

Goodhue County Land Use Management

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



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To: Board of Adjustment
From: Land Use Management
Report Date: July 15, 2016
Meeting Date: July 25, 2016

Application Information:

Applicant: Mikkell and Carol Gardner
Address of Zoning request: 29072 Leroy Ave.
Zoning district: R1 – Suburban Residential

Township Information: The Applicant has asked Florence Township for permission to construct part of a new wastewater system within the Wells Street Right-of-Way. The Township would need to either vacate a portion of the Wells Street Right-of-Way or grant the Gardner's an easement. The County has not been made aware of any Township action as the date of this staff report.

Attachments:

Applicant Statement
Site Map
Minnesota State Rules Chapters 7080
Survey with Easement

Notice: Variance request from the MN Rules 7080 Front Yard setback requirement of 10 feet from the property line, to place a septic system up to the lot line at 29072 Leroy Ave., MN 55026, Lot 12 & 13 block 35 Town of Frontenac, Section 11 Township 112, and Range 13, in Florence Township.

Background: The purpose of this variance is to allow the construction of a septic system within the setback on parcel 32.130.1350. The Gardner's existing wastewater system is not functioning properly and is in need of replacement. On-site sub-surface wastewater treatment systems under Minnesota Rules Chapters 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 is planning to construct the new wastewater treatment system over the property boundary and within the right-of-way with either an easement or vacation of right-of-way (Wells Street) from the Florence Township.

The Variance is necessary due to the limited size of the Gardner's lot, the need to separate the new wastewater systems from a well located on the abutting property (north), and because of limitations based on existing structure and locations of the existing wastewater system.

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 setback provision is to provide minimum separation from wastewater systems and property lines to help protect public health. The septic system is proposed to be constructed within the setback area and into the Wells Street Right-of-Way. This stretch of Wells Street in Old Frontenac is unlikely to expand as it is a minor residential street servicing only three residences; and future development should not increase the demand on this street.
- 2) The variances are consistent with the comprehensive plan;
The 2016 Comprehensive Plan recognizes both the historic nature of Old Frontenac and the priority of maintaining it as a vital residential community.

“The rural hamlet of old Frontenac in Florence Township is situated at the north end of a plain which is 3 miles wide and 10 miles long that rises across successive terraces from the sandy beaches of Lake Pepin, a natural lake in the Mississippi River, to the foot of the encircling bluffs.

The District contains frontier adaptations of important architectural styles from the pre-Civil War and early post-Civil War periods with examples representing French Colonial, Greek Revival, and Georgian. The District of Old Frontenac and many individual properties are listed on the National Register of Historic Places and are recognized as a locally designated historic district by Florence Township.” (Page 96)

Objectives for The Cultural and Historic areas:

1. **Maintain, enhance, and identify cultural and historic areas of the County**
2. **Encourage building projects to preserve or enhance existing historical structures, rather than demolish them**
3. **Preserve, protect and restore the County’s historic and culturally significant landscapes, sites, and structures**
4. **Coordinate with other units of government to promote sound management of the county’s historic and cultural resources**

All of these objectives speak to the support of this variance to construct the septic system. If the variance is not approved it may not be possible to maintain, improve and continue to use the dwelling on the property.

- 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 following issues constitute practical difficulties resulting in the need for the requested variance:

- **The limited size of the Gardner’s lot;**
 - **the need to separate the new wastewater systems from a well located on the abutting property (north); and**
 - **limitations for siting the new wastewater system based on locations of existing structures and locations of the existing and previous wastewater systems.**
- 4) The plight of the landowner is due to circumstances unique to the property not created by the landowner; and
The Applicant cannot move or improve the well located on the abutting property immediately north of the Gardner’s property (2950 Leroy Avenue) whose setback precludes constructing a wastewater system on most of the Gardiner’s property.
- 5) The variance, if granted, will not alter the essential character of the locality.
The surrounding neighborhood’s character will not change. All of the neighbors have septic systems, and the septic system should only require minor differences in grading, when finished.
- 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 proposed.
- 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.

The following should be edited to reflect any concerns identified at the July 25, 2016 BOA meeting and public hearing:

Staff Recommendation:

Staff recommends the Board of Adjustment adopt the staff report into the record (dated July 15, 2016); adopt the findings of fact; and based on the application, testimony, exhibits, and other evidence presented: approve the variance request from the MN Rules 7080 Front Yard setback requirement of 10 feet from the property line, to place a septic system up to the lot line (abutting the Wells Street Right-of-Way at 29072 Leroy Ave., Old Frontenac, MN 55026,. Lot 12 & 13 block 35 Town of Frontenac, Section 11 Township 112, and Range 13, in Florence Township.

Subject to the following conditions:

1. Conformance with the application submitted to Goodhue County Land Use Management Office dated June 21, 2016,
2. Compliance with all necessary State and Federal permits and licensing,
3. A survey to illustrate and describe the easement or vacated right-of-way (Wells Street) where the proposed wastewater system will be constructed shall be

submitted to Goodhue County as part of the Wastewater System Permit application.

4. The septic system shall be designed to minimize encroachment within the Wells Street Right-of-Way.

Variance

Application for Variance	
VARIANCE NUMBER: For Staff Use only	216-0045
\$350 RECEIPT#	15422 K2
DATE	6/21/2016

1. Owner/Applicant Information

PROPERTY OWNER'S NAME: Mikkel and Carol Gardner

PROPERTY OWNER'S ADDRESS: 29072 Leroy Ave
Frontenac MN 55026

TELEPHONE: (651) 380-6065

EMAIL: carolgardner15@gmail.com

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: 29072 Leroy Ave Frontenac, MN

ZIP CODE: 55026

LEGAL DESCRIPTION: Lots 12 and 13 in Block 35 of the Village of Frontenac except the nly 5 feet of lot 13 being a strip of land 5 ft.

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):
<u>32.130.1350</u>	<u>R</u>	<u>13,300</u>	<u>95ft x 140ft</u>	

(Please check all that apply)

ADDITIONS TO BUILDING:

New Building on vacant land Rear

New Addition to existing building Front

Animal Building Side

Storage building Other Please clarify
SSTS

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 OFFICIAL'S PRINTED NAME AND TITLE	TOWNSHIP OFFICIAL'S SIGNATURE	DATE
<u>Changerson</u>	<u>Mike Blair</u>	<u>5/16/16</u>

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: Carol Gardner and Mikkel Gardner Date: 05/16/2016

Print name: Carol and Mikkel Gardner owner or authorized agent (circle one)

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.

Minnesota adopted Standards Article 5, Section 1 of the Goodhue County

Subsurface Storage Treatment (SSTS) Ordinance in order to install a septic drain

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).

This corner lot is limited by this lot's and neighbor's wells for a safe location for a SSTS. The primary limiter is a sensitive well in the adjoining lot which demands a 100' set back. Our lot width is 95 feet.

2. Who or What created the circumstances?

The neighbor has a sensitive, undocumented well inside her house and the State well ordinance demands a 100' set back for water safety.

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

The character of the area is residential and this request is to allow the current and future owners to have a safe and compliant SSTS in this residential environment.

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

The owner is limited by the small size of the lot and the neighboring wells esp. the sensitive well of neighbor in lot 14 (needing to be 100 ft from a sensitive well).

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.

Not intended to have special privilege but do want to enjoy a proper and safe drainfield in our limited lot next to a sensitive well at neighbors.

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

Yes, only to fit the safe use of SSTS among neighboring wells.

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 only to have a safe and functioning SSTS.

PID
Zoning District: R1

- 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

1. Old septic to be abandoned
2. New septic estimated location
3. Emma's well of issue
4. Our well

Legend

- Section Line
- Road
- 2014 Feedlot parcel
- Tax Parcel
- Municipal Boundaries
- Dwelling Point
- Bluff Impact % Slope
- 20
- 30
- Shoreland

63' x 12'



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



perforations for dwellings. The minimum average head must be 2.0 feet for other establishments with 3/16- to 1/4-inch perforations and 5.0 feet of head for 1/8-inch perforations. Perforation discharge is determined by the following formula:

$$Q = 19.65 \text{ cd}^2\text{h}^{1/2}$$

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	***	***	

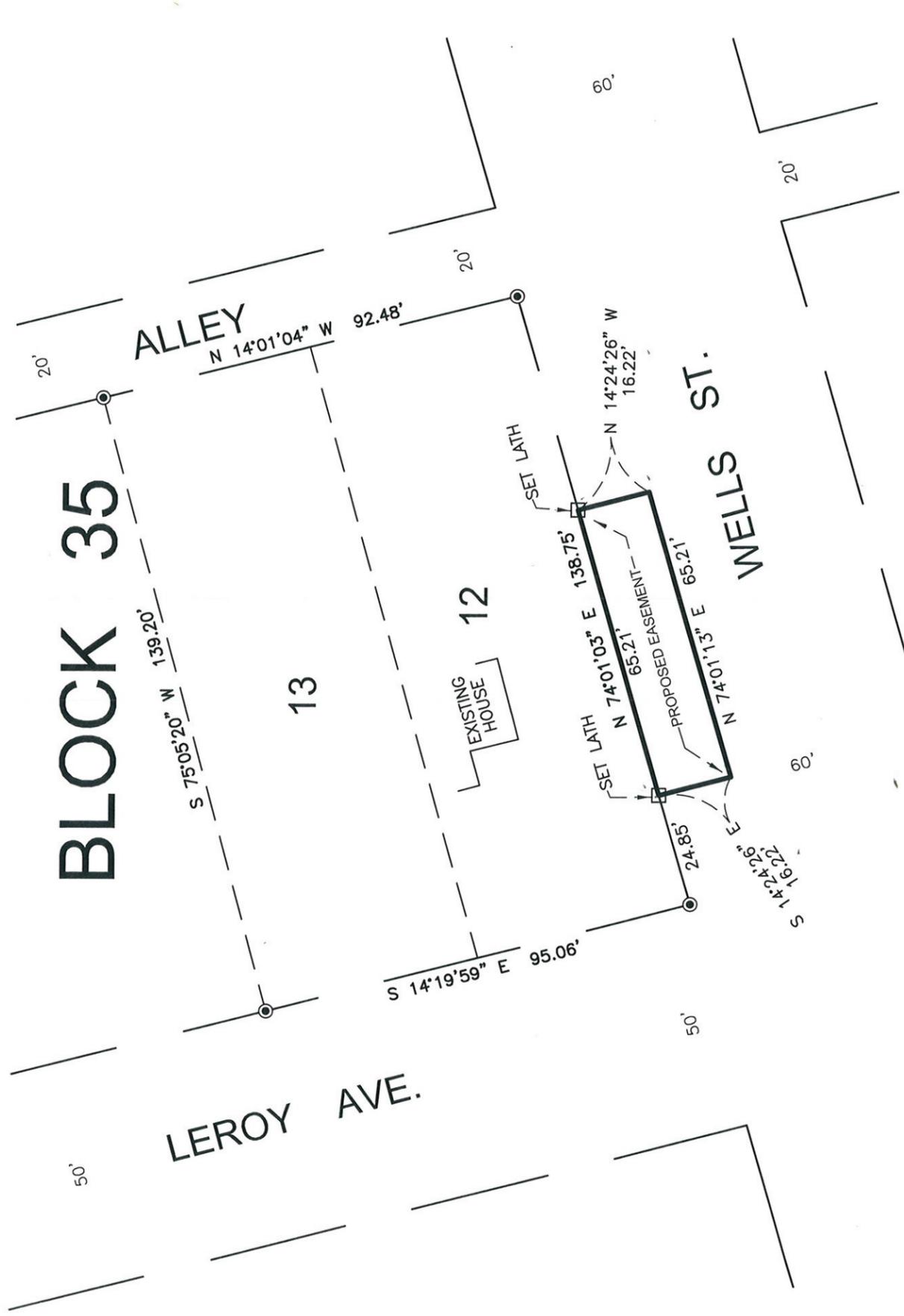
* Setbacks from buried water lines and water supply wells are governed by chapters 4715 and 4725, respectively.

** 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,



PROPOSED EASEMENT DESCRIPTION

A proposed easement for septic and drainfield purposes over, under and across that part of Wells Street adjacent to Lot 12, Block 35 of FRONTENAC FORMERLY WESTERVELT, according to the recorded plat thereof, on file in the Goodhue County Records Office, Goodhue County, Minnesota, described as follows:

Commencing at the most southerly corner of said Lot 12; thence on an assumed bearing of North 74 degrees 01 minutes 03 seconds East, along the southeasterly line of said Lot 12, a distance of 24.85 feet to the point of beginning of the easement to be described; thence South 14 degrees 24 minutes 26 seconds East, a distance of 16.22 feet; thence North 74 degrees 01 minutes 13 seconds East, a distance of 65.21 feet; thence North 14 degrees 24 minutes 26 seconds West, a distance of 16.22 feet to the southeasterly line of said Lot 12; thence South 74 degrees 01 minutes 03 seconds West, along said southeasterly line, a distance of 65.21 feet to the point of beginning.

Subject to all easements and restrictions of record.

- DENOTES A PLACED 1" BY 18" IRON PIPE HAVING A PLASTIC CAP BEARING LAND SURVEYOR LICENSE NO. 47460.
- DENOTES FOUND IRON MONUMENT.

THE BEARINGS SHOWN HEREON ARE BASED ON THE ASSUMPTION THAT THE SE'LY LINE OF LOT 12 BLOCK 35 HAS A BEARING OF N74°01'03"E.



CERTIFICATE OF DESCRIPTION FOR:

MIKKEL GARDNER

JOHNSON & SCOFIELD INC.
SURVEYING AND ENGINEERING

1203 MAIN STREET, RED WING, MN 55066
 (651) 388-1558

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

Marcus S. Johnson

Marcus S. Johnson
 Minnesota License No. 47460
 Date: 7/14/2016

BK. NA	PG. NA	W.O.#	DRAWING NUMBER
SHEET 1 OF 1 SHEETS	16-459		S-6288