doesnt Suit is for ag land

6. Is the proposed variance the minimum amount necessary to allow a reasonable use of the property? Please, explain.

   yes

7. Is the sole reason for the proposed variance based on a desire of the owner, occupant, or applicant for increased financial gain or reduced financial hardship? Please explain.

   already own the property would like to build on it. It only make Sense to us.

PID # 42.005.1105
Zoning District: A2
The following information is required for a Site Plan:

1. Location, size and shape of any structures Clearly distinguish between existing and proposed;
2. Distances from structures to property lines;
3. Distances between structures, porches and decks;
4. All wells and sanitary sewer systems (including any abandoned) and the distance to nearby structures
5. The existing and intended use of the property;
6. All landscape, screening, and fencing plans;

Upon review, projects may require other information

**Legend**

- Road
- Tax Parcel
- Section Line
- Dwelling Point

**% Slope**

- 20
- 30
- Shoreland

**Special Flood Hazard Area**

FLD_ZONE

- 0.2 PCT ANNUAL CHANCE FLOOD HAZARD
- A
- AE
- AO
- X

0 50 100 200 300 Feet

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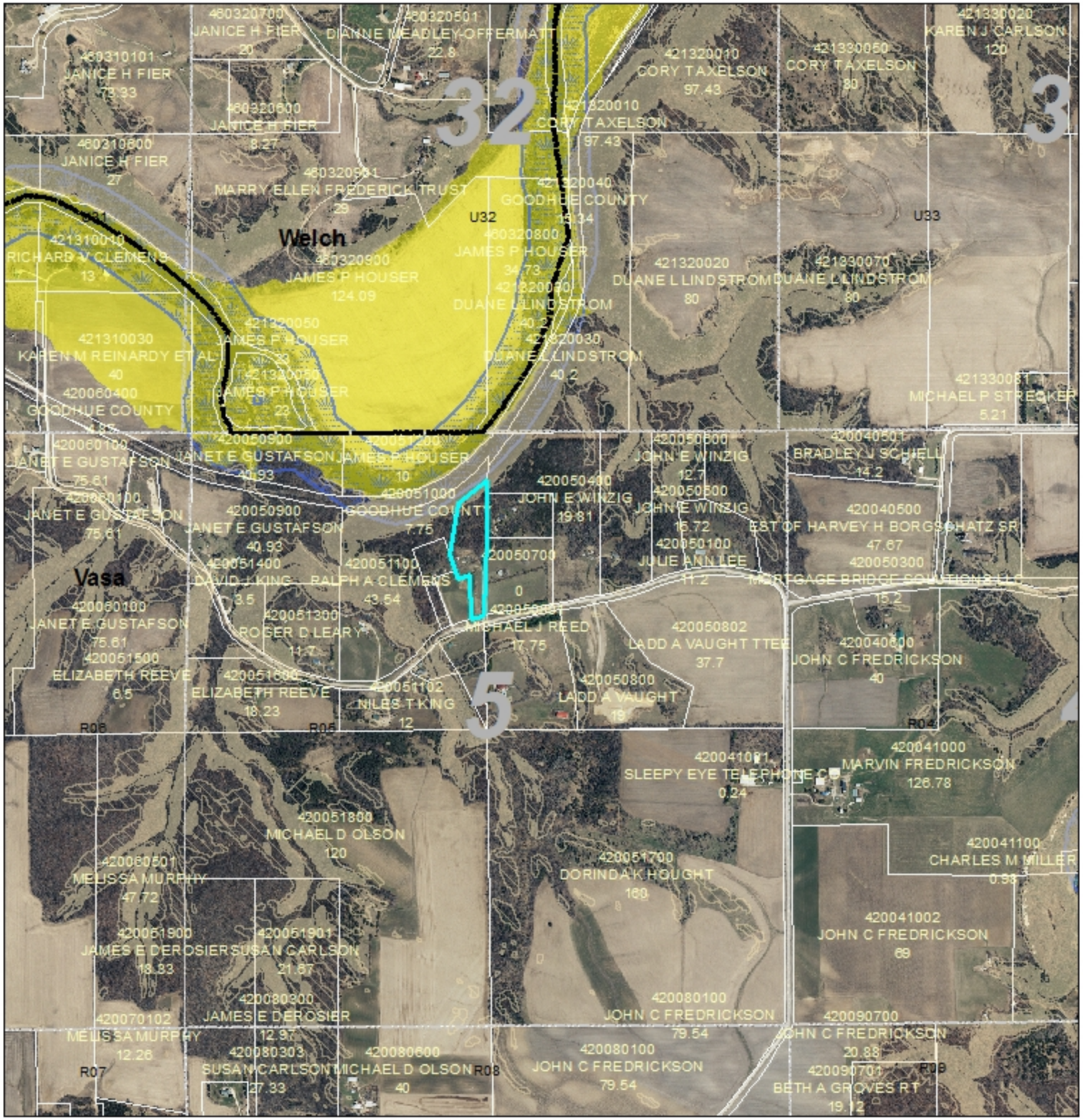
2014 Aerial Imagery

Map Created 2015 Land Use Management

PUBLIC HEARING:
Deloris Clemens - Variance request from the A2 Agricultural District, General District Regulations, Density Requirements, which limits each Section to 12 dwellings (currently there are 15 dwellings) and limits development to one dwelling per ¼ ¼ section (currently there is 1 dwelling); to build a residence at 13489 Sunset Trail; part of the east ½ of the northwest ¼ of Section 5, T112, R16 in Vasa Township.

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2016 Aerial Imagery

Map Created 2016 Casey MacCallum

# Goodhue County Land Use Management

**Goodhue County Government Center | 509 West Fifth Street | Red Wing, Minnesota 55066**

Building | Planning | Zoning
Telephone: 651.385.3104
Fax: 651.385.3106

Environmental Health | Land Surveying | GIS
Telephone: 651.385.3223
Fax: 651.385.3098

**To:** Board of Adjustment
**From:** Land Use Management
**Report Date:** September 16, 2016
**Meeting Date:** September 26, 2016

**Application Information:**

Applicant: Richard and Barbara O'Flaherty (for Greg Tiedeman)
Address of Zoning request: 32831 Lake View Drive, and 33073 Lake View Drive (where the septic system will be placed)
Zoning district: A2
Township Information: Florence Township has signed the application and have no comments.

**Attachments:**

Application
Applicant Statement
Aerial with drawn design
Site Plan
Goodhue County: Article 22, Sec.5, Subd. 1.1,
MN Rule: 7080 Septic System Front Yard setback

**Notice:** Variance request from the A-2 Agricultural District's General District Regulations Lot Size requirement, to subdivide a lot less than 2 acres (7,000 square feet) for a septic system; and from the MN Rules 7080 Septic System Front Yard setback at 33073 Lake View Drive. Part of the N ½ of the SW ¼ of Sec. 30, T112N, R12W, SW of the centerline of Lakeview Drive, Except the plats of Lakeview Heights and Lakeview Heights 2nd Add; in Florence Township.

**Background:** The purpose of this variance is to install a replacement septic system due to the failure of the current septic system failure on parcel 32.200.0601. Parcels under Article 22 Agricultural District, Section 5 General District Regulations, Subdivision 1.1 are required to have an area not less than 2 acres. The Applicant will have 7,000 square feet. In order for the O'Flaherty's to combine the proposed 7,000 square foot parcel with their existing dwelling site it would be necessary for them to request a change of zone from the A-2 (Agriculture) Zone to the R-1 (Suburban Residence) Zone of the proposed parcel and they would have to re-plat since their dwelling site is part of a platted subdivision. These steps would add significant time and expense to the project. Parcels under MN Rules 7080.2150 as adopted by Goodhue County and governed by MPCA are required to have a 10 foot setback from every property line. The Applicant will need to construct the septic system up to the property line, for a 0 foot setback.

Before any such variance may be granted, the Board of Adjustment shall specify in their findings, the facts in each case. Variances shall only be permitted when:

1) They are in harmony with the general purposes and intent of the official control;
   *The purpose of the A2 Agricultural District is to maintain and conserve agricultural investments and prime agricultural farmland, but provide for slightly higher density than A1. The intent of the district is for areas where large farms and feedlots are more scattered and greater numbers of non-farm uses or small parcels are present.*

   **The Applicant's parcel is in the adjacent R1 district along Lakeview Drive. The Applicant has an agreement to purchase 7,000 square feet of farm land from Greg Tiedeman to install a septic system. The applicant is purchasing the least amount of tillable area as they need for the system. This least amount of tillable area triggers the variance to the minimum 2 acre parcel size in the A-2 Zone District.**

2) The variances are consistent with the comprehensive plan;
   *The 2016 Comprehensive Plan supports the maintenance and preservation of the Goodhue County's housing stock and their expected utilities.*

HOUSING ELEMENT

*Housing Objective #12. Provide opportunities for smaller communities to thrive through more compact land development practices, diversity of business land uses, mixed use development and pedestrian orientated design.*

**The purpose of the variance is to allow the Applicants to maintain their residence. Without the variance the dwelling would turn into an unacceptable living condition or financially infeasible to maintain. Approving this variance would provide opportunities for smaller communities to thrive through more compact land development because it would maintain the rural residential residence.**

*Housing Objective #13. Provide more housing choices for rural residents.*

**Approval maintains housing choices for rural residents.**

3) There are practical difficulties in complying with the official control. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner, not permitted by an official control. Economic considerations alone do not constitute practical difficulties.

   **The Applicant's current system needs to be replaced and the current dwelling site property does not have enough room for a new tank and drain field. To remain consistent with the Comprehensive plan and keep the rural housing choices and opportunities, an approval would allow for a new system and continued use of the dwelling but a denial would render the Applicant's dwelling uninhabitable.**

   **A septic system is a reasonable use for this area.**

4) The plight of the landowner is due to circumstances unique to the property not created by the landowner; and

   **The Applicant did not create the circumstances that require a variance. The septic system is failing and a new tank and drain field need to be installed. The Applicant's parcel was platted prior to the establishment of County Zoning Regulations and current dwelling site at 16,951 square feet in area. Under current Goodhue County Zoning requirements, a minimum parcel size of 40,000 square feet would be required because the property is located within the an R-1 Zone District and is within a Shoreland Area. The small size of the O'Flaherty's dwelling site makes it unfeasible to meet MPCA Standards for constructing a new wastewater treatment system.**

5) The variance, if granted, will not alter the essential character of the locality.
   **The surrounding neighborhood's character will not change. In fact, denial of the variance may cause a change in the neighborhood.**

6) No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located.
   **There is no use change.**

7) The Board of Adjustment may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.
   **Conditions will be included in the Staff recommendation.**

*The following should be edited to reflect any concerns raised at the* September 26, 2016 *BOA meeting and public hearing:*

**Staff Recommendation:**

Staff recommends the Board of Adjustment adopt the staff report into the record (dated September 16, 2016); adopt the findings of fact; and based on the application, testimony, exhibits, and other evidence presented: approve the variance request Richard and Barbara O'Flaherty from the A-2 Agricultural District's General District Regulations Lot Size requirement, to subdivide a lot less than 2 acres (7,000 square feet) for a septic system; and from the MN Rules 7080 Septic System Front Yard setback at 33073 Lake View Drive. Part of the N ½ of the SW ¼ of Sec. 30, T112N, R12W, SW of the centerline of Lakeview Drive, Except the plats of Lakeview Heights and Lakeview Heights 2nd Addition; in Florence Township.

Subject to the following conditions:

1. Conformance with the application submitted to Goodhue County Land Use Management Office dated August 25, 2016,
2. Conformance with all applicable requirements set forth in the Goodhue County Septic Ordinance and State of Minnesota Rules: Chapter 7080 (Individual Sub-surface Sewage Treatment Systems).

APPLICATION FOR

# Variance

| Application for Variance | |
|---|---|
| VARIANCE NUMBER: For Staff Use only | Z16-0006 |
| $350 RECEIPT# 15514 | DATE 8/25/16 |

## 1. Owner/Applicant Information

PROPERTY OWNER'S NAME:
Richard + Barbara O'Flaherty (for Greg Tiedeman)

[redacted]

TELEPHONE:
[redacted]

EMAIL:

APPLICANT OR AUTHORIZED AGENT'S NAME:

Same as Above ☒

APPLICANT'S ADDRESS:

TELEPHONE:
( )

EMAIL:

CONTACT FOR PROJECT INFORMATION:

Same as Above ☒

ADDRESS:

TELEPHONE:
( )

EMAIL:

## 2. Location and Classification

STREET ADDRESS OF PROJECT: ZIP CODE:
~~Same~~ 33073 Lakeview Dr Lake City MN 55041

LEGAL DESCRIPTION:
Doc # 626377 Attached ☐

IF YOU ARE NOT SURE OF THE EVENTUAL SIZE OF THE FINAL PROJECT, PROVIDE THE MAXIMUM ESTIMATES

| PID#: | ZONING DISTRICT | LOT AREA (SQ FT): | LOT DIMENSIONS: | STRUCTURE DIMENSIONS (if applicable): |
|---|---|---|---|---|
| 32.200.0601 | A2 | 23.50 | | |

( Please check all that apply )

☐ New Building on vacant land
☐ New Addition to existing building
☐ Animal Building
☐ Storage building ☒ Other Please clarify

Land for drain field

ADDITIONS TO BUILDING:
☐ Rear
☐ Front
☐ Side

PRESENT OR PREVIOUS USE:
tillable acres

PROPOSED USE:
needed for septic system for PID 32.230.0100 owned by O'Flaherty

BUILDING APPLICATION PERMIT NO.: (if filed) DATE FILED:

TOWNSHIP:
By signing this form, the Township acknowledges being made aware of the request stated above. In no way does signing this application indicate the Township's official approval or denial of the variance request. Attached ☐

| TOWNSHIP OFFICAL'S PRINTED NAME AND TITLE | TOWNSHIP OFFICAL'S SIGNATURE | DATE |
|---|---|---|
| [illegible] | [illegible] | 8-15-16 |

## 3. Applicant's Affidavit

Under penalty of perjury the following declarations are made:
1. The undersigned is the owner or authorized agent of the owner of this property.
2. The information presented is true and correct to the best of my knowledge.
3. If I am unable to be present at the meeting where my request is decided, I agree to accept the Notice of Decision by certified USPS.
4. Other information or applications may be required.

Signature: Greg M Tiedeman Date: Aug 22/2016

Print name: Greg M Tiedeman owner or authorized agent (circle one)

**Application for Variance**

VARIANCE NUMBER: For Staff Use only

## Project Summary (Attach a separate sheet if more space is needed)

#1 Please state which section(s) of the Ordinance from which you are requesting a variance.

Article 22 (A2) sec. 5 subd 1 lot size

& wants to split less than 2 acres (≈ 7,000 sq. ft final lot size)

#2 Variance Findings + septic ordinance setbacks

Pursuant to Goodhue County Zoning Ordinance Article 5, before approving a variance application, the Board of Adjustment needs to find that the facts presented are such to establish the findings stated below. In the space below and on separate paper, if necessary, please present facts sufficient to establish each finding. The Board of Adjustment may grant a variance only if the variance request complies with each and every one of these findings in full. The responsibility for completing the variance questionnaire rests solely with the applicant. If the description of how the project meets all of the criteria are not fully supported with written information and appropriate drawings or pictures, the Board may find the information insufficient and the criteria are not satisfied.

Please state how the project is consistent or inconsistent with each policy. Each statement should refer to specific circumstances or conditions applicable to the property. Each policy must have a response. IF A GIVEN POLICY DOES NOT APPLY TO YOUR PROJECT, EXPLAIN WHY IT DOES NOT.

see attached

1. What are the special circumstances of the proposal site which distinguish it from nearby properties with the same zoning? (relating to size, shape, topography, location, surroundings and features of the subject property).

2. Who or What created the circumstances?

3. What is the character of the area (ie- rural, residential, agricultural, commercial, etc. ) and how is the request consistent with this character?

4. Describe how the rules in the zoning ordinance deprive you of rights commonly enjoyed by other properties in the same zoning district.

5. Indicate why the requested variance will not result in your receiving any special privileges that are denied by the zoning ordinance to others in the same zoning district.

6. Is the proposed variance the minimum amount necessary to allow a reasonable use of the property? Please, explain.

7. Is the sole reason for the proposed variance based on a desire of the owner, occupant, or applicant for increased financial gain or reduced financial hardship? Please explain.

Please use this page if more space is needed

Application for Variance

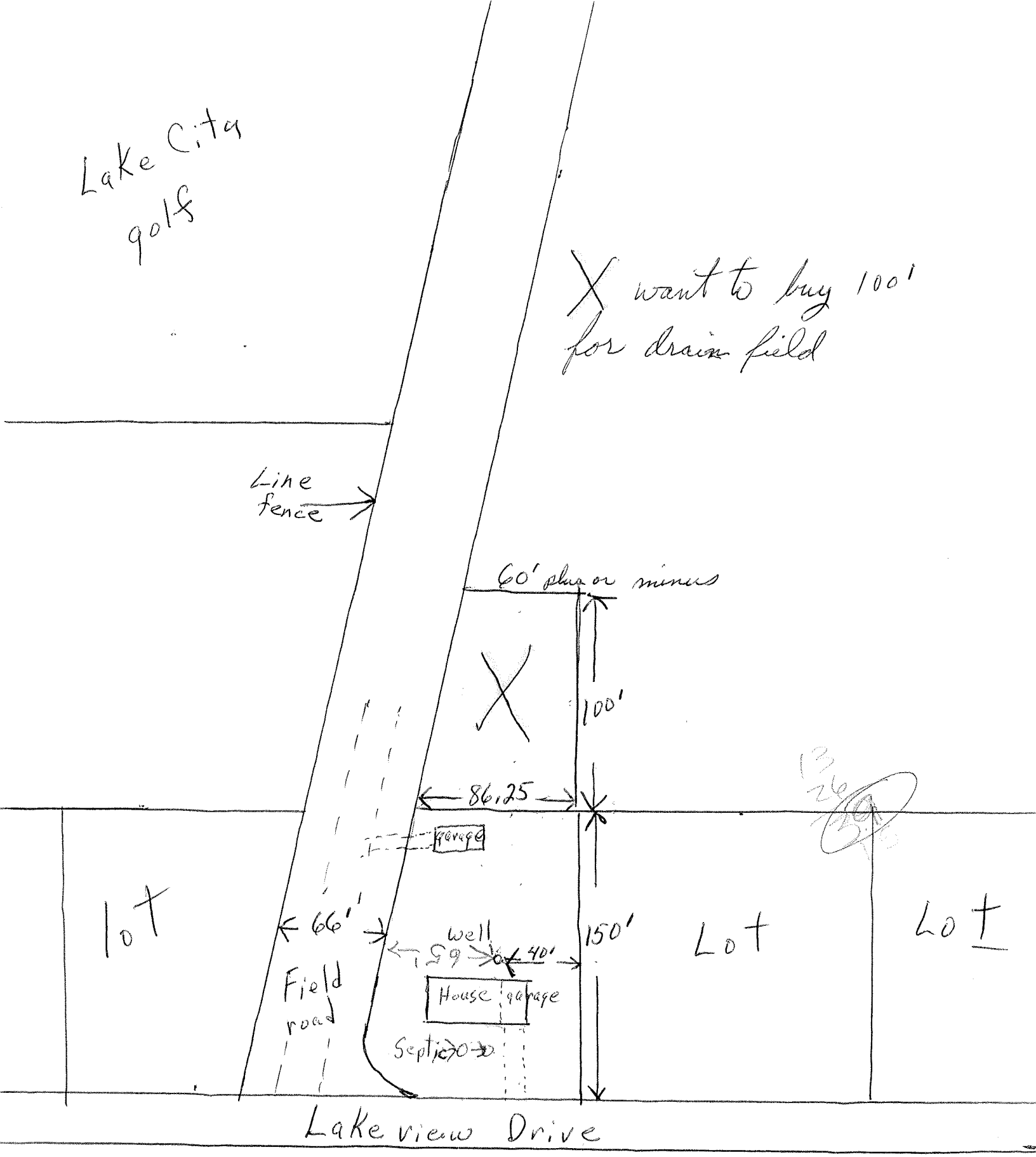
VARIANCE NUMBER:
For Staff Use only

Rich + Barb O'Flaherty

We want to buy 100' from Greg + Dana Tiedeman. The land joins ~~and~~ our lot. We want the land to put in a septic system. Greg + Dana will sell us this land for that reason. The lot our house sits on doesn't have enough room for a new system.

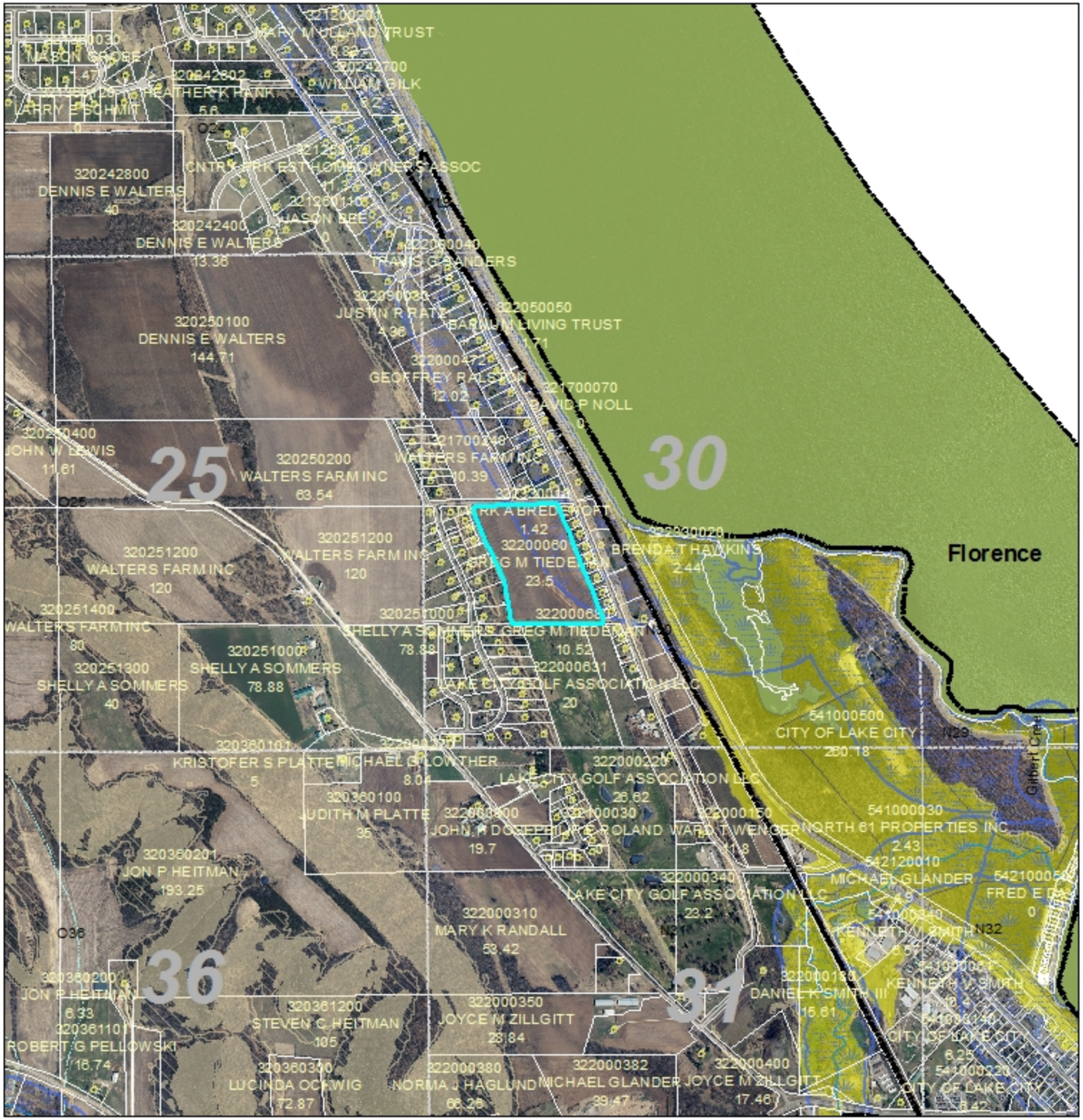
We have a drawing showing where the lands at

322300070
WILLIAM A JOHNSON
0
322300080
ANDREA J KEIFER
0
322300090
TROY T MARCIC
0
322300100
RICHARD OFLAHERTY
0
322000601
GREG M TIEDEMAN
23.5
N30
322330030
BRENDA T HAWKINS
2.06
541000500
CITY OF LAKE CITY
260.18
HIGHWAY 61
LAKEVIEW
322320010
ERIC STENSRUD
0
322000660
JOSHUA J ELLISON
0.45
322000631
LAKE CITY GOLF ASSOCIATION LLC
20
322000580
GREG M TIEDEMAN
16.52
322000640
MARK J LUTJEN
0.35
322000650
STUART A DIEPENBROCK
0.69
322320020
GOLDYN S HARRIS REV TRUST
0




Lot-003 Block-002 ID# 32-4138-01000

PUBLIC HEARING:
O'Flaherty – Variance request from the A-2 Agricultural District's General District Regulations Lot Size requirement, to subdivide a lot less than 2 acres (7,000 square feet) for a septic system; and from the MN Rules 7080 Septic System Front Yard setback at 33073 Lake View Drive. Part of the n ½ of the sw ¼ of Sec. 30, T112N, R12W, sw of the centerline of Lakeview Drive, Except the plats of Lakeview Heights and Lakeview Heights 2nd Add; in Florence Township

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2016 Aerial Imagery

Map Created 2016 Casey MacCallum

Subd. 7. Any public stable.

Subd. 8. Any raising of fur bearing animals or commercial kennel.

Subd. 9. Commercial and industrial uses primarily intended to serve the agricultural community.

Subd. 10. Any boarding and rooming houses or bed & breakfast inn.

Subd. 11 Campground and RV site.

Subd. 12. Park manager's residence limited to one single family unit per any licensed campground or RV site regulated, consisting of thirty (30) or more campsites.

Subd. 13. Any veterinary clinics.

Subd. 14. Junk/salvage reclamation yards.

Subd. 15. Any migratory labor camp.

Subd. 16. Any park or recreational area operated by a governmental agency.

Subd. 17. Hunting club or shooting preserve.

Subd. 18. Temporary or seasonal off-site roadside produce stands. No more than two (2) signs totaling fifty (50) square feet of sign area advertising the stand shall be permitted. In addition, the structure shall be limited in size to two thousand (2,000) square feet.

Subd. 19. Educational Farm Retreat.

Subd. 20. Retreat Centers.

Subd. 21. Wind Energy Conversion Systems as per Article 18 of this Ordinance.

Subd. 22. Non-Agricultural uses/activities associated with an agri-tourism (as defined in Article 10).

Subd. 23. Direct marketing of produce in a Farm Market/On-Farm Market/Roadside Stand in a retail structure that exceeds 2400 square (see Article 11, Section 29).

Subd. 24 Farm Wineries including Tasting Rooms in buildings exceeding 10,000 square feet subject to approval of a zoning permit by the Zoning Administrator (see Article 11, Section 28).

Subd. 25. Residential accessory building(s) exceeding seven thousand two hundred square feet.

## SECTION 4. ACCESSORY USES AND STRUCTURES

Accessory structures and uses customarily incidental to any of the above permitted uses shall be permitted when located on the same property. Refer to Article 11, Section 5 for further regulations on Accessory Structures. Accessory uses in the A-1 District shall include Agricultural Related Uses as defined in Article 10 of this ordinance subject to performance standards set forth in Article 11 of this Ordinance.

## SECTION 5. GENERAL DISTRICT REGULATIONS

Any parcel in an A-2, Agriculture District on which any permitted or conditionally permitted use is erected shall meet the following minimum standards:

Subd. 1. Lot Size.

A. All buildable parcels in this district shall contain an area not less than two (2) acres.

Subd. 2. Density Requirements.

A. Twelve (12) single family dwellings per section unless additional dwellings are permitted by Sections 2 and 3 of this Article.

B. Any dwellings allowed by Subd. A. above shall be limited to one per 1/4, 1/4 section, except as allowed by Sections 2 and 3 of this Article.

Subd. 3. Yard Requirements.

A. Every permitted, conditionally permitted or accessory building shall meet the following yard requirements:

1. Front Yard.

a. There shall be a minimum setback of sixty (60) feet from the right-of-way line of any public road or highway.

b. In the event any building is located on a lot at the intersection of two (2) or more roads or highways, such lot shall have a front yard abutting each such road or highway.

2. Side Yard.

a. Every building shall have two (2) side yards. Each side yard shall have a minimum width of thirty (30) feet. However, livestock buildings shall be subject to a side yard setback of one hundred (100) feet.

3. Rear Yard.

a. Every building shall have a rear yard. The rear yard shall have a minimum depth of thirty (30) feet. However, livestock buildings shall be subject to a side yard setback of one hundred (100) feet.

Subd. 4. Public Road Frontage or Road Access Easements Standards:

A. Each Lot shall include a minimum 33 feet of frontage on a public road right-of-way line extending to the building line. As an alternative a single lot that does not front on a public road may be permitted upon recording (with the Goodhue County Recorder) of a driveway access easement that is a minimum of 33 feet in width and has been determined to be acceptable by the Goodhue County Land Use Management Department.

B. Two lots that do not front on a public road may be permitted upon recording (with the Goodhue County Recorder) of a shared driveway access easement that is a minimum of 66 feet in width and has been determined to be acceptable by the Goodhue County Land Use Management.

C. Access for three (3) or more lots shall meet the requirements for public roads in Goodhue County Subdivision Ordinance.

average head must
'16- to 1/4-inch
ch perforations.
following formula:

where: Q = discharge in gallons per minute
c = 0.60 = coefficient of discharge
d = perforation diameter in inches
h = head in feet.

C. The pump discharge head must be at least five feet greater than the head required to overcome pipe friction losses and the elevation difference between the pump and the distribution device.
D. The quantity of effluent delivered for each pump cycle must be no greater than 25 percent of the design flow and at least four times the volume of the distribution pipes plus the volume of the supply pipe.

## 7080.2150 Final Treatment and Dispersal.

Subpart 1. **General.** Treatment and dispersal of all sewage for new construction or replacement ISTS must be in compliance with this part and parts 7080.2200 to 7080.2400 as adopted into local ordinances.

Subp. 2. **General technical requirements for all systems.** All new construction or replacement ISTS must be designed to meet or exceed the provisions in items A to F.

A. All treatment and dispersal methods must be designed to conform to all applicable federal, state, and local regulations.
B. Treatment and dispersal processes must prevent sewage or sewage effluent contact with humans, insects, or vermin.
C. Treatment and dispersal of sewage or sewage effluent must be in a safe manner that adequately protects from physical injury or harm.
D. An unsaturated zone in the soil must be maintained between the bottom of the soil treatment and dispersal system and the periodically saturated soil or bedrock during loading of effluent.
E. Soil treatment and dispersal systems must not be designed in floodways. Soil treatment and dispersal systems installed in flood fringes must meet the requirements in part 7080.2270. All soil treatment systems located in areas subject to excessive run-on must have a diversion constructed upslope from the system.
F. ISTS components must be set back in accordance with Table VII.





**Table VII: Minimum setback distances (feet)**

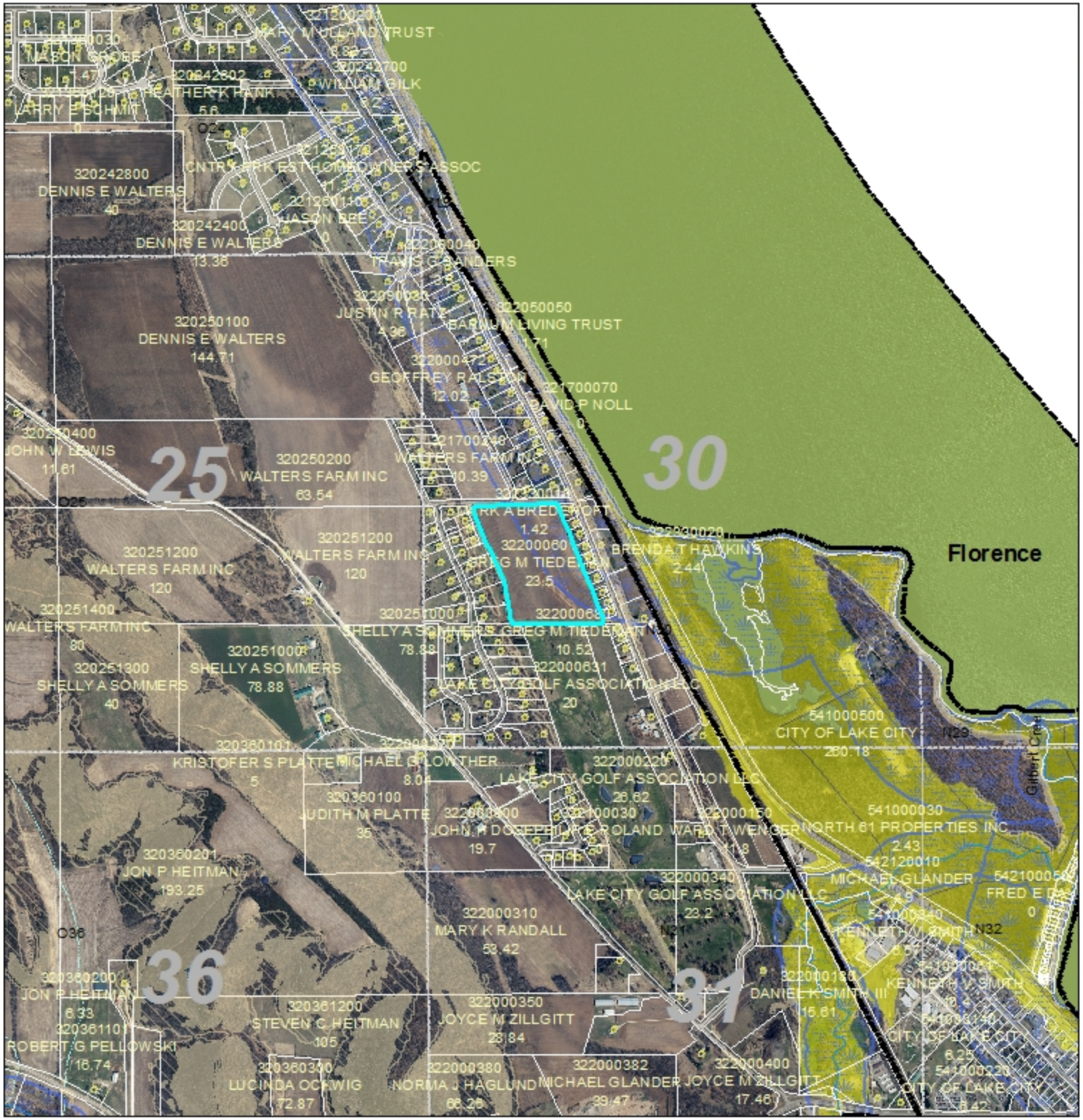
| Feature | Sewage tank, holding tank, or sealed privy | Absorption area or unsealed privy | Building sewer or supply pipes |
|---|---|---|---|
| Water supply wells | * | * | * |
| Buried water lines | * | * | * |
| Structures | 10 | 20 | |
| Property lines*** | 10 | 10 | |
| Ordinary high water level of public waters | *** | *** | |

* Setbacks from buried water lines and water supply wells are governed by chapters 4715 and 4725, respectively.
** Infringement on property line setbacks must be made through accepted local procedures
*** Setbacks from lakes, rivers, and streams are governed by chapters 6105 and 6120.

Subp. 3. **Other technical requirements for systems.** Items A to M are required for specific designs as determined in parts 7080.2200 to 7080.2400.

A. Employ components registered under parts 7083.4070 and 7083.4080 that are installed, used, and operated according to the conditions placed on registration.
B. Employ structural components and joint sealants that meet or exceed the system's expected design life.
C. For acceptable treatment of septic tank effluent by soil, the soil treatment and dispersal systems must meet the requirements

PUBLIC HEARING:
O'Flaherty – Variance request from the A-2 Agricultural District's General District Regulations Lot Size requirement, to subdivide a lot less than 2 acres (7,000 square feet) for a septic system; and from the MN Rules 7080 Septic System Front Yard setback at 33073 Lake View Drive. Part of the n ½ of the sw ¼ of Sec. 30, T112N, R12W, sw of the centerline of Lakeview Drive, Except the plats of Lakeview Heights and Lakeview Heights 2nd Add; in Florence Township




DATA DISCLAIMER: Goodhue County assumes NO liability for the accuracy or completeness of this map OR responsibility for any associated direct, indirect, or consequential damages that may result from its use or misuse. Goodhue County Copyright 2015.

2016 Aerial Imagery

Map Created 2016 Casey MacCallum

# Goodhue County Land Use Management

**Goodhue County Government Center | 509 West Fifth Street | Red Wing, Minnesota 55066**

Building | Planning | Zoning
Telephone: 651.385.3104
Fax: 651.385.3106

Environmental Health | Land Surveying | GIS
Telephone: 651.385.3223
Fax: 651.385.3098

**To:** Board of Adjustment
**From:** Land Use Management
**Report Date:** September 16, 2016
**Meeting Date:** September 26, 2016

**Application Information:**

Applicant: Paul and Tonya Witte
Address of Zoning request: 7005 County 9 Blvd. Cannon Falls, MN 55009
Zoning district: A1
Township Information: Leon Township has not signed the application and has offered no comments.

**Attachments:**

Applicant Statement
Site Map
Goodhue County Zoning Ordinance: MN Rules 7080.2150

**Notice: Tonya Witte -** Variance request from the MN Rules 7080.2150 Septic System Drain Field Medium, to use a non-registered septic product for a replacement dwelling at 7005 County 9 Blvd; west 10 acres of the southwest ¼ of the southwest ¼ of Section 20, T111, R17 in Leon Township.

**Background:** The purpose of this variance is to connect an existing septic system to a new building on parcel 37.020.1701. Parcels under MN Rules 7080.2150 Final Treatment and Dispersal, Subpart 3A. Other technical requirements for systems: require the installer to employ components registered under parts 7083.4070 and 7083.4080 that are installed, used, and operated according to the conditions placed on registration with the MPCA. The Applicant's has existing system has a product that is no longer registered with the MPCA, but was registered with the system was installed.

The dwelling that was on the property at the time of the Applicant's purchase was uninhabitable and used as a practice burn with the local fire department. The Applicant will have a dwelling placed on the foundation of the previous dwelling.

In this case the septic system would have been compliant upon sale for use with the existing house that was burned, but is non-compliant with the new dwelling; according to the MNDNR regulations. The regulations would require a new system for the new home, but the Applicant is requesting a variance to use the existing septic system with the unregistered medium, which was compliant with the previous house, with the new home.

**Findings of Fact:**
Before any such variance may be granted, the Board of Adjustment shall specify in their findings, the facts in each case. Variances shall only be permitted when:

1) They are in harmony with the general purposes and intent of the official control;

   *The intent of the controls is to continue the use of quality registered products, and phase out antiquated systems and mediums.*

   **Unfortunately the Applicant had a system that was "grandfathered" in with the existing dwelling at the time of purchase, but is required by MN Rules 7080 to be made compliant for the new home.**

2) The variances are consistent with the comprehensive plan;
   *The 2016 Comprehensive Plan supports the maintenance and preservation of the Goodhue County's housing stock and their expected utilities.*

HOUSING ELEMENT

*Housing Objective #12. Provide opportunities for smaller communities to thrive through more compact land development practices, diversity of business land uses, mixed use development and pedestrian orientated design.*

**The purpose of the variance is to allow the Applicant to maintain residence. Without the variance the applicant will not be able to construct a new dwelling unless a new compliant septic system is constructed. Approving this variance could be viewed as providing opportunities for smaller communities to thrive through more compact land development because it would maintain the rural residential residence.**

*Housing Objective #13. Provide more housing choices for rural residents.*

**Approval maintains housing choices for rural residents.**

3) There are practical difficulties in complying with the official control. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner, not permitted by an official control. Economic considerations alone do not constitute practical difficulties.
   **The intent of the provision is to phase out antiquated mediums but the County allows replacement dwellings to support a property owner's rights to a dwelling. The Applicant did not install the system with the unregistered medium and was told the system was compliant at the time of the purchase, with the existing house.**

   **After the uninhabitable house was burned the Applicant inquired about County requirements for obtaining a building permit for a new dwelling and was informed the system was non-compliant and needed a registered medium.**

4) The plight of the landowner is due to circumstances unique to the property not created by the landowner; and
**The circumstance that is unique to the Applicant's property is that the medium is no longer registered with MPCA.**

5) The variance, if granted, will not alter the essential character of the locality.
**The surrounding neighborhood's character will not change.**

6) No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located.
**There is no use change.**

7) The Board of Adjustment may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.
**If the variance is approved Land Use Management Staff are recommending Board of Adjustment action included two standard conditions,**

*The following should be edited to reflect any concerns raised at the* September 26, 2016 *BOA meeting and public hearing:*

**Staff Recommendation:**
Staff recommends the Board of Adjustment adopt the staff report into the record (dated September 16, 2016); adopt the findings of fact; and based on the application, testimony, exhibits, and other evidence presented: approve the variance request of Paul and Tonya Witte from the MN Rules 7080.2150 Septic System Drain Field Medium, to use a non-registered septic product for a replacement dwelling at 7005 County 9 Blvd; West 10 acres of the SW ¼ of the SW ¼ of Section 20, T111, R17 in Leon Township.

Subject to the following conditions:
1. Conformance with the application submitted to Goodhue County Land Use Management Office dated August 26, 2016,
2. Compliance with all necessary state and federal permits and licensing,

APPLICATION FOR

# Variance

Application for Variance

VARIANCE NUMBER: For Staff Use only 15516

$350 RECEIPT# Z16-0067 DATE 8/26/16

## 1. Owner/Applicant Information

PROPERTY OWNER'S NAME: Paul Witte Tonya Witte

PROPERTY OWNER'S ADDRESS: [redacted]

TELEPHONE: [redacted]

APPLICANT OR AUTHORIZED AGENT'S NAME:

Same as Above ☐

APPLICANT'S ADDRESS:

TELEPHONE: ( )

EMAIL:

RECEIVED AUG 26 2016 Land Use Management

CONTACT FOR PROJECT INFORMATION:

Same as Above ☐

ADDRESS:

TELEPHONE: ( )

EMAIL:

## 2. Location and Classification

STREET ADDRESS OF PROJECT: 7005 County 9 Blvd Canon Falls, MN

ZIP CODE: 55009

LEGAL DESCRIPTION:

Attached ☐

IF YOU ARE NOT SURE OF THE EVENTUAL SIZE OF THE FINAL PROJECT, PROVIDE THE MAXIMUM ESTIMATES

| PID#: | ZONING DISTRICT | LOT AREA (SQ FT): | LOT DIMENSIONS: | STRUCTURE DIMENSIONS (if applicable): |
|---|---|---|---|---|
| 37.020.1701 | | | | |

( Please check all that apply )

☑ New Building on vacant land
☐ New Addition to existing building
☐ Animal Building
☐ Storage building ☐ Other Please clarify

ADDITIONS TO BUILDING:
☐ Rear
☐ Front
☐ Side

PRESENT OR PREVIOUS USE:

PROPOSED USE:

BUILDING APPLICATION PERMIT NO.: (if filed)

DATE FILED:

TOWNSHIP

By signing this form, the Township acknowledges being made aware of the request stated above. In no way does signing this application indicate the Township's official approval or denial of the variance request.

Attached ☐

| TOWNSHIP OFFICAL'S PRINTED NAME AND TITLE | TOWNSHIP OFFICAL'S SIGNATURE | DATE |
|---|---|---|
| | | |

## 3. Applicant's Affidavit

Under penalty of perjury the following declarations are made:

1. The undersigned is the owner or authorized agent of the owner of this property.
2. The information presented is true and correct to the best of my knowledge.
3. If I am unable to be present at the meeting where my request is decided, I agree to accept the Notice of Decision by certified USPS.
4. Other information or applications may be required.

Signature: Tonya Witte Date: 8/26/2016

Print name: Tonya Witte (owner) or authorized agent (circle one)

Application for Variance

VARIANCE NUMBER:
For Staff Use only

Project Summary (Attach a separate sheet if more space is needed)

Please state which section(s) of the Ordinance from which you are requesting a variance.

Septic System Drain Field Medium

Variance Findings

Pursuant to Goodhue County Zoning Ordinance Article 5, before approving a variance application, the Board of Adjustment needs to find that the facts presented are such to establish the findings stated below. In the space below and on separate paper, if necessary, please present facts sufficient to establish each finding. The Board of Adjustment may grant a variance only if the variance request complies with each and every one of these findings in full. The responsibility for completing the variance questionnaire rests solely with the applicant. If the description of how the project meets all of the criteria are not fully supported with written information and appropriate drawings or pictures, the Board may find the information insufficient and the criteria are not satisfied.

Please state how the project is consistent or inconsistent with each policy. Each statement should refer to specific circumstances or conditions applicable to the property. Each policy must have a response. IF A GIVEN POLICY DOES NOT APPLY TO YOUR PROJECT, EXPLAIN WHY IT DOES NOT.

1. What are the special circumstances of the proposal site which distinguish it from nearby properties with the same zoning? (relating to size, shape, topography, location, surroundings and features of the subject property).

   New Construction similar in all areas to nearby properties

2. Who or What created the circumstances?

   Purchased Property with unsafe house, demolished building by burning, replacing with Stick built home ~~of~~ similar size.

3. What is the character of the area (ie- rural, residential, agricultural, commercial, etc. ) and how is the request consistent with this character?

   rural/residential
   replacing demolished home with a similar size home and basement

4. Describe how the rules in the zoning ordinance deprive you of rights commonly enjoyed by other properties in the same zoning district.

   septic restrictions for new home differ from demolished unliveable home, that needed to be replaced. Septic system passed on unliveable home.

5. Indicate why the requested variance will not result in your receiving any special privileges that are denied by the zoning ordinance to others in the same zoning district.

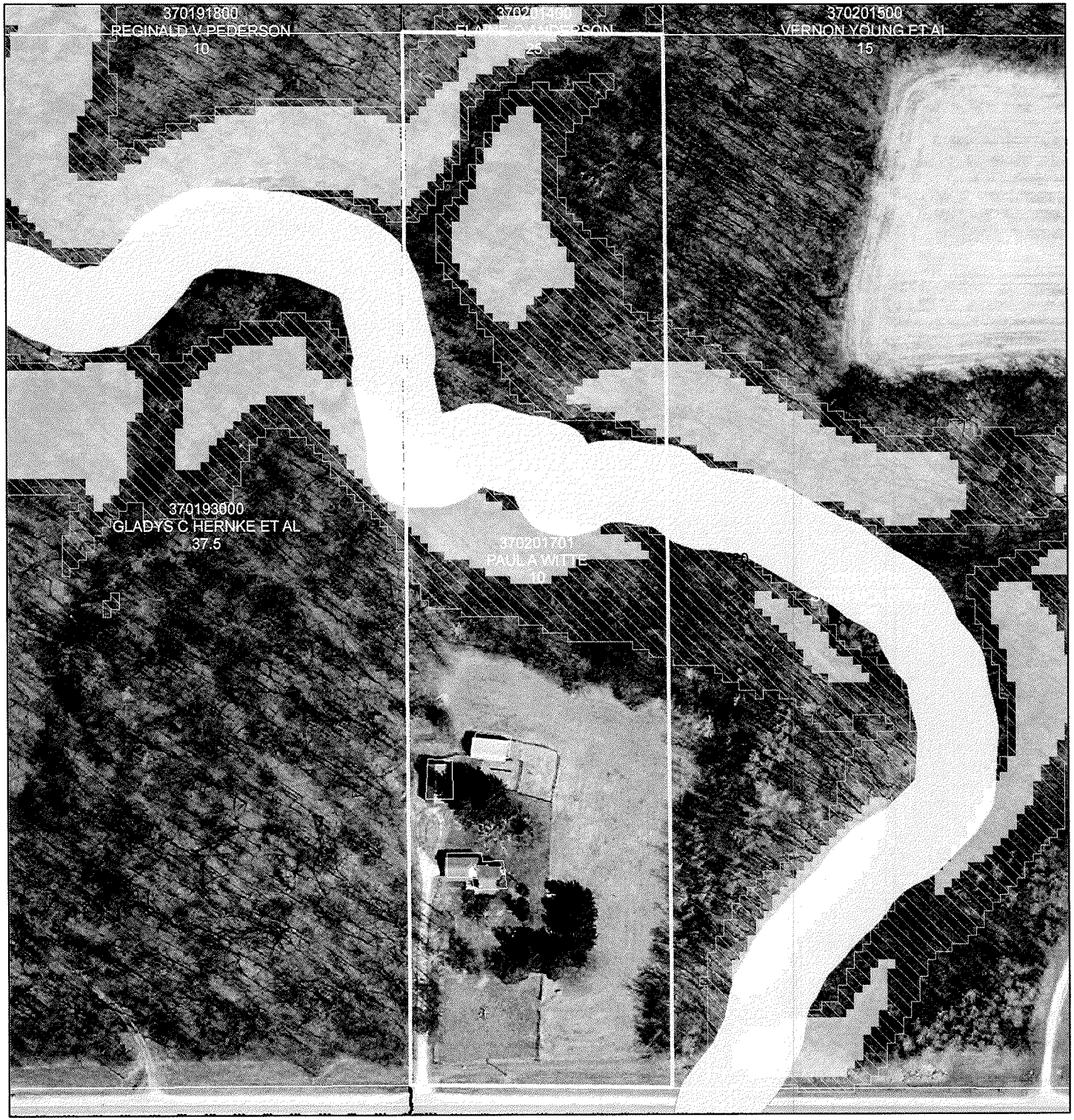
   septic inspection that passed for previous home should be accepted for a similar sized home used to replace it.

6. Is the proposed variance the minimum amount necessary to allow a reasonable use of the property? Please, explain.

   Property existed for years with current system and always passed inspection

7. Is the sole reason for the proposed variance based on a desire of the owner, occupant, or applicant for increased financial gain or reduced financial hardship? Please explain.

   No, not for either.




PID # 37.020.1701
Zoning District: A1
The following information is required for a Site Plan:

1. Location, size and shape of any structures Clearly distinguish between existing and proposed;
2. Distances from structures to property lines;
3. Distances between structures, porches and decks;
4. All wells and sanitary sewer systems (including any abandoned) and the distance to nearby structures
5. The existing and intended use of the property;
6. All landscape, screening, and fencing plans;

Upon review, projects may require other information

**Legend**

- Road
- 2014 Feedlot parcel
- Tax Parcel
- Section Line
- Dwelling Point

**% Slope**

- 20
- 30
- Shoreland

**Special Flood Hazard Area**

FLD_ZONE

- 0.2 PCT ANNUAL CHANCE FLOOD HAZARD
- A
- AE
- AO
- X

Feet
0 50 100 200 300

DATA DISCLAIMER: Goodhue County assumes NO liability for the accuracy or completeness of this map OR responsibility for any associated direct, indirect, or consequential damages that may result from its use or misuse. Goodhue County Copyright 2015.

2014 Aerial Imagery

Map Created 2015 Land Use Management

# ArcGIS WebMap

August 1, 2016

1:720

0 0.005 0.01 0.02 mi

0 0.0075 0.015 0.03 km

Municipal Boundary

**Roads 9.600**

Township or Other Roads

Full Address

PIN

Full Name

GoodhueCo_PLSS

**Major Roads 1,200**

US Highway

State Highway

**County Roads 1,200**

County Roads - Gravel

County Roads - Paved

Goodhue County

26ft 0.0079248

46ft 0.0140208

ArcGIS WebApp Builder

average head must
'16- to 1/4-inch
ch perforations.
following formula:

where: Q = discharge in gallons per minute
c = 0.60 = coefficient of discharge
d = perforation diameter in inches
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## 7080.2150 Final Treatment and Dispersal.

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F. ISTS components must be set back in accordance with Table VII.





**Table VII: Minimum setback distances (feet)**

| Feature | Sewage tank, holding tank, or sealed privy | Absorption area or unsealed privy | Building sewer or supply pipes |
|---|---|---|---|
| Water supply wells | * | * | * |
| Buried water lines | * | * | * |
| Structures | 10 | 20 | |
| Property lines*** | 10 | 10 | |
| Ordinary high water level of public waters | *** | *** | |

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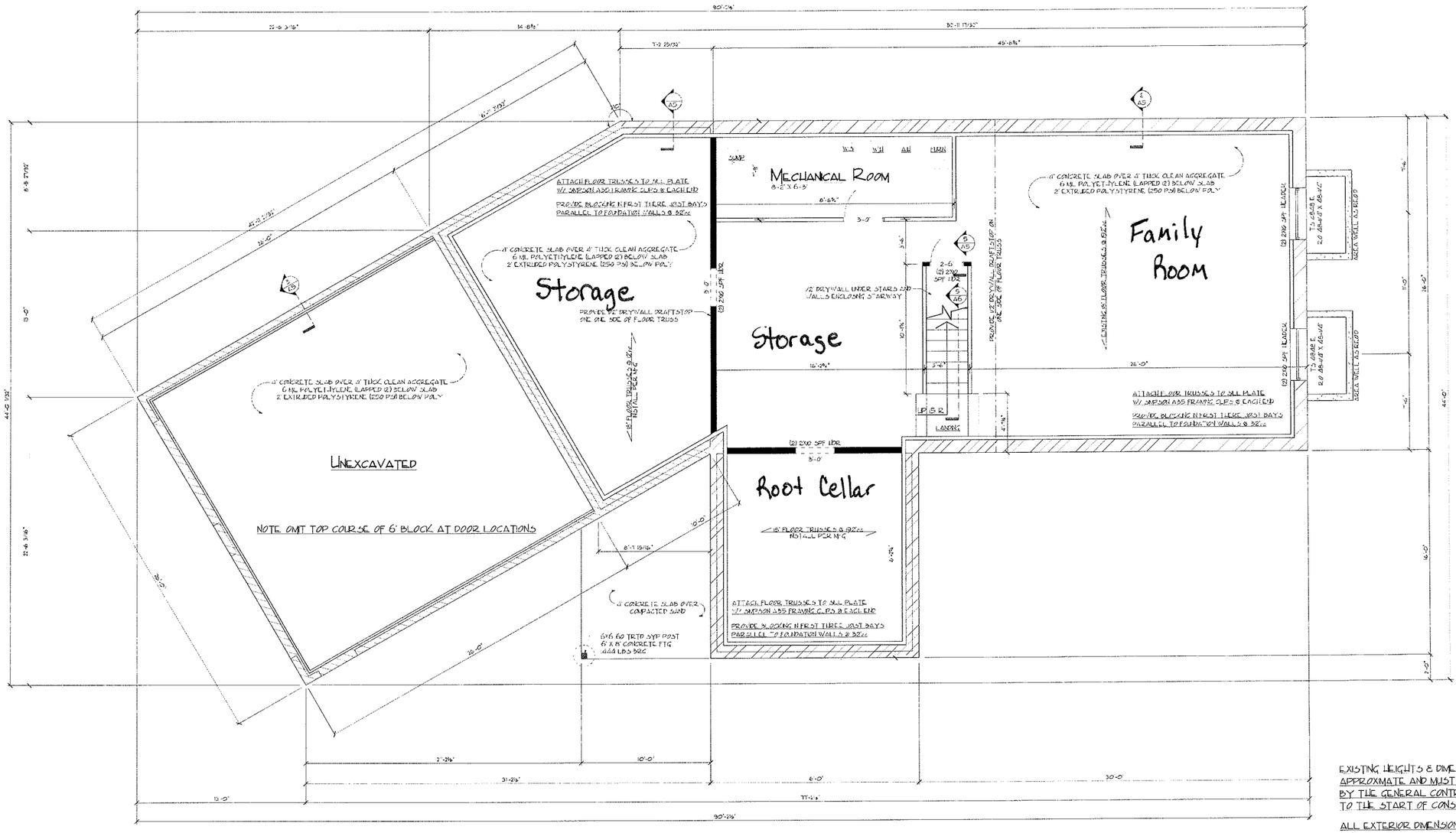



# BASEMENT FLOOR PLAN

1 / A3 SCALE: 1/4" = 1'-0"

EXISTING HEIGHTS & DIMENSIONS ARE APPROXIMATE AND MUST BE VERIFIED BY THE GENERAL CONTRACTOR PRIOR TO THE START OF CONSTRUCTION

ALL EXTERIOR DIMENSIONS ARE TO THE OUTSIDE OF MASONRY BLOCK WALL

DIMENSIONS TO INTERIOR WALLS WALLS ARE TO THE CENTER

ADD TO ALL OPENING DIMENSIONS IN BLOCK WALLS TO ALLOW FOR OPENING BUCKS

ALL INTERIOR DOORS ON BASEMENT FLOOR TO HAVE R.O. HGT OF 82"

SET BTM OF ALL EXTERIOR WINDOW & DOOR HDRS AT 82" ABOVE FLOOR UNLESS NOTED OTHERWISE

= INTERIOR BEARING WALL SEE DETAIL 5/A5

PAGE A3

PLAN NO. 1028-6
ORIGINAL DATE: 08-22-06
REVISED DATE: 02-25-08
PLAN STATUS: PERMIT SET
DRAWN BY: LUKE BORSMAN

DISCLAIMER

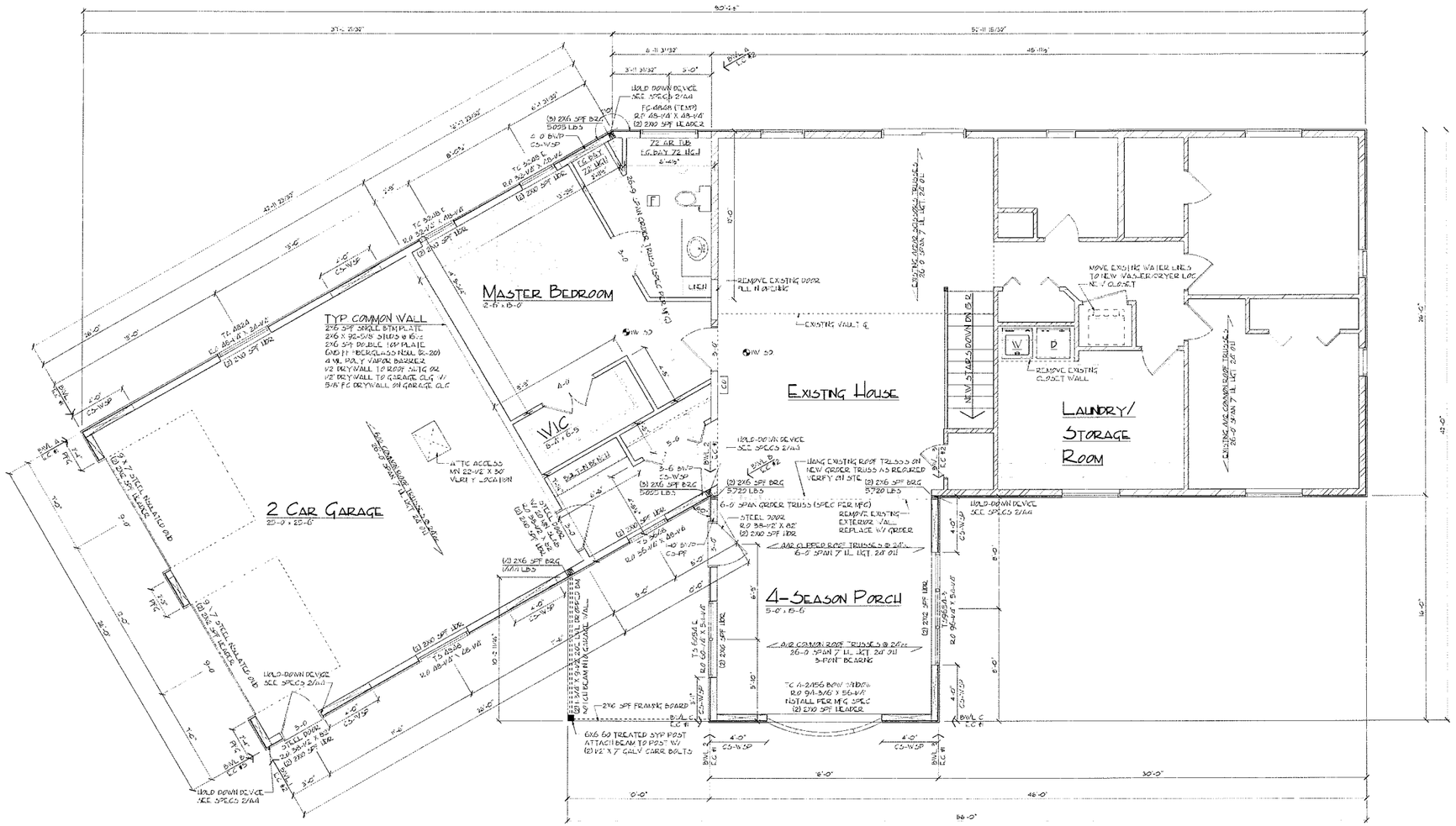
THESE PLANS ARE INTENDED BY LMH DRAFTING & DESIGN LLC AS A GUIDE FOR BUILDERS YOUR AREA LOCAL JURISDICTION & ABOVE NATIONAL CONSTRUCTION PRACTICES AND LOCAL BUILDING CODES. LMH DRAFTING & DESIGN LLC WILL NOT BE LIABLE TO CORRECT ANY ERRORS OR OMISSIONS THAT MAY OCCUR IN THESE PLANS. LMH DRAFTING & DESIGN LLC WILL NOT BE RESPONSIBLE FOR ANY TRESPASSES THAT THIS PLAN AND RIGHTS TO THIS PLAN INVOLVE THE PROPERTY OF A LANDSCAPING & DESIGN LLC

# WITTE ADDITION

COUNTY 9 BLVD

GOODHUE COUNTY, MN

LMH DRAFTING & DESIGN LLC
(507) 269-9408 luke.borsman@live.com
1009 1st Ave Goodhue, MN 55027




# MAIN FLOOR PLAN

A4 SCALE 1/4" = 1-0"

1196 SQ FT EXISTNG
697 SQ FT NEW
1893 SQ FT TOTAL

## BRACED WALL SPECS

2 A4

### CS-WSP (CONTINUOUSLY SHEATHED WOOD STRUCT. PANEL)

MINIMUM 7/16" EXTERIOR SHEATHING FASTENED WITH
8d COMMON NAILS (2.5" X .131) 3-1/4" PENETRATION
6" ON EDGE & 12" ON FIELD
MINIMUM 1/2" INTERIOR GYPSUM SHTG FASTENED WITH
#6 SCREWS TYPE W OR S
7" ON EDGE (INCLUDING TOP & BOTTOM PLATES)
7" ON FIELD

### GB (GYPSUM BOARD)

MINIMUM 1/2" GYPSUM BOARD BOTH SIDES OF WALL FASTENED WITH
8d: 1-5/8" LONG 19/64" HEAD
0.098" DIAMETER 1-1/4" LONG ANNULAR-RINGED
5d COOLER NAIL: 0.086" DIAMETER 1-5/8" LONG 15/64" HEAD
OR GYPSUM BOARD NAIL: 0.086" DIAMETER 1-5/8" LONG 9/32" HEAD
SPACED 7" ON EDGES INCLUDING TOP & BTM PLATES) 7" IN FIELD

### PFG (PORTAL FRAME AT GARGE)

SEE DETAIL 4/A6 FOR PORTAL FRAMING WITHOUT HOLD-DOWNS

### CS-PF (CONTINUOUSLY SHEATHED PORTAL FRAME)

SEE DETAIL 3/A6 FOR PORTAL FRAMING WITHOUT HOLD-DOWNS

### PFH (PORTAL FRAME WITH HOLD DOWNS)

N/A

### HOLD-DOWN DEVICE FOR END CONDITION 2 & 5

800 LBS CAPACITY FASTENED TO THE EDGE OF THE
BRACED WALL PANEL CLOSEST TO THE CORNER AND
TO THE FOUNDATION OR FLOOR FRAMING BELOW
4" PITCH SIMPSON HDU8 3000 LBS FASTENED TO (3) 2X6 LONG STUDS
7/8" THREADED ROD W/ 18" EMBEDMENT
SATISH SET-XP EPOXY IN PLACE (415 LBS)
6" FLOOR FRAMING SIMPSON MSTA36 STRAP-TIE (2050 LBS)

### TOP PLATE TO ROOF CONNECTION

3-16d BOX NAILS OR 3-8d COMMON NAILS
(2) 10d NAILS ON ONE SIDE AND 1 10d NAIL
ON OPPOSITE SIDE OF EACH ROOF MEMBER

BRACED WALL PANEL
BRACED WALL LINE

### WALL DESCRIPTIONS

NEW CONSTRUCTION

EXISTING WALLS

EXISTING HEIGHTS & DIMENSIONS ARE APPROXMATE AND MUST BE VERIFIED BY THE GENERAL CONTRACTOR PRIOR TO THE START OF CONSTRUCTION

ALL INTERIOR DOORS ON MAIN FLOOR TO HAVE RO HGT OF 82"

SET BTM OF ALL EXTERIOR WINDOW HDRS AT 82" ABOVE SUBFLOOR UNLESS NOTED OTHERWISE

EXTERIOR WALL DIMENSIONS ARE TO O/S OF STUD
INTERIOR WALL DIMENSIONS ARE TO CENTER OF STUD

VERIFY BEARING AT GIRDER BEAM BEARING LOCATIONS GIRDER BEAM LOCATIONS & LOAD SPEC BY MFG.

ALL EXTERIOR WALL FRAMING TO BE CONTINUOUS SHEATHED WOOD STRUCTURAL PANEL CONSTRUCTION TO MEET REQUIRED WALL BRACING GUIDELINES

| LIND ADJUSTMENT FACTORS | NUMBER WALL LINES | LETTER WALL LINES |
|---|---|---|
| EXPOSURE CATEGORY (B) | 1.00 | 1.00 |
| ROOF EAVE-TO-RIDGE HEIGHT (10') | 1.00 | 1.00 |
| WALL HEIGHT ADJUSTMENT (9') | 0.85 | 0.85 |
| NUMBER OF BRACED WALL LINES (3) | 1.30 | 1.30 |
| LIND FACTOR TOTAL | 1.24 | 1.24 |

| BWL | BRACING METHOD | BWL SPACING | REQ'D BRACING (FT) | LIND FACTOR TTL | TTL REQ'D BRACING LENGTH (FT) | BRACING LENGTH PROVIDED (FT) | STATUS |
|---|---|---|---|---|---|---|---|
| A | CS-WSP | 24.00 | 4.35 | 1.24 | 5.39 | 7.00 | OK |
| B | CS-WSP | 26.00 | 4.35 | 1.24 | 5.39 | 11.50 | OK |
| C | CS-WSP | 16.00 | 2.80 | 1.24 | 3.47 | 8.00 | OK |
| | CS-PF | 36.00 | 5.40 | 1.24 | 6.70 | 10.3" | OK |
| 2 | CS-WSP | 16.00 | 2.80 | 1.24 | 3.47 | 4.8' | OK |
| 3 | CS-WSP | 16.00 | 2.80 | 1.24 | 3.47 | 8.00 | OK |

PAGE
A4

PLAN NO. W23-6
ORIGINAL DATE 08/22/16
REVISED DATE 09/07/16
PLAN STATUS: FOR CONSTRUCTION
DRAWN BY: LUKE HARSMAN

D.I.S.C.L.A.I.M.E.R.

THESE PLANS ARE INTENDED BY LMH DRAFTING & DESIGN LLC TO BE IN COMPLIANCE WITH MINIMUM NATIONAL CONSTRUCTION PRACTICES AND LOCAL BLDG CODES. LMH DRAFTING & DESIGN LLC WILL REVISE THESE PLANS TO COMPLY WITH ANY LOCAL BLDG CODES PROVIDED PRIOR TO THE START OF CONSTRUCTION. ANY LOCAL BLDG CODES PROVIDED AFTER THE START OF CONSTRUCTION WILL BE REVISED AT THE EXPENSE OF THE OWNER. THESE PLANS ARE THE PROPERTY OF LMH DRAFTING & DESIGN LLC

# WITTE ADDITION

GOODHUE COUNTY, MN

COUNTY 9 BLVD

LMH DRAFTING & DESIGN LLC
(507) 299-9408 luke.harsman@live.com
1009 1st Ave Goodhue, MN 55027

# Goodhue County Land Use Management

**Goodhue County Government Center | 509 West Fifth Street | Red Wing, Minnesota 55066**

Building | Planning | Zoning
Telephone: 651.385.3104
Fax: 651.385.3106

Environmental Health | Land Surveying | GIS
Telephone: 651.385.3223
Fax: 651.385.3098

**To:** Board of Adjustment
**From:** Land Use Management
**Report Date:** September 16, 2016
**Meeting Date:** September 26, 2016

**Application Information:**

Applicant: David Bye
Address of Zoning request: 50130 158th Ave., Pine Island, MN 55963
Zoning district: A2
Township Information: Roscoe Township has not signed the application and have not commented.

**Attachments:**

Applicant Statement
Site Map
Survey
Goodhue County Zoning Ordinance: Articles 13, Sec.7, Subd. 6,

**Notice:** Variance request from Goodhue County Zoning Ordinance, Article 13 (Confined Feedlot Regulations), Section 7 (Required Setbacks for New Facilities), Subd. 6: "New feedlots shall not be located within 1,000 feet from any existing dwelling (other than those designated as an accessory to a feedlot or the feedlot operator's dwelling)". The request is to build a feedlot at 50130 158th Avenue (on the west side 158th Avenue - NW ¼ of the NE ¼, Section 27) in Roscoe Township.

**Background:** The purpose of this variance is to construct a feedlot on the portion of parcel 40.027.0200 west of 158th Ave. New feedlots under Article 13 Confined Feedlot Regulations, Section 7 Required Setbacks for new facilities, Subdivision 6 are required to have a 1,000 foot setback from any existing dwelling, church, public park, or school. The Applicant is requesting a 350 foot setback variance in order to construct a new feedlot within 650 feet of a neighbors existing home (under construction).

The County Board of Commissioners approved a Conditional Use Permit for a new feedlot on the subject property for up to 24 animal units. The Feedlot CUP included a condition that reads as follows: The feedlot shall not be implemented in the proposed location until or unless a variance to the 1000' setback (from a dwelling) has been approved by the Goodhue County Board of Adjustment. Mr. Bye has made application to amend his CUP in order to increase the maximum number of animal units (dairy cows, beef cattle, hogs) to 90 animal units with facilities including a 120' x 50' barn and a 50' x 50' corral. It is anticipated that Mr. Bye's CUP Amendment will be considered by the County Planning Commission at its October 17, 2016, Regular Meeting.

**Soil and Water Conservation District Officer Beau Kennedy's Comments on the Bye proposal**:

After reviewing the Bye packet, I would make the following observations concerning water the intermittent stream from a water quality aspect:

1. There are already a number of animal units accessing this pasture where the proposed feedlot is to be sited and it appears to have been pasture for quite some time.
2. Placement of the feedlot @ the top of the watershed, away from the stream and steep slopes reduces the pollution concern downstream. (rather than placing it near an area of confined stormwater flow)
3. Studies have proven that in well management pasture systems, cattle can actually offer some benefit to stream water quality. Cattle can keep invasives species at bay, manage woody species along streambanks, and maintain sod building vegetation along eroding streambanks. However, overgrazing of streams and streambanks can have a negative effect on bank stability and increase the potential for excessive bacteria within the stream. In the future, if the cattle congregate near the small portion of the intermittent stream on the SW portion of the Bye property, the County Feedlot Officer may suggest limiting cattle access to the stream during March-June months in an effort to reduce any erosion issues that may arise.
4. The constant movement of cattle from the farmyard to this parcel on the W side of TWP Rd 158th Ave has created a small erosion issue within the cattle lane due to hoof traffic (visible in many aerials). Having a more seasonal housing option on the W side of the TWP road could help elevate the erosion issue in the cattle lane (assuming that the cattle would be kept on one side or the other for longer periods of time).

Recommendations:

1. I didn't see this in the application, but providing the 24 AU with a watering facility near the proposed barn would be a good idea to alleviate the potential for cattle congregating in the stream area.
2. If Mr. Bye was interested in establishing a managed grazing scenario using multiple paddocks, additional acreage would be needed. Using the U of M and U of W 'Pastures for Profit' guidelines, the 24 AUs would need 35 acres of pasture to implement a more forage quality based paddock system. http://learningstore.uwex.edu/assets/pdfs/A3529.PDF staff at the Goodhue SWCD/NRCS can assist Mr. Bye with this Best Management Practice if he is interested.

**Findings of Fact:**

Before any such variance may be granted, the Board of Adjustment shall specify in their findings, the facts in each case. Variances shall only be permitted when:

1) They are in harmony with the general purposes and intent of the official control;

*The purpose of the A2 District is to maintain and conserve agricultural investments and prime agricultural farmland, but provide for a slightly higher density of dwellings than the A1 District. This A2 District is intended to apply to those areas where large farms and feedlots are more scattered and greater numbers of non-farm uses or small parcels are present. The A2 District also has more topographic features and less prime farmland than the A1 District.*

**The Applicant is proposing to build a feedlot which is consistent with the A2 District's purpose to maintain and conserve agricultural investments.**

2) The variance request is consistent with the comprehensive plan;
*Objectives set forth in the Agricultural and Housing Elements of the 2016 Comprehensive Plan may be interpreted as supportive of the Applicants variance request.*

AGRICULTURAL ELEMENT

*Animal Agricultural Objective #1: Support and encourage farming activities so farmers can continue to provide an adequate supply of healthy livestock.*

**The Applicant is expanding his feed lot operation in a consistent manner with this objective of the Comprehensive Plan.**

HOUSING ELEMENT

*Housing Objective #1: Direct the location of new or replacement dwellings sites in areas that minimize loss or conversion of prime agricultural soils.*

**The applicant contends that the proposed feedlot location would minimize his loss/conversion of tillable land. Approving this variance would minimize this loss of prime agricultural soils.**

*Housing Objective #4: Continue to emphasize in County Plans, Policies and ordinances that rural residents within or abutting Agricultural Districts can expect agricultural, forestry, and mining activities within the vicinity of their homes subject to provisions and standards established under the County's official controls.*

**The Applicant's current CUP is for 24 animal units, but the Applicant has applied for an amendment to the CUP to increase the feedlot operation to 90 animal units. The Board's policy decision to approve the Applicant's request for a variance is consistent with the Objective that rural residents can expect agricultural activities within the vicinity of their homes.**

*Housing Implementation Strategy #2: Work with Townships to evaluate and designate suitable residential sites that minimize conflicts with agricultural and rural uses.*

**Approval of the Applicant's request for a variance from the feedlot setback would minimize the limitation on agricultural use of the Bye property caused by the construction of the dwelling by Brandon and Malinda Vogel that was enabled through the granting of a Section Density Variance by the Board of Adjustment.**

BUSINESS AND INDUSTRY ELEMENT

*Agricultural Business Objective #2: Strive for a land use balance, which recognizes both agricultural uses and the non-agricultural development that may be suitable for rural Goodhue County sometime in close proximity.*

**The Board could determine that approval of the variance would strike a balance between rural residential and agricultural uses.**

*Agricultural Business Implementation Strategy #2: Recognize that Confined Animal Feed Lot Operations may be more suitable in some areas of the County than other areas of the County.*

**The Board could determine that denial of the variance would be consistent with this implementation strategy due to the recognition that this area is not suitable for a Confined Feed Lot Operation.**

3) There are practical difficulties in complying with the official control. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner, not permitted by an official control. Economic considerations alone do not constitute practical difficulties.

**The Applicant's proposal for a feed lot is a reasonable use for the property and has been the use of the property for generations. The Applicant has several justifications for the proposed location of the feed lot, as noted in his application. These reasons speak to the practical difficulties to place the feed lot and associated elements in a location other than the proposed location.**

**A. The current feedlot's cows pasture and are fed in the adjoining area (for 40 years),**

**B. The proposed location will remove the lease amount of tillable land for the construction and use of the feed lot,**

**C. The proposed location is the closest location to connect to the existing well and electric service,**

**D. The Applicant notes that the proposed location will have no water and/or manure runoff issues,**

**E. The Applicant also states that the development of dwellings in the area has extremely limited the Applicant's ability to expand his farming operations,**

**F. This location will maximize the potential of the property within an agricultural district while minimizing the loss of tillable ground**

**The reasons the Board may find that the practical difficulties are not met, include:**

**A. The large developable acreage to the south between the dwelling on the Peterman's property and the closest home to the south**

**would not require a variance and may be suitable for construction of a feedlot;**

B. **The potential for negative impacts from the proposed feedlot on the nearest dwelling may be determined to be unacceptable; and**

C. **There may be equal loss of tillable ground in the proposed location as there would be in a location that would not require a variance.**

4) The plight of the landowner is due to circumstances unique to the property not created by the landowner; and

   **The plight of the land owner was created by the unique circumstances that were not caused by the land owner could be justified by the approval of the Peterman variance from the dwelling density.**

   **The Board could equally see that the landowner could avoid the need for the variance by siting the feedlot can be located elsewhere on the property.**

5) The variance, if granted, will not alter the essential character of the locality.

   **The Board could take the position that the surrounding neighborhood's character will not change because this is an Agricultural District that is suited for feedlots and the proximity of residences should be expected; and approve the variance.**

6) No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located.

   **Confined feedlots may be permitted in the A-2 Zone District and the Goodhue County Board approved a Conditional Use Permit for Mr. Bye on the property in February 2016 (subject to addressing the setback issue from the nearest dwelling).**

7) The Board of Adjustment may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

   **Conditions will be included in the Staff recommendation.**

*The following should be edited to reflect any concerns raised at the* September 26, 2016 *BOA meeting and public hearing:*

**Action for Board of Adjustment consideration:**

Any action by the Board of Adjustment should include adopting the staff report into the record (dated September 16, 2016); adopting the findings of fact; and based on the application, testimony, exhibits, and other evidence presented decide to **approve or deny** the variance request of David Bye from Goodhue County Zoning Ordinance, Article 13 (Confined Feedlot Regulations), Section 7 (Required Setbacks for New Facilities), Subd. 6: "New feedlots shall not be located within 1,000 feet from any existing dwelling (other than those designated as an accessory to a feedlot or the feedlot

operator's dwelling)". The request is to build a feedlot at 50130 158th Avenue (on the west side 158th Avenue - NW ¼ of the NE ¼, Section 27) in Roscoe Township.;

Subject to the following conditions:

1. Conformance with the application submitted to Goodhue County Land Use Management Office dated August 30, 2016; and
2. Compliance with all necessary state and federal permits and licensing.

APPLICATION FOR

# Variance

1. Owner/Applicant Information

| Application for Variance | |
|---|---|
| Variance Number: For Staff Use Only | Z16-0068 |
| $350 RECEIPT # 15521 | DATE 8/30/16 |

PROPERTY OWNER'S NAME: **David Bye**

PROPERTY OWNER'S ADDRESS:
**50130 158th Avenue**
**Pine Island, MN 55963**

TELEPHONE: **(507) 259-9273**

EMAIL:

APPLICANT OR AUTHORIZED AGENT'S NAME:

Same as Above ☑

APPLICANT'S ADDRESS:

TELEPHONE:

EMAIL:

CONTACT FOR PROJECT INFORMATION:

Same as Above ☑

ADDRESS:

TELEPHONE:

EMAIL:

2. Location and Classification

STREET ADDRESS OF PROJECT:

ZIP CODE:

LEGAL DESCRIPTION: **Section 27, Roscoe Township, Goodhue County, Minnesota**

Attached

IF YOU ARE NOT SURE OF THE EVENTUAL SIZE OF THE FINAL PROJECT, PROVIDE THE MAXIMUM ESTIMATES

| PID#: | ZONING DISTRICT: | LOT AREA (SQ FT): | LOT DIMENSIONS: | STRUCTURE DIMENSIONS (if applicable): |
|---|---|---|---|---|
| **40-027-0200** | **A-2, Agricultural District** | | **50' x 50' corral area** | **50' x 120'** |

( Please check all that apply ) **ADDITIONS TO BUILDING:**

New Building on vacant land
New Addition to existing building
☑Animal Building
Storage building
Rear
Front
Side
Other Please clarify

PRESENT OR PREVIOUS USE:
**Feed lot for dairy cow and heifer calving.**

PROPOSED USE: **50' x 50' corral/feed lot area with a 50' x 120' building for calving cows and heifers.**

BUILDING APPLICATION PERMIT NO: DATED FILED:

TOWNSHIP:
By signing this form, the Township acknowledges being made aware of the request stated above. In no way does signing this application indicate the Township's official approval or denial of the variance request.

Attached

| TOWNSHIP OFFICIAL'S PRINTED NAME AND TITLE | TOWNSHIP OFFICIAL'S SIGNATURE | DATE |
|---|---|---|
| | | |

3. Applicant's Affidavit

Under penalty of perjury the following declarations are made:

1. The undersigned is the owner or authorized agent of the owner of this property.
2. The information presented is true and correct to the best of my knowledge.
3. If I am unable to be present at the meeting where my request is decided, I agree to accept the Notice of Decision by certified USPS.
4. Other information or applications may be required.

Signature: David Bye

Date: 8-29-16

Print name: David Bye, Owner

| Application for Variance |
| --- |
| Variance Number: |
| For Staff Use Only |

Project Summary (Attach a separate sheet if more space is needed)

Please state which section(s) of the Ordinance from which you are requesting a variance.

Article 13, § 7, subd. 6. Applicant seeks a variance from the setback requirement for a feedlot located within 1,000 feet of a dwelling.

Variance Findings

Pursuant to Goodhue County Zoning Ordinance Article 5, before approving a variance application, the Board of Adjustment needs to find that the facts presented are such to establish the findings stated below. In the space below and on separate paper, if necessary, please present facts sufficient to establish each finding. The Board of Adjustment may grant a variance only if the variance request complies with each and every one of these findings in full. The responsibility for completing the variance questionnaire rests solely with the applicant. If the description of how the project meets all of the criteria is not fully supported with written information and appropriate drawings or pictures, the Board may find the information insufficient and the criteria are not satisfied.

Please state how the project is consistent or inconsistent with each policy. Each statement should refer to specific circumstances or conditions applicable to the property. Each policy must have a response. IF A GIVEN POLICY DOES NOT APPLY TO YOUR PROJECT, EXPLAIN WHY IT DOES NOT.

1. What are the special circumstances of the proposal site which distinguish it from nearby properties with the same zoning? (relating to size, shape, topography, location, surroundings and features of the subject property).

The proposed site is zoned A-2 Agricultural District. Pursuant to Article 22, § 1 of the Goodhue County Ordinances, the purpose of this district is to maintain and conserve agricultural investments and prime agricultural farmland, but provide for a slightly higher density of dwellings than the A-1 District. This A-2 District is intended to apply to those areas where large farms and feedlots are more scattered and greater numbers of non-farm uses or small parcels are present. This district also has more topographic features and less prime farmland than the A-1 District. The Applicant's proposed feedlot site is not necessarily distinguishable from nearby properties with the same zoning. It is distinguishable from the features of the property located to the north (formerly owned by Kenneth Peterman and referred to herein as "Peterman's Property"), which is zoned A-2 Agricultural District. The Applicant's intended use of the proposed site is for a feedlot for 90 animal units, with a 50' x 50' corral/feed lot area with a 50' x 120' building for calving cows and heifers. The proposed use is permitted and consistent with both A-2 and A-1 Districts. However, special circumstances related to Peterman's Property exist such that a variance is required by Applicant to operate the feedlot in the proposed location.

Specifically, on November 24, 2014, the Goodhue County Board of Adjustment (the "BOA") granted Peterman's application for a density variance to allow a sixth dwelling site within a specified 2.5 acre site. Attached hereto as Exhibit A are materials related to Peterman's application dated July 14, 2014. Importantly, the BOA's granting of Peterman's density variance created limitations on the Applicant's future ability to expand his feedlot because a portion of the 2.5 acre site is located within 1,000' of Applicant's existing feedlot. Therefore, a dwelling constructed within the 2.5 acre site may not meet the 1,000' setback requirements related to feedlots.

Sometime prior to May 26, 2015, Peterman submitted an application for a variance to allow construction of a dwelling within the 2.5 acre site and within 750' feet of the location of Applicant's proposed feedlot. Materials related to this variance application/process are attached as Exhibit B. Of note, the BOA denied Peterman's variance application on May 26, 2015. As reflected by the May 26, 2015, BOA meeting minutes, the BOA recognized "the expansion limitations to the Bye's now realized by the granting of the November 2014 variance request to Mr. Peterson." Commissioner Stenerson "commented on the Nov 2014 decision by the BOA creating the problem and that there should have been more attention paid at the time to that request."

On June 17, 2015, Applicant submitted a Conditional Use Permit Application for a feedlot operating outside a farmyard. Applicant's CUP was for the same purpose and use as this variance application. Materials related to Applicant's CUP application are attached as Exhibit C. After multiple hearings before the Planning Advisory Committee (the "PAC") and the Board of Commissioners (the "BOC"), on February 16, 2016, the BOC approved Applicant's CUP for a feedlot operated outside a farmyard, but conditioned the implementation of the feedlot in the proposed location until a variance to the 1,000' feedlot setback is approved by the BOA. In approving the CUP, the BOC noted "the issue that has delayed this process is that there was a variance granted on an abutting property to allow a dwelling site. The dwelling

site has since been permitted and the proposed site of Mr. Bye's feedlot would not conform with the county's feedlot setback requirements." As a result of the BOC's approval of Applicant's CUP, it is necessary for Applicant to obtain a variance to the 1,000' setback.

Since the BOC's approval of Applicant's CUP, the new owners of Peterman's Property have begun construction of a dwelling north of Applicant's proposed feedlot site. A survey of the area obtained by Applicant shows the dwelling under construction is located 962.51' from Applicant's existing feedlot and within 650' of the feedlot proposed herein. A copy of the July 25, 2016, survey is attached hereto as Exhibit D.

In sum, the special circumstances related to Applicant's proposal were created by Peterman, the grant of the November 2014 variance to Peterman, and the current construction of a dwelling north of Applicant's proposed feedlot.

2. Who or What created the circumstances?

As discussed above and as supported by the Exhibits attached hereto, the circumstances were created by Peterman's variance requests, the BOA's approval of the November 2014 density variance, and the current construction of a dwelling on Peterman's former property. Due to these circumstances and the conditions placed on Applicant's CUP by the BOC, it is necessary for Applicant to obtain a variance to the 1,000' feedlot setback requirements. The creation of these circumstances by persons other than Applicant has been acknowledged by both the BOA and the BOC.

3. What is the character of the area (ie- rural, residential, agricultural, commercial, etc.) and how is the request consistent with this character?

See the response to Question 1 above for the character (agricultural) of the area. Applicant's request is consistent with the character of the area as it aligns with the purpose of the A-2 Agricultural District. That is, it seeks to maintain and conserve agricultural investments and prime agricultural farmland. Moreover, the proposed site is due to limitations of the land that minimize the location of a feedlot on Applicant's property. Any other location would impede Applicant's ability to farm, which would be contrary to the purpose of an A-2 District.

4. Describe how the rules in the zoning ordinance deprive you of rights commonly enjoyed by other properties in the same zoning district.

The 1,000' setback rule deprives Applicant of the right to use his property as intended by the A-2 District designation. Specifically, it prohibits him from expanding his dairy operations and from creating a necessary feedlot to continue and expand his farming operations. Moreover, it is unlikely that other properties in the same zoning district have been faced with the necessity of seeking such a variance due to the conduct of other persons beyond Applicant's control.

5. Indicate why the requested variance will not result in your receiving any special privileges that are denied by the zoning ordinance to others in the same zoning district.

As discussed above, special circumstances exist related to Applicant's request that likely do not exist for others in the same zoning district. Applicant's request will not result in special privileges. To the contrary, the granting of Applicant's request will eliminate the current conflict that exists between Applicant's CUP and existing feedlot, and the November 2014 Peterman variance.

6. Is the proposed variance the minimum amount necessary to allow a reasonable use of the property? Please, explain.

Yes. As established by the survey in Exhibit D, a variance of 650' is the minimum amount necessary to allow a reasonable use of the property. A number of other reasons exist as to why 650' is the minimum amount necessary to allow a reasonable use of the property, including: (i) the proposed variance is for the most logical place on Applicant's farm to expand the current feedlot because it adjoins the pasture where Applicant's cows currently graze and where the cows are fed hay on the west end - this has been Applicant's practice for the prior 40 years; (ii) the proposed location is separated from the rest of Applicant's tillable ground by a lane used by the cows to cross from the farmyard to the pasture; (iii) the proposed variance provides the closest location to connect to Applicant's existing well for water and electricity, if necessary; (iv) the proposed location will have no water and/or manure runoff issues; (v) soil and water and Planning and Zoning representatives have visited Applicant's property and observed the water issues in Applicant's farmyard and agree Applicant does not have the ability to further expand on his existing site; (vi) the proposed location is the most cost effective method of expansion for Applicant; (vii) Applicant purchased his parents' farm from their estate five years ago, at which point Planning and Zoning located the building site in a flood plain, prohibiting Applicant from placing a feedlot thereon; (viii) the erection of homes around Applicant's property, including Ken Peterman's property to the south, has extremely limited Applicant's ability to expand his farming operations; (ix) the proposed location will lead to the utilization of the area to its fullest potential within the agricultural district while minimizing the disturbance to Applicant's

existing tillable ground; and (x) the proposed location is necessary for Applicant to preserve the future of his dairy and hog farm, an operation in business for five generations, for his sons.

7. Is the sole reason for the proposed variance based on a desire of the owner, occupant, or applicant for increased financial gain or reduced financial hardship? Please explain.

Please see Answer No. 6. Additionally, Applicant's proposed variance is to prevent the financial hardship that will result if Applicant's ability to expand his dairy operation, which was not caused by him, is precluded by the denial of this request. Applicant's proposed feedlot is necessary for his use during the calving season to corral pregnant animals and calves. The area is necessary because Applicant's current farmyard feedlot is too small to accommodate all of his animals at once. A variance as requested by Applicant will allow him to expand his dairy operation on his own property and to avoid the expense related to rented animal space.

Moreover, Applicant's proposed variance is a necessary requirement resulting from the BOC's February, 2016, approval of Applicant's CUP. In short, Applicant's hands are tied.

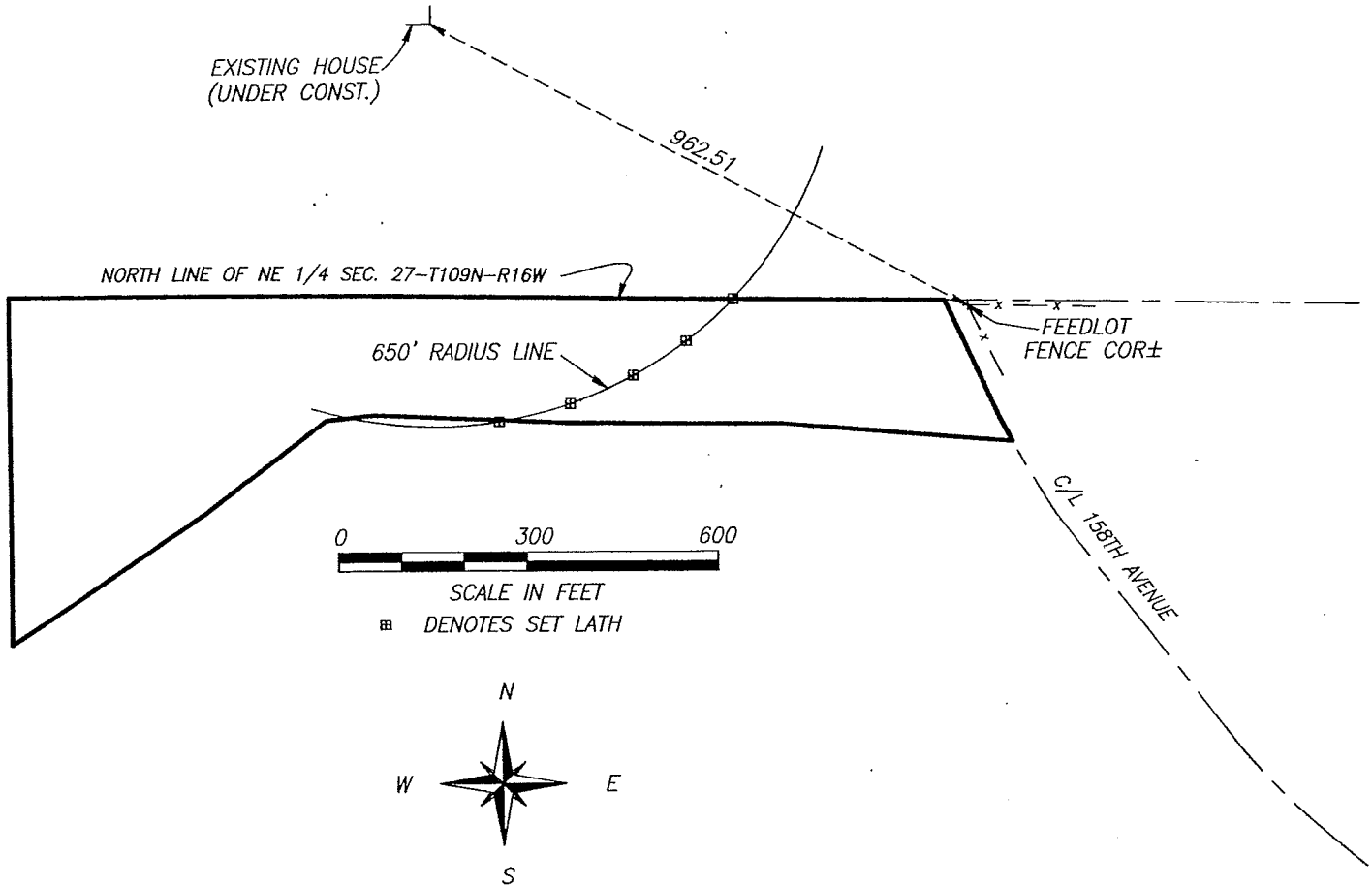
Certificate for:
David Bye
50130 158th Avenue
Pine Island, MN 55963

RAPP LAND SURVEYING

Bk: 34/1
D1533F

David G. Rapp
*Registered Land Surveyor*
45967 30th Ave. • Kenyon, MN 55946 • 507-789-5366

SURVEYOR'S CERTIFICATE



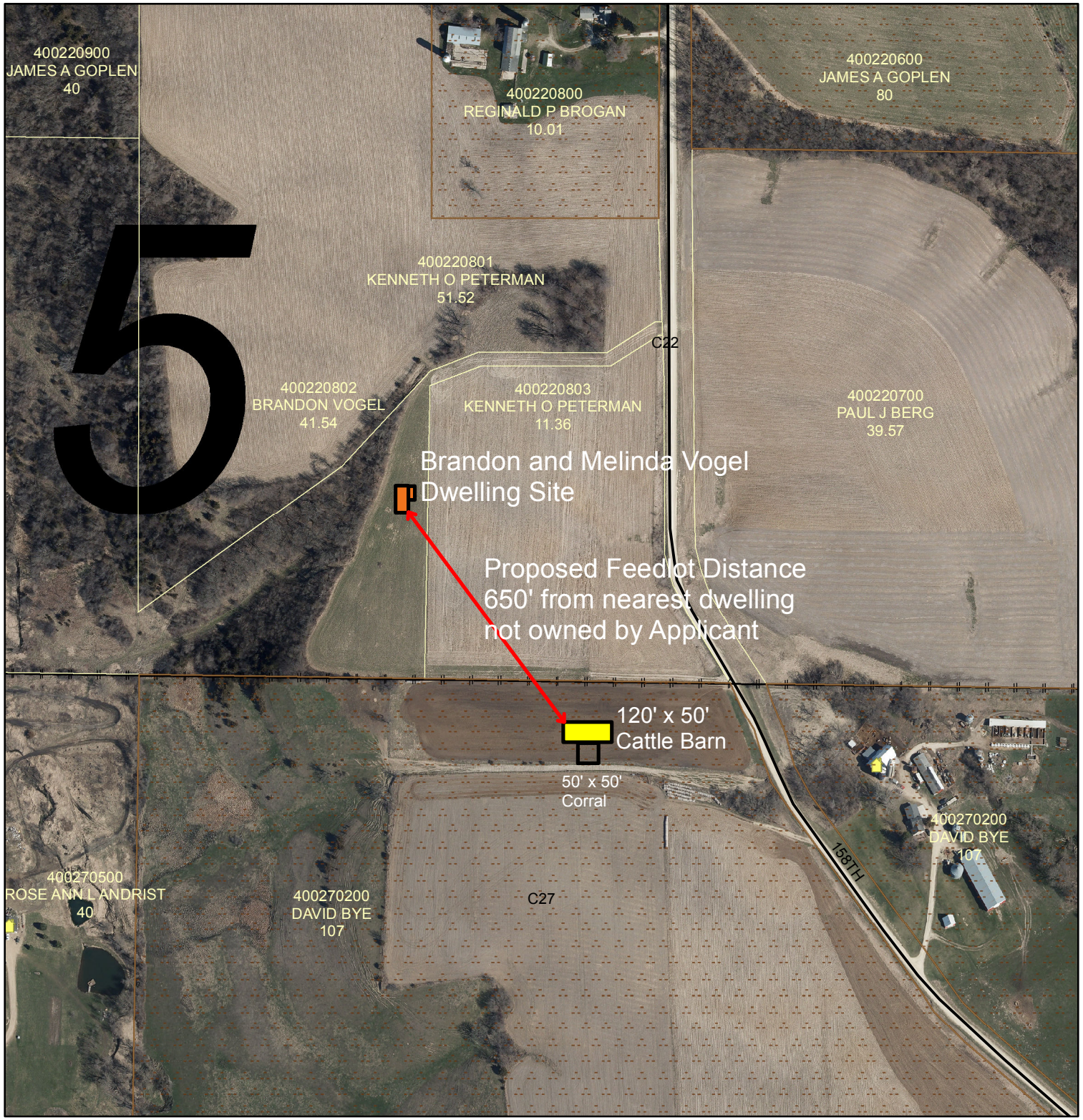

SURVEY SHOWING DISTANCE FROM CLOSEST CORNER OF EXISTING HOUSE (UNDER CONSTRUCTION) TO THE CLOSEST CORNER OF AN EXISTING FEEDLOT. ALSO SHOWING A 650.00 FOOT RADIUS LINE FROM SAID CLOSEST HOUSE CORNER.

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Registered Land Surveyor under the laws of the State of Minnesota.

Dated July 25, 2016

MINNESOTA LAND SURVEYOR
DAVID G. RAPP
22044

David G. Rapp
Minnesota Registration No. 22044




PID # 400270200
Zoning District: A2
David Bye
Variance Request to
1000' Feedlot Setback Requirement

**Legend**

- Road
- 2014 Feedlot parcel
- Tax Parcel
- Section Line
- Dwelling Point

**Goodhue_Co_2016.sid**
**RGB**

- Red: Band_1
- Green: Band_2
- Blue: Band_3

0 80 160 320 480 640 Feet

DATA DISCLAIMER: Goodhue County assumes NO liability for the accuracy or completeness of this map OR responsibility for any associated direct, indirect, or consequential damages that may result from its use or misuse. Goodhue County Copyright 2015.

2014 Aerial Imagery

Map Created 2016 Land Use Management

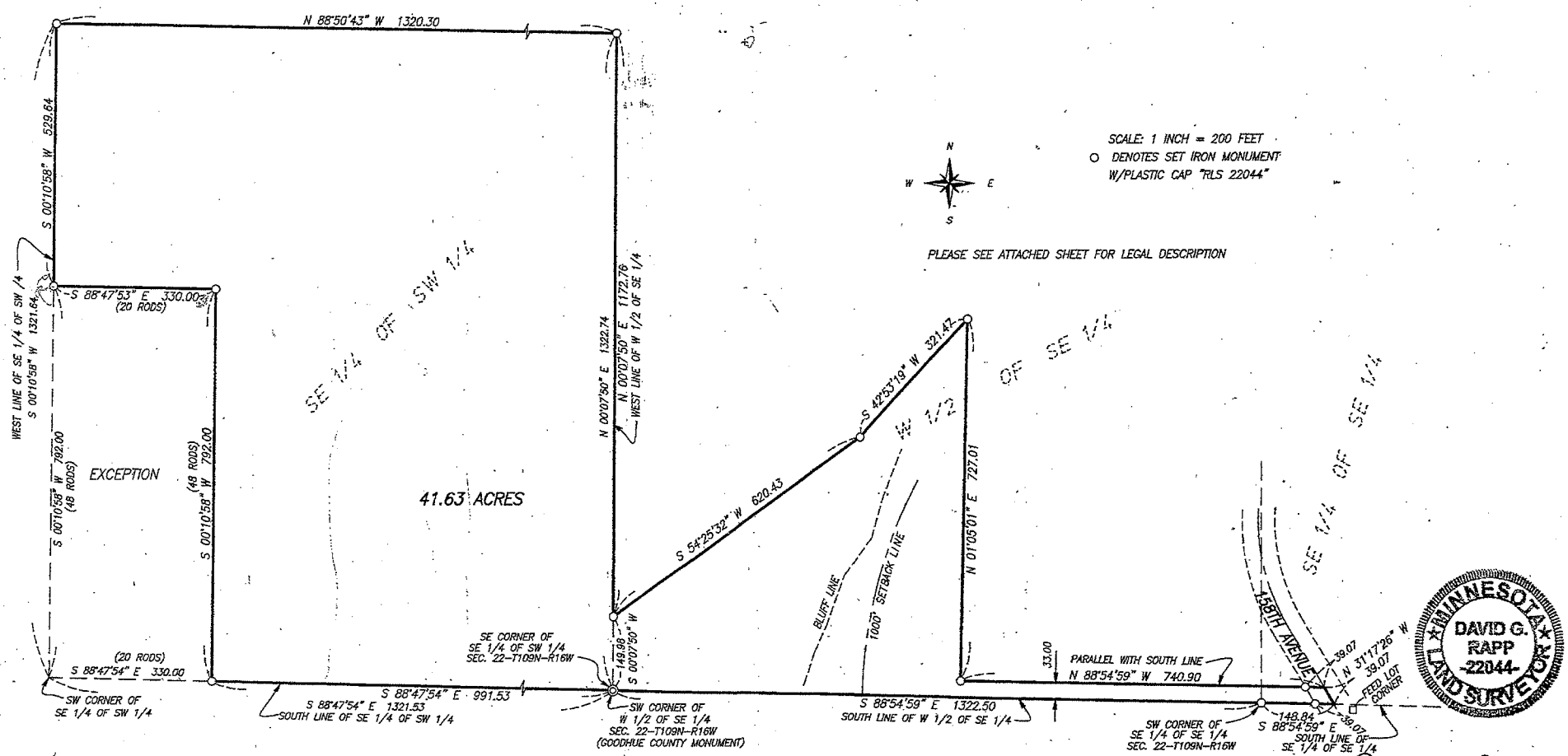
Certificate for:
Ken Peterman
15920 County 11 Blvd
Pine Island, MN 55963


RAPP LAND SURVEYING
David G. Rapp
Registered Land Surveyor
45967 Hwy. 56 Blvd. Kenyon, MN 55946 507-789-5366


Bk: 33/37
D14151



SURVEYOR'S CERTIFICATE




I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Registered Land Surveyor under the laws of the State of Minnesota.

Dated December 16, 2014

David G. Rapp
Minnesota Registration No. 22044

**Peterman**

## Legend

Tax Parcel

Section Line

**Bluff Impact**

**% Slope**

20

30

Feet

0 40 80 160 240 320

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Map Created 2015 Kate Eiynck

**SECTION 7. REQUIRED SETBACKS FOR NEW FACILITIES.**

As per Minnesota Statutes 394.25, a setback for new feedlots from existing residences must also provide for a new residence setback from existing feedlots located in areas zoned agricultural at the same distances and conditions specified in the setback for new feedlots, unless the new residence is built to replace an existing residence.

Subd. 1. All new feedlots will be prohibited within 100-year floodplain areas.

Subd. 2. No new feedlots shall be situated closer than 100 feet from any public or private well; this includes existing abandoned wells.

Subd. 3. No new feedlot shall be within 1000 feet of the high water mark of a lake or within 300 feet of the high water mark of a stream or river.

Subd. 4. No new feedlot or portions thereof shall be constructed within 100 feet of an adjoining property line.

Subd. 5 New residential districts (R1) shall not be located within 1000 feet or 96% OFFSET odor annoyance free rating distance, as determined by the OFFSET odor evaluation model, from any existing feedlot, whichever is greater, nor shall any new feedlot be located within 1000 feet or 96% odor annoyance free rating distance from any residential district (R1), whichever is greater.

Subd. 6 New dwellings (other than those designated as an accessory to a feedlot or the feedlot operator's dwelling), new churches, new public parks, new schools (as defined in Minnesota Statutes 120A.05), or new private schools excluding home school sites, shall not be located within 1000 feet or 94% odor annoyance free rating distance, as determined by the OFFSET odor evaluation model, from any existing feedlot, whichever is greater.

New feedlots shall not be located within 1000 feet or 94% odor annoyance free rating, as determined by the OFFSET odor evaluation model, from any existing dwelling (other than those designated as an accessory to a feedlot or the feedlot operator's dwelling), churches, public park, school (as defined in Minnesota Statutes 120A.05), or private school excluding home school sites, whichever is greater.

Subd. 7 New construction on existing feedlots shall meet a 91% odor annoyance free rating distance, as determined by the OFFSET odor evaluation model, to a dwelling (other than those designated as an accessory to a feedlot or the feedlot operator's dwelling)

Subd. 8 No new feedlot will be allowed within one mile of the cities of Red Wing, Cannon Falls, Pine Island, Lake City, Kenyon, or Zumbrota. No new feedlot will be allowed within one half mile of all other incorporated municipalities. Any variance request to this subdivision will be denied when the affected municipality's city council demonstrates that the proposed request is inconsistent with its comprehensive plan or growth plan.

Subd. 9 New feedlots or new construction on existing feedlots shall meet a 99% odor annoyance free rating distance, as determined by the OFFSET odor evaluation model, at the closest incorporated municipality boundary line of the cities of Red Wing, Cannon Falls, Pine Island, Lake City, Kenyon, or Zumbrota. Any variance request to these distances must be accompanied by written consent from the affected municipality's city council.

Subd. 10 No new feedlots or expansion of existing feedlots shall be sited:

A. Within 300 feet of a sinkhole

B. Within a Bluff Impact zone

C. Within an abandoned quarry

## SECTION 8. MANURE APPLICATION SETBACKS

Subd. 1 There shall be a 300 foot setback from any dwelling (other than the operator's dwelling), church, or school (as defined in Minnesota Statutes 120A.05), and private schools excluding home school sites for surface, incorporated, or injected manure applications,

Subd. 2 There shall be a 1000 foot setback from any dwelling (other than the operator's dwelling), church, or school(as defined in Minnesota Statutes 120A.05), and private schools excluding home school sites, for irrigation manure application.

Subd. 3 There shall be a 200 foot setback from any public or private well for surface, incorporated, injected, or irrigation manure application.

Subd. 4 Written agreements between affected neighbors may be an exception to minimum setback requirements for the land application of manure, provided the setback complies with the MPCA 7020 rules and Goodhue County Environmental Health ordinance.

## SECTION 9. STANDARDS FOR EARTHEN STORAGE BASINS & CONCRETE PITS (MPCA)

Subd. 1. The standards for these structures shall be in compliance with MPCA requirements.

Subd. 2. The sizing capacity of any manure storage or treatment area should be in accordance with NRCS or MPCA.

PUBLIC HEARING:
David Bye - Variance request from Goodhue County Zoning Ordinance, Article 13 (Confined Feedlot Regulations), Section 7 (Required Setbacks for New Facilities), Subd. 6: "New feedlots shall not be located within 1,000 feet from any existing dwelling (other than those designated as an accessory to a feedlot or the feedlot operator's dwelling)". The request is to build a feedlot at 50130 158th Avenue (on the west side 158th Avenue - NW ¼ of the NE ¼, Section 27) in Roscoe Township.

**Legend**

- Municipal Boundaries
- Section Line

**Bluff Impact**

**% Slope**

- 20
- 30
- Tax Parcel
- Dwelling Point
- Shoreland

**Special Flood Hazard Area**

**FLD_ZONE**

- 0.2 PCT ANNUAL CHANCE FLOOD HAZARD
- A
- AE
- AO
- X

Miles

0 0.05 0.1 0.2 0.3 0.4 0.5

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2016 Aerial Imagery

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