

BOARD OF ADJUSTMENT & APPEALS AGENDA

Date: September 16, 2024

Time: 7:00 p.m. (doors open at 6:45)

Location: County Board Room - Government Center, 501 S. Minnesota Avenue, St. Peter

Copies of the meeting agenda and packet are available on Nicollet County's website: www.co.nicollet.mn.us/Agendas
Questions or comments regarding the meeting can be directed to the Nicollet County Property Services Department by calling 507-934-7070, or by emailing niccopermitapps@co.nicollet.mn.us.

1. Call to Order
2. Roll Call
3. Silence Your Cell Phone
4. Review of Cancellations and Additions
5. Approval of Minutes: *August 19, 2024*
6. Approval of Findings of Fact: 8/19/2024
 - **PLN 24-10: UFC**
 - **PLN 24-14: Honstad**
7. Public Appearances
8. **PUBLIC HEARING: PLN24-17**
 - Applicant: Pete Forrey, Forrey Septic Systems & Excavating, and Joyce Cornelius
 - Landowner: Francis J & Joyce Cornelius
 - Request: Reduction of property line, right of way, and structural setbacks for a replacement septic system in the Urban/Rural Residential and Conservancy Zoning Districts
 - Location: Oak Grove Subdivision No 3, combination of North ½ of Lot 6 and All of Lot 7, Block 1, in Belgrade Township
 - Parcel Number: 01.683.0070
 - Zoning Specialist: John Zehnder
9. Old Business
10. Other Business
11. Communications
12. Adjourn

Mission Statement

Providing efficient services with innovation and accountability.

Vision Statement

Setting the standard for providing superior and efficient county government services through leadership, accountability and innovation to a growing and diverse society.

Core Values

Leadership. Integrity.
Accountability.
Efficiency. Innovation.

BOARD OF ADJUSTMENT & APPEALS REGULAR MONTHLY MEETING MINUTES

AUGUST 19, 2024	7:00 PM	COUNTY BOARD ROOM
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ROLL CALL	COMMISSIONERS PRESENT	COMMISSIONERS ABSENT EXCUSED	NICOLLET COUNTY STAFF PRESENT
	☒ Lloyd Hoffmann, <i>Vice Chair</i> ☒ Justin Laven ☒ Randy Schwab, <i>Chair</i> ☒ Jon Thoreson ☒ Dave Ubel	☐ Lloyd Hoffmann, <i>Vice Chair</i> ☐ Justin Laven ☐ Randy Schwab, <i>Chair</i> ☐ Jon Thoreson ☐ Dave Ubel	☒ Spencer Crawford, Zoning Specialist (ZS) ☒ John Zehnder, Zoning Specialist (ZS) ☒ Justin Hughes, Assistant County Attorney (ACA) ☒ Other Staff: Crystal Madden, Recording Secretary ☒ Other Staff: Michelle Zehnder Fischer, County Attorney (CA)

REVIEW OF CANCELLATIONS & ADDITIONS	None.
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APPROVAL OF JULY 15, 2024 MINUTES	MOTION	SECOND
APPROVE	☐ Lloyd Hoffmann, <i>Vice Chair</i> ☐ Justin Laven ☐ Randy Schwab, <i>Chair</i> ☐ Jon Thoreson ☒ Dave Ubel	☒ Lloyd Hoffmann, <i>Vice Chair</i> ☐ Justin Laven ☐ Randy Schwab, <i>Chair</i> ☐ Jon Thoreson ☐ Dave Ubel
VOTE TO APPROVE MINUTES	☒ PASS ☐ FAIL	VOTE: 5 - 0

FINDINGS OF FACT PLN24-13, MILLER	MOTION	SECOND
APPROVE	☐ Lloyd Hoffmann, <i>Vice Chair</i> ☒ Justin Laven ☐ Randy Schwab, <i>Chair</i> ☐ Jon Thoreson ☐ Dave Ubel	☐ Lloyd Hoffmann, <i>Vice Chair</i> ☐ Justin Laven ☐ Randy Schwab, <i>Chair</i> ☐ Jon Thoreson ☒ Dave Ubel
VOTE TO APPROVE THE FINDINGS OF FACT	☒ PASS ☐ FAIL	VOTE: 5 - 0

PUBLIC APPEARANCES	None.
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VARIANCE PUBLIC HEARINGS	
PLN24-10	APPLICANT/LANDOWNER: Darv Turbes / United Farmers Cooperative
DESCRIPTION OF REQUEST	Continuance from July 15, 2024 meeting. The request is for a reduction of the front yard setback in the Limited Industry Zoning District from one hundred (100) feet to seventy-three feet for a bulk storage tank, and placement of a bulk storage tank without a berm in the Limited Industry Zoning District. PID: 06.541.0020
CONFLICT OF INTEREST	Board Member Schwab recused himself due to a conflict of interest.
SITE VISIT & PUBLIC CONTACT	Board Members Hoffmann, Laven, & Thoreson visited the site. There was no contact with Board Members from members of the public.
STAFF REPORT PRESENTED BY	ZS Crawford
APPLICANT TESTIMONY	Present to represent the application was Greg Haupert, with Sobalvarro & Haupert located at 3601 18th Street South, St. Cloud, and Merle Bohlin with United Farmers Cooperative located at 29566 300 th Street, Sleepy Eye.

PUBLIC TESTIMONY	No one was present to provide public testimony. No other correspondence was received.		
BOARD DISCUSSION	Further discussion between the Applicant, Board, and Staff took place.		
BOARD ACTION - MOTION	MOTION		SECOND
APPROVE VARIANCE with conditions, as recommended by Staff	☐ Lloyd Hoffmann, <i>Vice Chair</i> ☒ Justin Laven ☐ Randy Schwab, <i>Chair</i> ☐ Jon Thoreson ☐ Dave Ubel		☐ Lloyd Hoffmann, <i>Vice Chair</i> ☐ Justin Laven ☐ Randy Schwab, <i>Chair</i> ☐ Jon Thoreson ☒ Dave Ubel
VOTE TO APPROVE REQUEST	☒ PASS	☐ FAIL	VOTE: 4 - 0

VARIANCE PUBLIC HEARINGS

PLN24-14	APPLICANT/LANDOWNER: Angela Honstad / Angela & Ryan Honstad		
DESCRIPTION OF REQUEST	An after-the-fact request to develop a bluff and reduce the bluffline setback for the purpose of constructing a home addition with a basement and ten (10) foot wide wrap-around deck in the Conservancy Zoning District. PID: 04.022.1015		
CONFLICT OF INTEREST	None.		
SITE VISIT & PUBLIC CONTACT	Board Members Hoffmann, Laven, Schwab, & Ubel visited the site. There was no contact with Board Members from members of the public.		
STAFF REPORT PRESENTED BY	ZS Zehnder		
APPLICANT TESTIMONY	Present to represent the application was Angie & Ryan Honstad located at 43778 Spruce Haven Lane, New Ulm.		
PUBLIC TESTIMONY	Kevin Masrud at 43938 Spruce Haven Lane, New Ulm was present to provide testimony in favor of the request. No other correspondence was received.		
BOARD DISCUSSION	Further discussion between the Applicant, Board, and Staff took place.		
BOARD ACTION - MOTION	MOTION		SECOND
APPROVE VARIANCE with conditions, as recommended by Staff	☒ Lloyd Hoffmann, <i>Vice Chair</i> ☐ Justin Laven ☒ Randy Schwab, <i>Chair</i> ☐ Jon Thoreson ☐ Dave Ubel		☐ Lloyd Hoffmann, <i>Vice Chair</i> ☐ Justin Laven ☐ Randy Schwab, <i>Chair</i> ☐ Jon Thoreson ☒ Dave Ubel
VOTE TO APPROVE REQUEST	☒ PASS	☐ FAIL	VOTE: 5 - 0

ADDITIONAL ITEMS

OLD BUSINESS	None.	
OTHER BUSINESS	A motion was made by Member Laven, and seconded by Member Thoreson, for Staff to draft a report with recommendations for amending Section 708: Bulk Storage of the Nicollet County Zoning Ordinance. The motion passed by a vote of 5-0, with all in favor. Member Laven requested an update from Staff concerning adding a zoning permit reminder to the County Line newsletter. DZ Zehnder stated the reminder will be included in the next newsletter.	
COMMUNICATIONS	None.	
ADJOURN MEETING	MOTION	SECOND
8:13 PM	☐ Lloyd Hoffmann, <i>Vice Chair</i> ☒ Justin Laven ☐ Randy Schwab, <i>Chair</i> ☐ Jon Thoreson ☐ Dave Ubel	☐ Lloyd Hoffmann, <i>Vice Chair</i> ☐ Justin Laven ☐ Randy Schwab, <i>Chair</i> ☐ Jon Thoreson ☒ Dave Ubel

VOTE TO ADJOURN MEETING	☒ CARRIED	☐ FAILED	VOTE: 5 – 0
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JOHN ZEHNDER, ZONING SPECIALIST		DATE	9/16/2024
RANDY SCHWAB, CHAIR		DATE	9/16/2024

DRAFT



BOARD OF ADJUSTMENTS AND APPEALS CRITERIA FOR GRANTING A VARIANCE

Applicant	Darve Turbes	Hearing	7/15/2024
Property Owner	United Farmers Cooperative	Continuation	8/19/2024
File	PLN24-10	Parcel ID	06.541.0020
Request	Reduction of the front yard setback in the Limited Industry Zoning District from one hundred (100) feet to seventy-three (73) feet for a bulk storage tank, and placement of a bulk storage tank without a berm		

FINDINGS OF FACT

A variance may be granted only where the strict enforcement of the Nicollet County zoning controls results in a **practical difficulty**. A determination that a practical difficulty exists is based upon criteria defined by the Minnesota Supreme Court; Minnesota State Statute 394.27, subdivision 7; and Nicollet County Zoning Ordinance, Section 503.1.

1. The variance is in harmony with the general purpose and intent of the official control.

BOARD MEMBER	YES	NO	ABSTAIN	ABSENT	REASON
Lloyd Hoffmann	☒	☐	☐	☐	The intent of the official control is to separate land uses between transportation and light industrial. Propane is a gas and a berm will not help if there is a leak in the tank. Bollards will be installed to protect the tank from vehicles.
Justin Laven	☒	☐	☐	☐	
Randy Schwab	☐	☐	☒	☐	
Jon Thoreson	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	

2. The variance is consistent with the intent of the Comprehensive Plan.

BOARD MEMBER	YES	NO	ABSTAIN	ABSENT	REASON
Lloyd Hoffmann	☒	☐	☐	☐	The Comprehensive Plan was established to provide continuity between agriculture and light industry. The area is agricultural and the proposal will better serve the agricultural community. The Applicant will to install bollards to improve public safety.
Justin Laven	☒	☐	☐	☐	
Randy Schwab	☐	☐	☒	☐	
Jon Thoreson	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	

3. The variance establishes a practical difficulty in complying with the official controls.

BOARD MEMBER	YES	NO	ABSTAIN	ABSENT	REASON
Lloyd Hoffmann	☒	☐	☐	☐	A berm is not necessary for a tank of this size, because if a leak occurred the liquid will vaporize as a gas before causing any land contamination. Meeting the one-hundred (100) foot setback is not practical due to the other structures in the area.
Justin Laven	☒	☐	☐	☐	
Randy Schwab	☐	☐	☒	☐	
Jon Thoreson	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	

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

BOARD MEMBER	YES	NO	ABSTAIN	ABSENT	REASON
Lloyd Hoffmann	☒	☐	☐	☐	The plight is due to the location of the existing structures. Additionally, there is no practical purpose for a berm around the tank.
Justin Laven	☒	☐	☐	☐	
Randy Schwab	☐	☐	☒	☐	
Jon Thoreson	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	

5. The variance will not alter the essential character of the locality.

BOARD MEMBER	YES	NO	ABSTAIN	ABSENT	REASON
Lloyd Hoffmann	☒	☐	☐	☐	This request will not alter the essential character of the locality, since there is an existing thirty thousand (30,000) gallon tank without a berm. Additionally, the requested tank will not be any closer to the road right-of-way than the existing tank. The existing tank has been there for more than forty (40) years, and the site is already used as light industrial.
Justin Laven	☒	☐	☐	☐	
Randy Schwab	☐	☐	☒	☐	
Jon Thoreson	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	

6. The practical difficulty includes more than economic considerations alone.

BOARD MEMBER	YES	NO	ABSTAIN	ABSENT	REASON
Lloyd Hoffmann	☒	☐	☐	☐	The practical difficulty is related to the location of existing structures, tank and equipment. There is no need for a berm on the propane tank.
Justin Laven	☒	☐	☐	☐	
Randy Schwab	☐	☐	☒	☐	
Jon Thoreson	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	

THE NICOLLET COUNTY BOARD OF ADJUSTMENT AND APPEALS

☒ APPROVES THE REQUESTED VARIANCE ☐ DENIES THE REQUESTED VARIANCE

THIS DECISION WAS BASED UPON

☒ Application ☒ Site visit ☒ Staff Report ☒ Photographs
☐ Information received at public hearing

SPECIAL CONDITIONS ARE LISTED ON THE RECORDED VARIANCE AND IN THE RECORD.

FACTS SUPPORTING THE ANSWER TO EACH QUESTION ABOVE ARE HEREBY CERTIFIED AS THE FINDINGS OF THE NICOLLET COUNTY BOARD OF ADJUSTMENT & APPEALS.

Date: _____ Chair: _____



BOARD OF ADJUSTMENTS AND APPEALS CRITERIA FOR GRANTING AN AFTER-THE-FACT VARIANCE

Applicant	Angela Honstad	Hearing	8/19/2024
Property Owner	Angela & Ryan Honstad	Continuation	N/A
File	PLN24-14	Parcel ID	04.022.1015
Request	Reduction of bluff setback and construction in the bluff for a home addition		

FINDINGS OF FACT

A variance may be granted only where the strict enforcement of the Nicollet County zoning controls results in a **practical difficulty**. A determination that a practical difficulty exists is based upon criteria defined by the Minnesota Supreme Court; Minnesota State Statute 394.27, subdivision 7; and Nicollet County Zoning Ordinance, Section 503.1.

1. The variance is in harmony with the general purpose and intent of the official control.

BOARD MEMBER	YES	NO	ABSTAIN	ABSENT	REASON
Lloyd Hoffmann	☒	☐	☐	☐	The intent of the official control is to protect and preserve slope stability. Bolton & Menk finds the project does not reduce the safety of the slope. The slope of the area has been altered in the past, so the original lay of the slope is in doubt.
Justin Laven	☒	☐	☐	☐	
Randy Schwab	☒	☐	☐	☐	
Jon Thoreson	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	

2. The variance is consistent with the intent of the Comprehensive Plan.

BOARD MEMBER	YES	NO	ABSTAIN	ABSENT	REASON
Lloyd Hoffmann	☒	☐	☐	☐	The Comprehensive Plan protects bluffs and slopes as a natural resource. There is no risk to soil stability and no trees or natural vegetation will be removed. This bluff has already experienced modifications, so we do not know exactly where it is anyway. The addition of the home does not encroach on the river valley.
Justin Laven	☒	☐	☐	☐	
Randy Schwab	☒	☐	☐	☐	
Jon Thoreson	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	

3. The variance establishes a practical difficulty in complying with the official controls.

BOARD MEMBER	YES	NO	ABSTAIN	ABSENT	REASON
Lloyd Hoffmann	☒	☐	☐	☐	The dwelling is located in such a manner that a variance would be required for <i>any</i> addition. All other potential sites fall within the bluff setback, or cannot be considered due to the location of the existing garage and septic system.
Justin Laven	☒	☐	☐	☐	
Randy Schwab	☒	☐	☐	☐	
Jon Thoreson	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	

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

BOARD MEMBER	YES	NO	ABSTAIN	ABSENT	REASON
Lloyd Hoffmann	☒	☐	☐	☐	The plight is due to the location of the dwelling in respect to the bluff.
Justin Laven	☒	☐	☐	☐	
Randy Schwab	☒	☐	☐	☐	
Jon Thoreson	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	

5. The variance will not alter the essential character of the locality.

BOARD MEMBER	YES	NO	ABSTAIN	ABSENT	REASON
Lloyd Hoffmann	☒	☐	☐	☐	The property use is not changing, and homes built into of the bluff setback are common in this area. The request is screened from neighbors and Highway 14. There are no expected detrimental effects to neighboring properties.
Justin Laven	☒	☐	☐	☐	
Randy Schwab	☒	☐	☐	☐	
Jon Thoreson	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	

6. The practical difficulty includes more than economic considerations alone.

BOARD MEMBER	YES	NO	ABSTAIN	ABSENT	REASON
Lloyd Hoffmann	☒	☐	☐	☐	The practical difficulty is due to the existing location of the dwelling and septic system.
Justin Laven	☒	☐	☐	☐	
Randy Schwab	☒	☐	☐	☐	
Jon Thoreson	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	

ADDITIONAL AFTER-THE-FACT CRITERIA FOR USE ONLY AFTER THE FIRST SIX CRITERIA ARE MET

7. Did the applicant make a good faith effort to obtain a zoning permit prior to completion of the construction?

BOARD MEMBER	YES	NO	ABSTAIN	ABSENT	REASON
Lloyd Hoffmann	☒	☐	☐	☐	Yes: The Applicant was unaware they needed a zoning permit, since there was already a dwelling located on the property. The Applicant contacted the County prior to construction, and obtained a previous septic permit. No: Construction continued after the Applicant was told to halt construction to protect the basement from water damage.
Justin Laven	☒	☐	☐	☐	
Randy Schwab	☒	☐	☐	☐	
Jon Thoreson	☒	☐	☐	☐	
Dave Ubel	☐	☒	☐	☐	

8. In relation to the subject variance, are there similar structures in the area?

BOARD MEMBER	YES	NO	ABSTAIN	ABSENT	REASON
Lloyd Hoffmann	☒	☐	☐	☐	There are other dwellings built within the

Justin Laven	☒	☐	☐	☐	bluffline in the area. There are seventeen (17) other dwellings built between Highway 15 & County Road 37; two variances have been granted in the past.
Randy Schwab	☒	☐	☐	☐	
Jon Thoreson	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	

9. Does the burden on the applicant of compliance outweigh the benefit to the County?

BOARD MEMBER	YES	NO	ABSTAIN	ABSENT	REASON
Lloyd Hoffmann	☒	☐	☐	☐	The dwelling has been at this location since 1999. MnDOT had no concerns with the request. There is no benefit to the County in denying the variance, since this area has already been zoned for housing. There will be no significant damage to the bluffs by this addition.
Justin Laven	☒	☐	☐	☐	
Randy Schwab	☒	☐	☐	☐	
Jon Thoreson	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	

10. Was the act of the violation by the applicant unintentional?

BOARD MEMBER	YES	NO	ABSTAIN	ABSENT	REASON
Lloyd Hoffmann	☒	☐	☐	☐	Yes: The Applicant didn't believe they needed a permit, since there was an existing dwelling on the property. The Applicant contacted the County, and there seems to have been a miscommunication. No: The Applicant did not apply for a variance, nor did they apply for a building permit.
Justin Laven	☒	☐	☐	☐	
Randy Schwab	☐	☒	☐	☐	
Jon Thoreson	☒	☐	☐	☐	
Dave Ubel	☐	☒	☐	☐	

THE NICOLLET COUNTY BOARD OF ADJUSTMENT AND APPEALS

☒ APPROVES THE REQUESTED VARIANCE ☐ DENIES THE REQUESTED VARIANCE

THIS DECISION WAS BASED UPON

☒ Application ☒ Site visit ☒ Staff Report ☒ Photographs
☒ Information received at public hearing

SPECIAL CONDITIONS ARE LISTED ON THE RECORDED VARIANCE AND IN THE RECORD.

FACTS SUPPORTING THE ANSWER TO EACH QUESTION ABOVE ARE HEREBY CERTIFIED AS THE FINDINGS OF THE NICOLLET COUNTY BOARD OF ADJUSTMENT & APPEALS.

Date: _____ Chair: _____



VARIANCE

**REDUCTION OF THE TOWNSHIP RIGHT OF
WAY AND SIDE YARD, PROPERTY LINE,
AND STRUCTURAL SETBACKS FOR THE
PURPOSE OF INSTALLING A SEPTIC TANK
AND DRAIN FIELD**

**Pete Forrey, Forrey Septic Systems & Excavating
/ Joyce Cornelius**

PLN24-17

**NICOLLET COUNTY
BOARD OF ADJUSTMENT AND APPEALS**

SUBJECT:	Variance PLN24-17
APPLICANT:	Pete Forrey of Forrey Septic Systems & Excavating / Joyce Cornelius
LANDOWNER:	Joyce L. Cornelius
LOCATION:	Oak Grove Subdivision No. 3, Combination of N ½ of Lot 6, Block 1, and all of Lot 7, Block 1
PARCEL NO:	01.683.0070
EXISTING ZONING:	Urban/Rural Residential
HEARING DATE:	9/16/2024
60 DAYS FROM REQUEST:	10/25/2024

REQUEST

Pete Forrey of Forrey Septic Systems & Excavating is making a request on the behalf of property owner Joyce Cornelius to reduce the Township Right of Way and side yard setbacks for the purpose of installing a replacement septic system and drain field.

Boundary	Required Setback	Requested Setback
Township Right of Way	35'	0'
Structure (holding tank)	10'	0'
Structure (drain field)	20'	0'
Side Yard	20'	0'

ORDINANCE

Nicollet County Zoning Ordinance 604.4 3 (A): The required setback from a subsurface sewage treatment system (SSTS) to a side yard property line, Urban/Rural Zoning District, is 20 feet.

Nicollet County Zoning Ordinance 734.5 1: The County hereby adopts Minnesota Rules, Chapters 7080 and 7081 in their entirety and technical standards listed in 7080.1710 to 7080.0290 as now constituted and from time to time amended.

Nicollet County Zoning Ordinance 734.5 4 (A) IV: The required setback from a subsurface sewage treatment system (SSTS) to a road right-of-way, Township Road, is 35 feet.

PROJECT DESCRIPTION

The septic system at this property is no longer compliant and must undergo replacement. Due to the age of the system, adequate records do not exist to determine its exact location on the property.

This means the existing system cannot be located until construction begins for the new system. However, when the contractor discovers the old system, its alignment may force the relocation of the new system. Therefore, the contractor is requesting the relaxation of setbacks to gain flexibility in siting the new system. The property's small size, home location, and watercourse significantly limit locational options, and the contractor is planning to locate the system somewhere in the south yard. A swale also exists in that area that the contractor will relocate in order to ensure adequate drainage for the system.

EXISTING LAND USE

The 0.71-acre parcel is located on the eastern side of Purrier Court's cul-de-sac. It falls under the Urban/Rural Residential Zoning District and includes one home with an attached garage. The yard includes bluff areas that slope down easterly toward a ravine with a watercourse. However, septic systems do not fall under the county's bluff setback and the watercourse comprises freshwater emergent wetland, which carries a Type II designation, and does not result in a septic setback.

SURROUNDING LAND USE

Surrounding the property are other residential properties located within Oak Grove Subdivision No. 3. Beyond the subdivision lies mostly agricultural land, as well as one industrial business.

SITE REVIEW

Staff visited the site and took photographs of the request location on August 30, 2024.

NEIGHBOR NOTIFICATION

Property owners were notified of the request per the standards of Section 503 of the Zoning Ordinance and Minnesota Statutes Section 394.26.

VARIANCE CRITERIA

A variance to a provision of the Zoning Ordinance may be issued to provide relief to the landowner in those zones where the intent of the official control creates practical difficulties for the property owner in the use of their land. 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. No variance shall permit standards lower than those required by state law. A variance may be granted only in the event that the following circumstances exist:

1. The variance is in harmony with the general purposes and intent of the official control?
 - Nicollet County's septic program is delegated through the Minnesota Pollution Control Agency (MPCA). As such, the County enforces the MPCA's septic rules via the Ordinance along with any local SSTS standards. Minnesota Rules, Chapter 7080.2150, Subpart 2, Letter F requires a 20-foot setback from the drain field for structures.
 - Section 604.1 of the Nicollet County Zoning ordinance states:
 - *The Urban/Rural Residential District is established in areas within the County for the purpose of allowing limited urban growth.*
 - Replacing this septic system will allow this property to continue to serve a residential purpose, in keeping with the Urban/Rural Residential District.
 - Section 734.1 of the Nicollet County Sewage and Wastewater Treatment ordinance states:
 - *It is intended to serve the best interests of the County's citizens by protecting its health, safety, general welfare, and natural resources.*
 - Replacing this septic system helps protect the county's health and environment as a noncompliant system creates a public health and environmental hazard.
 - The purpose of the official control is also to separate septic systems from the road right of way. The separation serves to:
 - Prevent erosion or sewage from harming the right of way in the event the septic system fails.
 - Allow for expansion or repair of the right of way as needed.
 - Purrier Court is a township road and is unlikely to require expansion in the future.
 - The existing topography of the site and the redesigned swale will tend to direct drainage away from the right-of-way.
 - The existing topography of the site and the redesigned swale will tend to direct drainage away from the tanks, existing structure, and neighboring property.
2. The variance is consistent with the intent of the Comprehensive Plan?

- The comprehensive plan states that public rights-of-way are a valuable public asset that needs preservation and management.
 - The proposal does not appear to be a threat to the right of way, given the local topography, and provided ongoing proper maintenance.
 - The comprehensive plan states that the purpose of the Urban/Rural residential district is to allow limited urban growth.
 - Replacing this septic system will allow this property to continue to serve a residential purpose, in keeping with the Urban/Rural Residential District.
 - The comprehensive plan states that Nicollet County enacted its zoning ordinance to protect the public's health, safety, and welfare, as well as to conserve natural resources and minimize environmental pollution.
 - Replacing this septic system helps protect the county's health and environment as a noncompliant system creates a public health and environmental hazard.
3. The variance establishes a practical difficulty in complying with the official controls?
- The property appears to lack a location where a new septic system can meet the required setbacks.
 - Without a variance, the property owner appears unable to dispose of waste in a manner that meets Zoning Ordinance and state requirements.
4. The plight of the landowner is due to circumstances unique to the property not created by the landowner?
- The plight is due to the size of the property and the location of the home.
 - Upon the home's construction in 1975, its lot met the minimum size for the Suburban Residence District as described in the 1971 edition of the Nicollet County Ordinance.
5. The variance will not alter the essential character of the locality?
- The essential character of the locality will not change, as the septic system is underground and not visible.
 - The area is already residential in character with septic systems on neighboring properties.
6. The practical difficulty includes more than economic considerations alone?
- The practical difficulty relates to the lot size and the location of the existing home.

RECOMMENDATIONS

If the request is approved, staff recommends the following conditions be attached:

1. The applicant undertakes the project according to the approved designs, plans and specifications submitted to the County.
2. The county may enter onto the premises at reasonable times and in a reasonable manner to ensure the variance holder is in compliance with the conditions and all other applicable statutes, rules, and ordinances.
3. The applicant must obtain the appropriate septic permits prior to construction, including any earthwork or site preparation.
4. The septic permit will become invalid if the variance holder has not substantially completed the septic system within the period of time allowed on the septic permit connected with this variance.
5. The new holding tank and drain field will be located at least 50 feet from any existing wells per Minnesota Rule 4725.4450.

Applicant / Property Owner:
Pete Forrey, Forrey Septic Systems & Excavating /
Joyce Cornelius

PLN24-17

ATTACHMENT A	Application
ATTACHMENT B	Submitted by Applicant
ATTACHMENT C	Location Map
ATTACHMENT D	Site Map
ATTACHMENT E	Site Photographs
ATTACHMENT F	Neighbor Notification List
ATTACHMENT G	Criteria for a Variance



PROPERTY SERVICES DIVISION
501 S MINNESOTA AVENUE, SAINT PETER, MN 56082
507-934-7070

BOARD OF ADJUSTMENT & APPEALS APPLICATION

TOTAL FEES: \$496.00

Parcel#: 01.683.0070
Permit#: PLN24-17
Date: 8/22/2024

Applicant: PETE FORREY, FORREY SEPTIC SYSTEMS & EXCAVATING / JOYCE CORNELIUS
Telephone: 507-278-4190
Owner: CORNELIUS FRANCIS J & JOYCE L CORNELIUS
Property Address: 40609 PURRIER CT, NORTH MANKATO, MN 56003
Abbreviated Legal Description: OAK GROVE SUBD NO 3, COMB N 1/2 OF LOT 6 BLK 1 ALL OF LOT 7 BLK 1
Township: Belgrade Township
Zoning District(s): URBAN RURAL RESIDENTIAL
Hearing Date: Monday, September 16, 2024

Record Type: Variance
Subtype: Replace
Category: Residential
Description: Septic Variance

Copies of the meeting agenda and packet are available on the Nicollet County website: co.nicollet.mn.us/AgendaCenter
Questions regarding the hearing can be directed to: John Zehnder
Phone: 507-934-7076
Email: John.Zehnder@co.nicollet.mn.us

ATTACHMENT A
Application

	8-26-24		8/26/24
APPLICANT SIGNATURE	DATE	PROPERTY SERVICES	DATE



APPLICANT QUESTIONNAIRE: PROJECT DESCRIPTION

APPLICANT NAME: Joyce Cornelius DATE: 8/6/2024
REQUEST: Variance from setbacks

Please describe the specific details related to your request, including but not limited to:

- why you feel the project is a *need* rather than a *want*;
- what alternatives you explored and the reasons they were not reasonable for you; and
- what use, or uses, the project will provide for you;

Sanitarian Sheila Reem report about request for variance.

Joyce has no room for a new septic system and her current septic is failing. In order to install a new septic system, we need to be closer to the house, the south property line, and the road right-of-way than current setbacks allow.

Pete Forrey, the septic contractor, is requesting for a 0' setback to the road right-of-way, 0' to the south property line, and 0' to the house. The size of the septic drainfield and the required tanks do not allow for much room to be able to move around if a problem comes up during construction.

We currently do not have adequate records of the existing system so we are unsure exactly where that system is located in relation to the requested new location. Therefore, if it is discovered that the existing system is in the location of what we would like to be the primary system, the new system will have to be moved to the designated secondary site next to the road right-of-way. The new tanks will be next to the house but closer than the 10' setback, depending on where the current septic is located. We cannot dig up the existing septic system to see where it is located until the new system is going in the ground so therefore, the variance request is essentially for the entire south yard of the Cornelius house to allow for movement of components as the existing system is fully located.

There is a swale going through her property that will need to be redirected as well during this process. The swale will be moved from the middle of her south yard to the south property line to allow for runoff to drain away from the new septic system.



APPLICANT QUESTIONNAIRE: VARIANCE CRITERIA

APPLICANT NAME: Joice Cornelius / Pet Forney DATE: 8-2-24
REQUEST: Variance for Setbacks

A variance may be granted only where the strict enforcement of the Nicollet County zoning controls results in a practical difficulty. A determination that a practical difficulty exists is based upon criteria defined by the Minnesota Supreme Court; Minnesota State Statute §394.27, Subdivision 7; and Nicollet County Zoning Ordinance, Section 503.1.

WHY DO YOU FEEL THE REQUESTS MEETS THE FOLLOWING CRITERIA?

1. The variance is in harmony with the general purposes and intent of the official control.

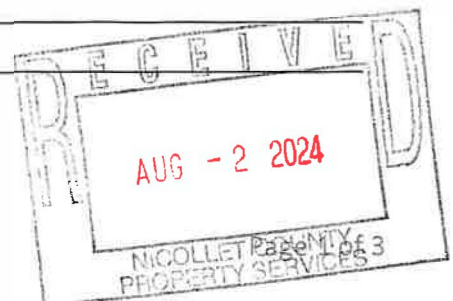
yes

2. The variance is consistent with the intent of the Comprehensive Plan.

yes

3. The variance establishes a practical difficulty in complying with the official controls.

yes



4. The plight of the landowner is due to circumstances unique to the property not created by the landowner.

yes

5. The variance will not alter the essential character of the locality.

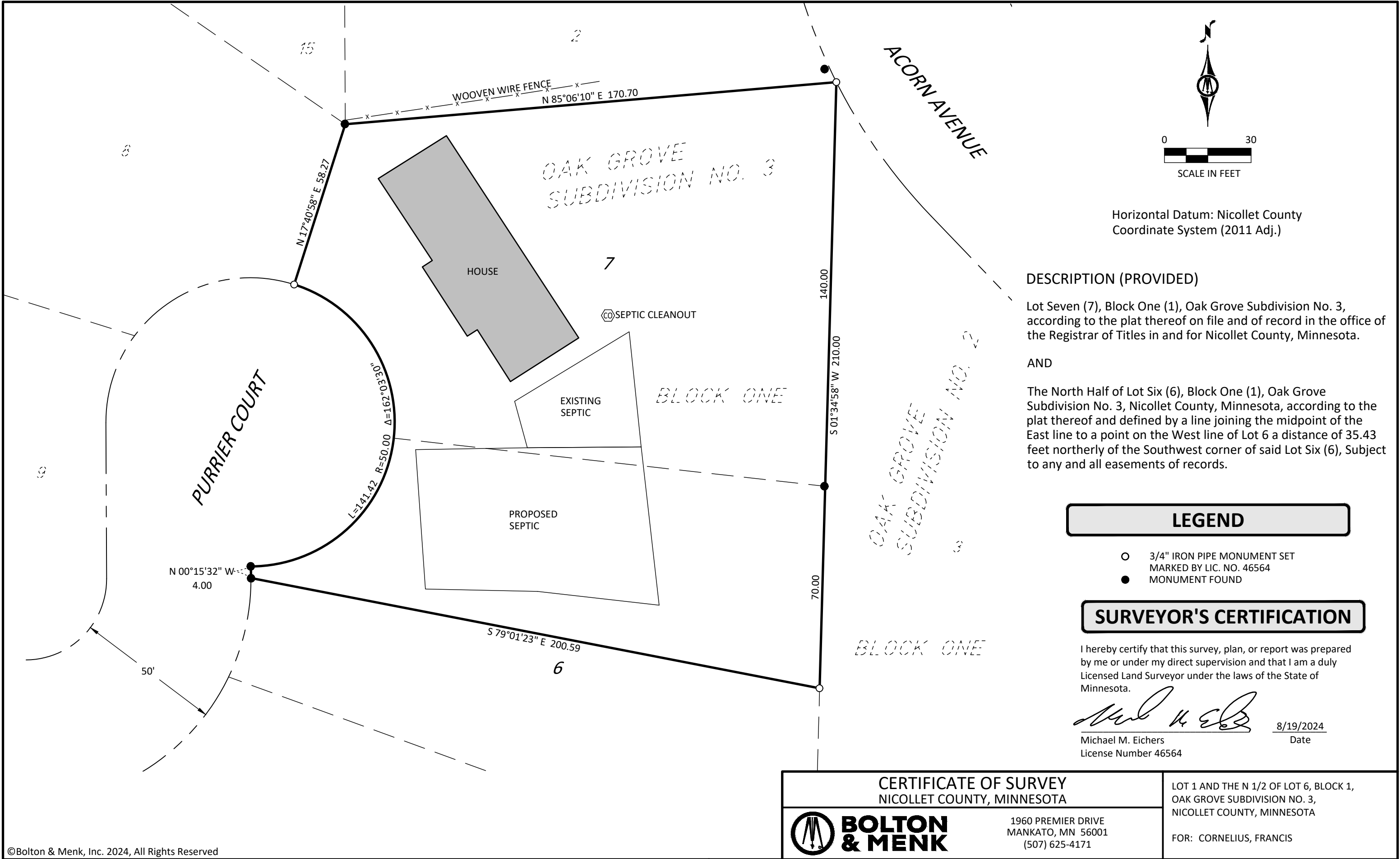
yes

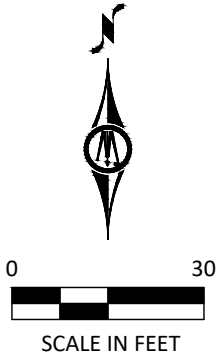
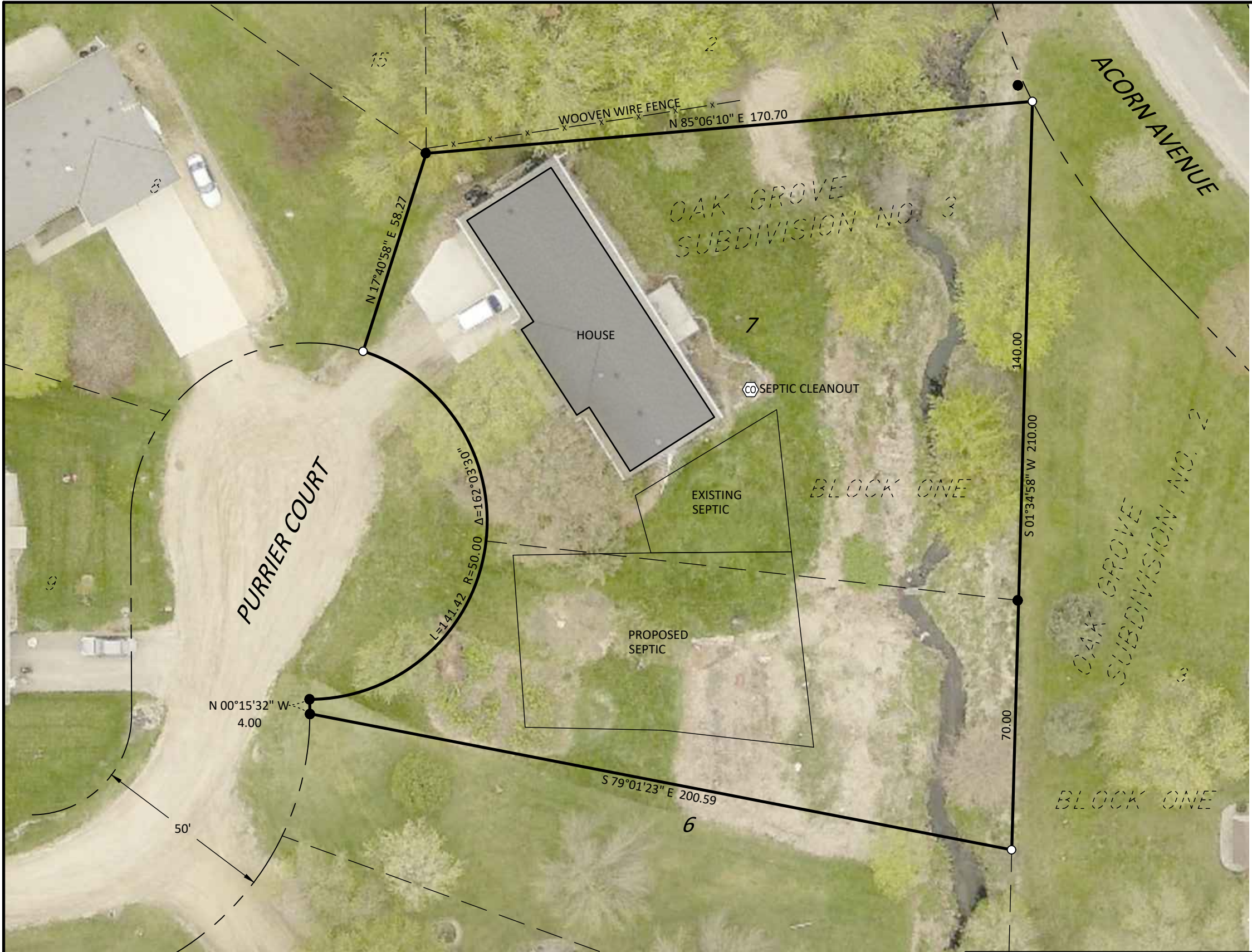
6. The practical difficulty includes more than economic considerations alone.

yes

ALL SIX VARIANCE CRITERIA MUST BE MET IN ORDER FOR THE REQUEST TO BE APPROVED.







Horizontal Datum: Nicollet County
Coordinate System (2011 Adj.)

DESCRIPTION (PROVIDED)

Lot Seven (7), Block One (1), Oak Grove Subdivision No. 3,
according to the plat thereof on file and of record in the office of
the Registrar of Titles in and for Nicollet County, Minnesota.

AND

The North Half of Lot Six (6), Block One (1), Oak Grove
Subdivision No. 3, Nicollet County, Minnesota, according to the
plat thereof and defined by a line joining the midpoint of the
East line to a point on the West line of Lot 6 a distance of 35.43
feet northerly of the Southwest corner of said Lot Six (6), Subject
to any and all easements of records.

LEGEND

- 3/4" IRON PIPE MONUMENT SET
MARKED BY LIC. NO. 46564
- MONUMENT FOUND



**BOLTON
& MENK**

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

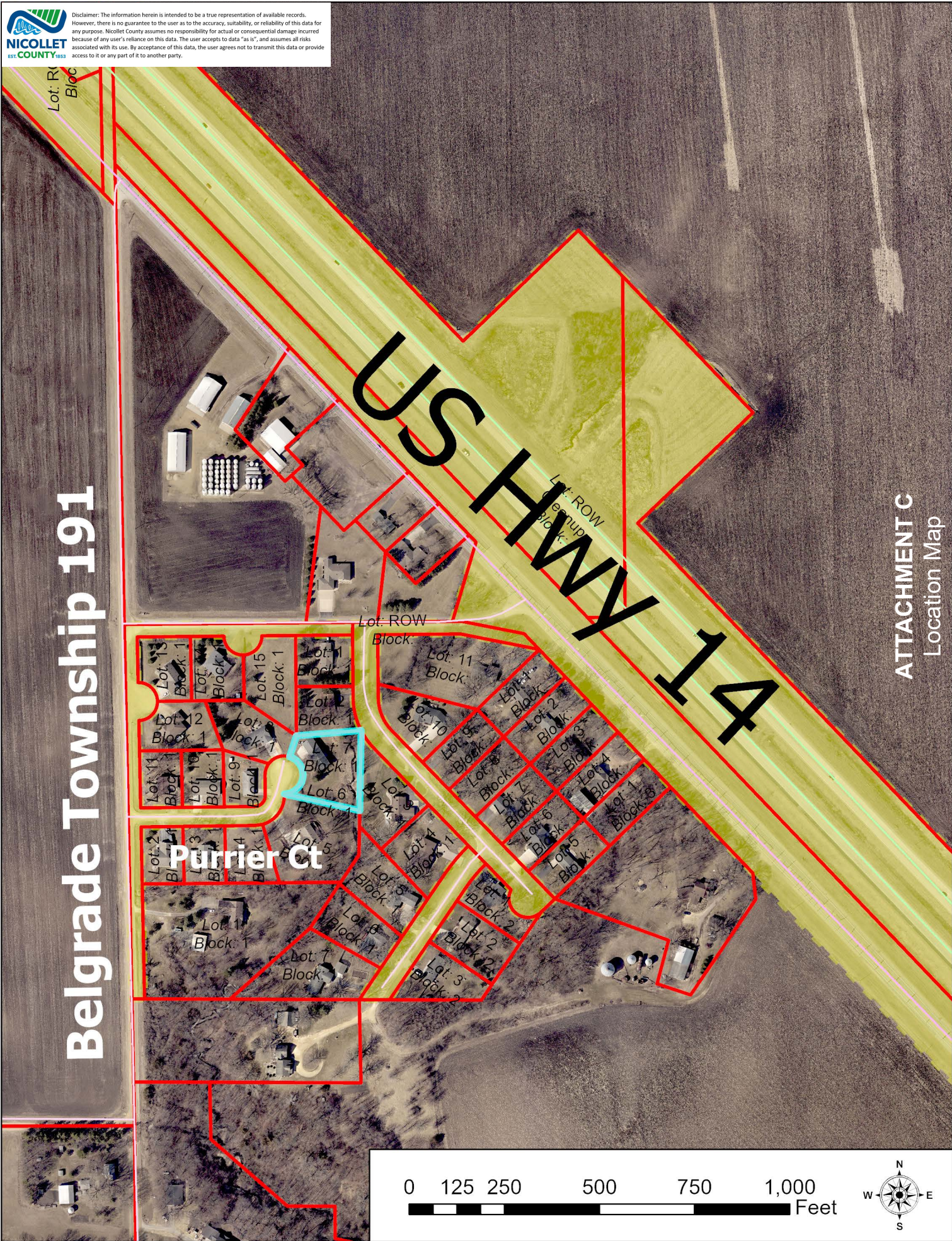
EXHIBIT
NICOLLET COUNTY, MINNESOTA

LOT 1 AND THE N 1/2 OF LOT 6, BLOCK 1,
OAK GROVE SUBDIVISION NO. 3,
NICOLLET COUNTY, MINNESOTA

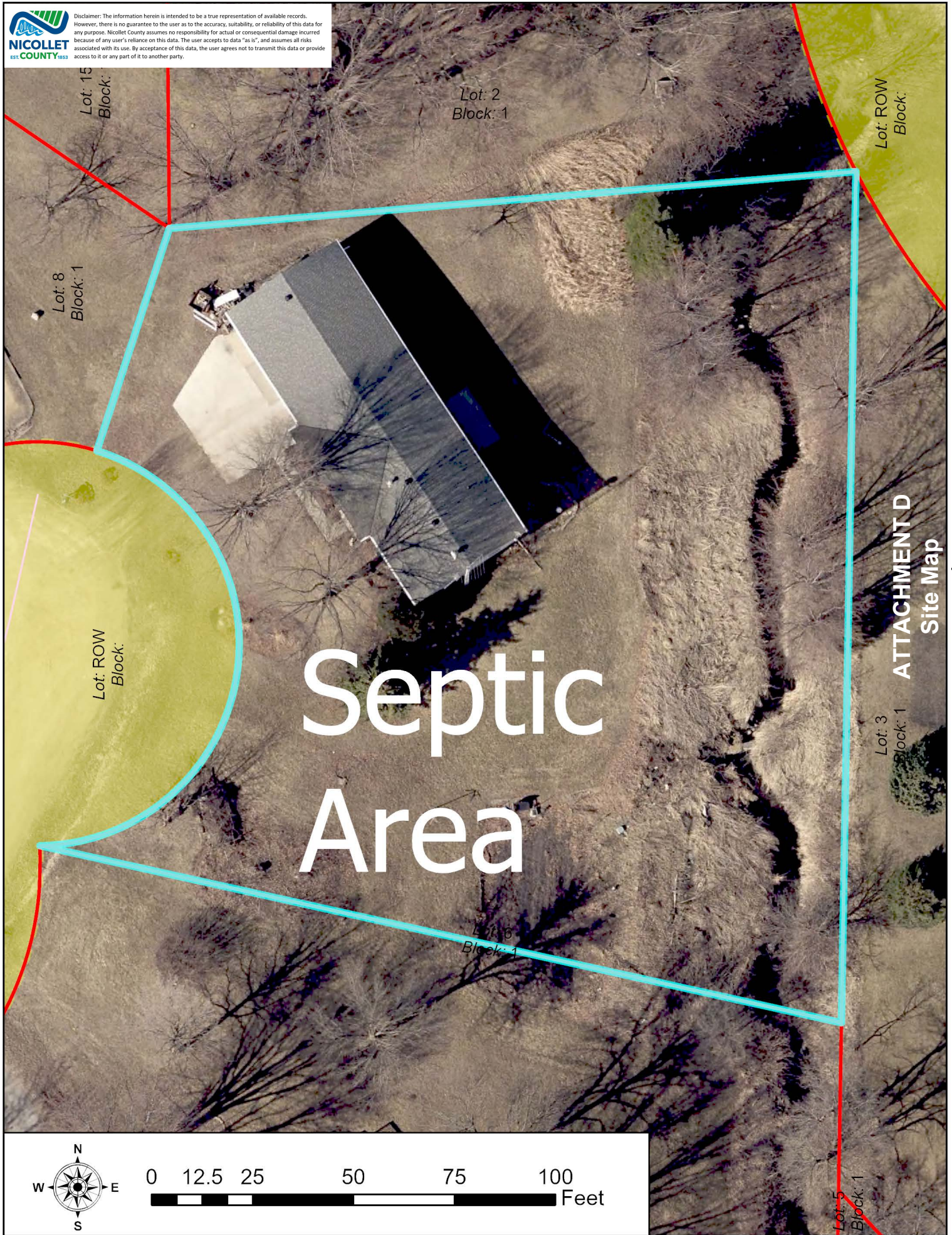
FOR: CORNELIUS, FRANCIS



Disclaimer: The information herein is intended to be a true representation of available records. However, there is no guarantee to the user as to the accuracy, suitability, or reliability of this data for any purpose. Nicollet County assumes no responsibility for actual or consequential damage incurred because of any user's reliance on this data. The user accepts to data "as is", and assumes all risks associated with its use. By acceptance of this data, the user agrees not to transmit this data or provide access to it or any part of it to another party.



ATTACHMENT C
Location Map





ATTACHMENT E
Site Photographs



DISPLAYNAME	MAILINGADDR	MAILINGCITYSTATEZIP
AHERN ADAM	52556 RAVINE RD	NORTH MANKATO MN 56003
ANDERSON ROBERT L	52431 ACORN AVE	NORTH MANKATO MN 56003
ANDRE WHITNEY & JUSTIN ANDRE	40511 520TH ST	NORTH MANKATO MN 56003
BERGER CHAD & MICHELLE BERGER	52547 RAVINE RD	NORTH MANKATO MN 56003
BROOKS RICHARD P & PAULA A BROOKS	52449 ACORN AVE	NORTH MANKATO MN 56003
CHRISTIANSON ALAN B & KRISTY A CHRISTIANSON	40606 PURRIER CT	NORTH MANKATO MN 56003
CORNELIUS FRANCIS J & JOYCE L CORNELIUS	40609 PURRIER CT	NORTH MANKATO MN 56003
CURRIE JOYCE M	40797 PURRIER CT	NORTH MANKATO MN 56003
DAHLE THORVALD & COLLEEN GEFFE-DAHLE	52584 RAVINE RD	NORTH MANKATO MN 56003
DITTRICH ANTON J & JULIE A K DITTRICH	52333 ACORN AVE	NORTH MANKATO MN 56003
FORCIER KELSEY & ERIC FORCIER	40703 522ND ST	NORTH MANKATO MN 56003
FREDERICK LIVING TRUST	38305 490TH ST	SAINT PETER MN 56082
HARDER LIVING TRUST	52322 ACORN AVE N	MANKATO MN 56001
HOMAN KEVIN J & JULIE A HOMAN	52283 ACORN AVE	NORTH MANKATO MN 56003
JOHN AND MARY DEPUYDT LLC	22981 489TH AVE	LAKE CRYSTAL MN 56055
JONES JODI K	40481 520TH ST	NORTH MANKATO MN 56003
LEGGETT LYLE R & KATHLEEN M LEGGETT	52257 409TH AVE	NORTH MANKATO MN 56003
LOE BRIAN A & HOLLI M LOE	40700 522ND ST	NORTH MANKATO MN 56003
LOE JUDITH A REV TRUST	40537 522ND ST	NORTH MANKATO MN 56003
LOE KAREN K REVOCABLE LIVING TRUST	40563 US HWY 14	NORTH MANKATO MN 56003
LOWE WILLIAM J & JANET L LOWE	52429 409TH AVE	NORTH MANKATO MN 56003
MARTI MICHAEL J & LORI A MARTI	52423 RAVINE RD	NORTH MANKATO MN 56003
MORSCHING JESSE & AMBER HUGHES	40678 PURRIER CT	NORTH MANKATO MN 56003
PAVEL JAMES P	40499 US HIWY 14	NORTH MANKATO MN 56003
PETERSON NEOMA K TRUST	52387 ACORN AVE	NORTH MANKATO MN 56003
PIERSON KEITH W & KONNIE C PIERSON TRUST	40826 PURRIER CT	NORTH MANKATO MN 56003
PINSKE PATRICK J	52221 409TH AVE	NORTH MANKATO MN 56003
SCHUFT GARY F & GLORIA M SCHUFT	52252 ACORN AVE	NORTH MANKATO MN 56003
SHEELY EDWARD J	40788 PURRIER CT	NORTH MANKATO MN 56003
SIEBERG TAYLOR	52501 RAVINE RD	NORTH MANKATO MN 56003
STAGG JEFFREY L & SHERRY P STAGG	52428 RAVINE RD	NORTH MANKATO MN 56003
ULMEN TIMOTHY & MEGAN ULMEN	40683 PURRIER CT	NORTH MANKATO MN 56003
WALTHERS SUSAN K	40811 522ND ST	NORTH MANKATO MN 56003
WEBER PETER A & LISA WEBER	52598 RAVINE RD	NORTH MANKATO MN 56003
WENDT JOHN A REVOCABLE LIVING TRUST	52496 RAVINE RD	NORTH MANKATO MN 56003
YETTER GERALD "JAY"	40859 PURRIER CT	NORTH MANKATO MN 56003
JOAN UNTIEDT - BELGRADE TOWNSHIP	42394 KERNS DR	NORTH MANKATO MN 56003

ATTACHMENT F
Neighbor Notification List



BOARD OF ADJUSTMENTS AND APPEALS CRITERIA FOR GRANTING A VARIANCE

Name of Applicant	Pete Forrey, Forrey Septic Systems & Excavating, and Joyce Cornelius	Hearing	9/16/2024
Property Owner	Joyce Cornelius	Continuation	N/A
File	PLN24-17	Board Member	_____
Request	Reduction of property line, right of way, and structural setbacks for a replacement septic system in the Urban/Rural Residential and Conservancy Zoning Districts		

CRITERIA WORKSHEET

A variance may be granted only where the strict enforcement of the Nicollet County zoning controls results in a **practical difficulty**. A determination that a practical difficulty exists is based upon criteria defined by the Minnesota Supreme Court; Minnesota State Statute 394.27, subdivision 7; and Nicollet County Zoning Ordinance, Section 503.1.

1. The variance is in harmony with the general purpose and intent of the official control.

YES ☐ NO ☐ REASON: _____

2. The variance is consistent with the intent of the Comprehensive Plan.

YES ☐ NO ☐ REASON: _____

3. The variance establishes a practical difficulty in complying with the official controls.

YES ☐ NO ☐ REASON: _____

ATTACHMENT G
Criteria for a Variance

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

YES ☐ NO ☐ REASON: _____

5. The variance will not alter the essential character of the locality.

YES ☐ NO ☐ REASON: _____

6. The practical difficulty includes more than economic considerations alone.

YES ☐ NO ☐ REASON: _____

ANSWERS BASED UPON

- ☐ Application ☐ Site visit ☐ Staff Report ☐ Photographs
☐ Information received at public hearing

Date: _____ Member: _____