



## MAYOR AND COUNCIL COMMUNICATION

DATE: 10/4/2016

**CONSENT**

ITEM #: 8

**AGENDA ITEM:** Horning Lot Size Variance – Krause’s Addition, Lot 9

**SUBMITTED BY:** Emily Becker, City Planner

**THROUGH:** Kristina Handt, City Administrator

**REVIEWED BY:** Stephen Wensman, Planning Director

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### **BACKGROUND:**

The subject property, located near the intersection of Jane Road and Jamaca Avenue, was granted a variance from the minimum lot size requirements by Resolution 2014-22 in April of 2014. This Resolution also granted a variance from Section 154.017 of the Zoning Code, which states that any variance granted by the City “shall expire if work does not commence within 12 months of the date of the granting of the variance.” Rather than 12 months, the Council approved variance expires if work does not commence within five years of the date of the granting of the variance.. The applicant, Suzanne Horning, has requested the variance be granted in perpetuity as she wishes to convey the property to her children as an inheritance, but keep the property as open space until then.

### **ISSUE BEFORE COUNCIL:**

The Council is respectfully requested to consider, as part of tonight’s consent agenda, the request for a variance for the subject property from the minimum lot size requirements and time period for which a variance is valid.

### **PROPOSAL DETAILS/ANALYSIS:**

#### **Requirements:**

- The property is located in the RS – Rural Single Family zoning district, which requires a minimum lot size of 1.5 acres.
- Section 154.080 of the Zoning Code states that an existing lot of record may be used for single-family detached dwelling purposes, provided the area and lot width are within 60% of the minimum requirements of the Code.
- Therefore, in order for a an existing lot of record of record to be used for single-family detached dwelling purposes in the RS zoning district, such a lot must be at least 0.9 acres.
- The subject lot is 0.785 acres, which is smaller by 0.115 acres than minimum requirements for it to be used for a single-family detached dwelling purposes. The subject lot meets the lot width requirements.

#### **Subject Property:**

- The lot was platted in 1963 as part of Krause's Addition.
- The subject property, along with 8991 Jane Road (across the street, occupied by the applicant), has been under common ownership since 1979. The applicant bought the subject property when it was considered a buildable lot; has been under the impression since this time it was a buildable lot; and has paid taxes for a buildable lot for more than 25 years.
- The property has been granted two variances – one in 1985 and one in 2014.
- The subject lot is currently used as open space/recreation with a tennis court. No home has ever been constructed on this property.
- The most recent variance was granted for a period of five years, after which it expires, as it was believed that five years was a "reasonable" time period within which construction could commence.
- The variance will expire in about two and a half years. The applicant would like to continue using the property as open space/recreation until conveying it to her children as an inheritance. In the mean time, she does not want to have to continually renew the variance nor does she want her children go through the process in the future until they decide to build. As such, the applicant has requested the variance be granted in perpetuity.

**Planning and Zoning Issues:**

- The City Attorney has verified that a variance may be granted in perpetuity because variances, by nature, run with the land.
- A variance cannot be amended, so a new variance, by a new Resolution, must be granted in order to be valid.
- There are no plans to develop the lot, therefore, it may be reasonable to waive the requirement of continual re-application unless a change is made that would rezone, re-guide, or put forth more restrictive regulations in the zoning district in which this property is located.
- Any construction on the lot will need to comply with setbacks, impervious surface restrictions, and shoreland district requirements.
- A drainage easement should be provided, as approved by the Engineer, to protect drainage areas in the west and northwest area of the lot which will inhibit construction. Staff has met with the applicant to ensure there is an understanding of requirements that will need to be met before construction may begin.
- The subject parcel is large enough to meet the City's minimum requirement of 20,000 square feet for a primary and secondary septic system site, depending on home design and location. The applicant has provided a septic system analysis documenting that a system compliant with Washington County regulations may be constructed on the property.
- Surrounding, riparian lots are similar in size to the subject parcel, ranging from 0.26 acres to 1.9 acres. Each lot within 1000 feet have homes built upon them.
- The applicant would like to use the property as open space until conveying the property to her children who may construct a single-family dwelling in the future. The Rural Single Family zoning district permits both of these uses.
- Staff has found that there are approximately 190 vacant, existing lots of record that do meet minimum requirements to be used as single-family detached dwellings. Only 9% of these lots are more than 0.7 acres in size.

**Required Findings:**

- The attached resolution details recommended findings.

**Conditions:**

- The conditions of the previously granted variance mostly pertain to requirements for obtaining a building permit. These conditions have all been added to the proposed new Resolution approving the subject variance. The new Resolution deems the variance valid into perpetuity unless there are changes to the subject property's guided use or zoning. The last condition listed still needs to be verified by the Finance Director, as it has not yet been determined if there are unpaid 2012 Jane Road project assessments. The recommended conditions of approval are detailed in the attached Resolution.

**FISCAL IMPACT:**

The proposed variance is not expected to create significant fiscal impact. The site has been assessed as a buildable lot for over 25 years.

**PLANNING COMMISSION/PUBLIC HEARING:**

A public hearing was held on the proposed variance at the September 12, 2016 Planning Commission meeting. The meeting minutes are attached to this report. At the meeting, the applicant's son and daughter spoke on behalf of the applicant. Nobody from the public spoke during the public hearing, however, staff received one comment prior to the meeting from a resident concerned that the variance will set a precedent allowing other smaller lots to become buildable. The Planning Commission recommended approval ( 7-0) with one added condition.

**OPTIONS:**

The Council may:

- Approve the variance request.
- Deny the variance request.

**RECOMMENDATION:**

Staff respectfully requests that the Council approve, as recommended by the Planning Commission and as part of tonight's consent agenda, the request made by Suzanne Horning for a variance from the City's minimum lot size requirements and time period within which construction must commence after a variance is granted, subject to conditions of approval. If removed from the consent agenda, the approval may be made with the motion:

***“Move to approve Resolution 2016-84 approving a variance from the minimum lot size requirements in the RS – Rural Single Family Residential zoning district and from the maximum time of one year for which a variance is valid for Lot 9, Krause's Addition, subject to the conditions of approval.”***

**ATTACHMENTS:**

- Resolution 2016-84
- Variance application and materials
- Planning Commission meeting minutes (9/12/16)
- 2014 Variance Request Materials and City Council and Planning Commission Meeting Minutes



**CITY OF LAKE ELMO  
WASHINGTON COUNTY  
STATE OF MINNESOTA**

**RESOLUTION 2016-84**

***A RESOLUTION APPROVING A VARIANCE FROM THE MINIMUM LOT SIZE  
REQUIREMENTS OF THE RURAL SINGLE FAMILY ZONING DISTRICT AND FROM THE  
MAXIMUM TIME FOR WHICH A VARIANCE IS VALID***

**WHEREAS**, the City of Lake Elmo is a municipal corporation organized and existing under the laws of the State of Minnesota; and

**WHEREAS**, Suzanne Horning, 8991 Jane Road North, (the “Applicant”) has submitted an application to the City of Lake Elmo (the “City”) for a variance from the minimum lot size requirements of the RS – Rural Single Family Residential zoning district and to waive the one-year deadline for completion of the work proposed under the variance for the property described as Lot 9 of Krause’s Addition to the City of Lake Elmo, Washington County, Minnesota (the “Property”); and

**WHEREAS**, notice has been published, mailed and posted pursuant to the Lake Elmo Zoning Ordinance, Section 154.102; and

**WHEREAS**, the Lake Elmo Planning Commission held a public hearing on said matter on September 12, 2016; and

**WHEREAS**, the Lake Elmo Planning Commission has submitted its report and recommendation to the City Council as part of a Staff Memorandum dated October 4, 2016, 2016; and

**WHEREAS**, the City Council considered said matter at its October 4, 2016 meeting.

**NOW, THEREFORE**, based on the testimony elicited and information received, the City Council makes the following:

**FINDINGS**

- 1) That the procedures for obtaining said Variance are found in the Lake Elmo Zoning Ordinance, Section 154.109.
- 2) That all the submission requirements of said Section 154.109 have been met by the Applicant.

- 3) That the proposed variance includes the following components:
  - a) A variance from the minimum lot size requirements in the RS – Rural Single Family Residential zoning district. The subject lot is 0.785 acres in size and the minimum required size to be buildable is 0.9 acres.
  - b) A variance to waive the one-year deadline for completion of the work proposed under the variance.
- 4) That the Variance will be located on property legally described as follows: Lot 9 of Krause's Addition to the City of Lake Elmo, Washington County, Minnesota. PID 09.029.21.11.0015.
- 5) That the strict enforcement of Zoning Ordinance would cause practical difficulties and that the property owner proposes to use the property in a reasonable manner not permitted by an official control. *Specific findings: The lot is very close to meeting minimum size requirements for an existing lot to be used as a single-family detached dwelling. It is 0.785 acres, only 0.115 acres short of the minimum required 0.9 acres. The lot was originally platted as, and was bought at a time during which it was, of a buildable lot size. To deem that it is now of an unbuildable lot size, and requiring that a variance be renewed every certain number of years unless construction begins, causes difficulty for the Applicant. The Applicant would like to use the Property as open space now and convey the Property to her children in the future, as inheritance, to eventually be used for a single-family dwelling in the future. The Rural Single Family zoning district permits both of these uses. Placing a time period for which the variance is valid would incent the Applicant to sell or construct on the lot much sooner than is so desired, as continual renewal of the variance is not guaranteed. The Property is separated by road right-of-way and is not adjacent to others under common ownership, so it is not practical for the owner to be expected to use it as open space indefinitely. The variance request is a variance from minimum lot size requirements; all other requirements and standards will need to be met before a building permit will be issued.*
- 6) That the plight of the landowner is due to circumstances unique to the property not created by the landowner. *Specific findings: The Applicant's Property is unique due to former platting and continued classification of the Property as a buildable lot, up until the City adopted new zoning regulations. The Applicant purchased the Property with the understanding that a house could someday be built on the Property; City records have been verified and indicate this to be true. Other homes on neighboring smaller lots were constructed prior to the adoption of the City's zoning regulations and therefore are legal non-confirming uses.*
- 7) That the proposed variance will not alter the essential character of the locality in which the property in question is located. *Specific findings: The Applicant's lot is larger than several riparian lots in the surrounding neighborhood and is close to the minimum size needed to be considered buildable. All other surrounding lots within 1000 feet have*

***houses on them. Therefore, constructing a house on this lot would not alter the essential character of the locality in which the Property is located. It should also be noted that because the variance will expire within about two and a half years, a house would need to be built on the lot sooner than if a variance from the time requirements to build was granted. Allowing the variance to be granted in perpetuity, with the outlined conditions would allow adjacent Property owners more time to enjoy the open space the lot provides.***

- 8) That the proposed variance will not impair an adequate supply of light and air to property adjacent to the property in question or substantially increase the congestion of the public streets or substantially diminish or impair property values within the neighborhood. ***Specific findings: No impacts above and beyond those considered normal for any other single-family lot in the surrounding neighborhood would be expected should the variance be granted. Granting the variance in perpetuity with conditions would protect the subject Property's value for the future while allowing neighbors to enjoy the open space in the interim. Additionally, granting the variance in perpetuity with conditions will better inform future potential buyers that the lot is potentially buildable. They will not be surprised when/if a variance is granted from the minimum lot size standards in the future.***

### **CONCLUSIONS AND DECISION**

Based on the foregoing, the Applicant's application for a Variance is granted, subject to the following conditions:

- 1) The driveway for the future home of the lot shall access Jane Road North. Driveway access to Jamaca Avenue North shall be prohibited.
- 2) The Applicant shall provide a drainage easement for the portion of the lot that collects storm water runoff from the subject Property and adjacent parcels before a building permit is issued for the site. The specific location of the drainage easement shall be approved by the City Engineer.
- 3) The variance shall be valid until any one of the following events occurs, whichever occurs first: the Property's Planned Land Use changes in the City's Comprehensive Plan; the Property is rezoned; any changes are made to the City's zoning regulations for the RS – Rural Single Family zoning district that would make the lot more non-conforming including but not limited to an increase in minimum lot size requirements; or an increase in minimum lot width requirements.
- 4) A grading, erosion control, and storm water management plan shall be submitted in conjunction with a building permit for the Property and approved by the City Engineer.
- 5) The Applicant shall secure any required permits from the Valley Branch Watershed District prior to commencing any grading or construction activity on the site.
- 6) The Applicant shall submit a letter from Washington County that an approved septic system can be located on the site prior to the issuance of a building permit for the site.
- 7) The Applicant shall submit a Right of Entry Agreement to the City so that it may access the Property for repairs to the drainage pipe on the Property if need be.

- 8) All other City, zoning, and development regulations must be satisfied before a building permit is issued.
- 9) The owner shall pay a fee comparable to the assessments levied against other homes in the neighborhood for the 2012 Jane Road North project if the City finds that this has not yet been done.

Passed and duly adopted this 4<sup>th</sup> day of October, 2016 by the City Council of the City of Lake Elmo, Minnesota.

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Michael Pearson, Mayor

ATTEST:

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Julie Johnson, City Clerk

Date Received: 7-4  
Received By: Patricia  
Permit #: \_\_\_\_\_



651-747-3900  
3800 Laverne Avenue North  
Lake Elmo, MN 55042

## LAND USE APPLICATION

- ☐ Comprehensive Plan ☐ Zoning District Amend ☐ Zoning Text Amend ☒ Variance\*(see below) ☐ Zoning Appeal
- ☐ Conditional Use Permit (C.U.P.) ☐ Flood Plain C.U.P. ☐ Interim Use Permit (I.U.P.) ☐ Excavating/Grading
- ☐ Lot Line Adjustment ☐ Minor Subdivision ☐ Residential Subdivision Sketch/Concept Plan
- ☐ PUD Concept Plan ☐ PUD Preliminary Plan ☐ PUD Final Plan ☐ Wireless Communications

Applicant: SUZANNE HORNING  
Address: 8991 JANE RD. N., LAKE ELMO, MN 55042  
Phone #: 651-770-8991  
Email Address: HAHB5ETC@COMCAST.NET

Fee Owner: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone #: \_\_\_\_\_  
Email Address: \_\_\_\_\_

Property Location (Address): 49XX JAMACHA AVE. N.  
(Complete (long) Legal Description: KRAUSE ADDITION, LOT 9, SUBDIVISION CD 37425

PID#: 09.029.21.11.0015

Detailed Reason for Request: I have owned the lot since 1984. It was platted as a buildable lot at the time I purchased it. I have always paid property taxes on an "improved" (tennis court) buildable lot. Down the home across the street. I just want the current variance changed from 5 yrs. to in perpetuity. I have no intent to build now. I want to leave it to my children as part of my estate.

\*Variance Requests: As outlined in Section 301.060 C. of the Lake Elmo Municipal Code, the applicant must demonstrate practical difficulties before a variance can be granted. The practical difficulties related to this application are as follows:

I was granted a 5 yr. variance on April 1, 2014. Resolution No. 2014-22. The lot is slightly smaller than current sign limits. I do not understand why the size isn't grandfathered in. The City has detailed information. I submitted everything the city wanted in 2013 & 2014. Please see attached. \*The City attorney has said in perpetuity is acceptable.\*

In signing this application, I hereby acknowledge that I have read and fully understand the applicable provisions of the Zoning ordinance and current administrative procedures. I further acknowledge the fee explanation as outlined in the application procedures and hereby agree to pay all statements received from the City pertaining to additional application expense.

Signature of applicant: Suzanne R.W. Horning Date: 8/4/2016

Signature of fee owner: \_\_\_\_\_ Date: \_\_\_\_\_

This attachment is in regard to my request for a lot size variance which was Item 6 at the April 1, 2014, Lake Elmo City Council meeting. It is Resolution No. 2014-22.

At the meeting, I requested (through my attorney Christine Cirilli) a variance for my extra lot located across the street from my home at 8991 Jane Rd. N. My husband suffered a massive stroke in 2010. We needed to be in FL where his doctors are, so I could not appear in person.

Over the course of many months, and at an expense of over \$10,000, I was able to provide detailed records showing that I have always paid taxes on a buildable lot. My late husband, Jim Weyer, kept very detailed records. The landing on Lake Jane is named after him. When Jane Rd. N. was originally built, we paid the same assessment for the empty lot as everyone paid for their lots with homes. At the meeting, it was noted that the footprint of the tennis court looks (and is) larger than many of the surrounding homes. I have always paid my property taxes on time.

I am crushed and very saddened that the variance is only good for five years. I had NO intention of selling the lot. I only wanted to leave it to my two children as part of my estate. Obviously, if the variance is good only for five years I need to sell the lot separately now in order to assure my children will have an inheritance. I really don't want to do this. The lot means a lot to me. It was an anniversary present from my late husband.

Perhaps the most important information is that the City Attorney has said there is not a problem changing the length of the variance from five years to in perpetuity.

I bought Lot 9 Krause Addition as a buildable lot. I have always paid property taxes based on a buildable lot. I feel the size requirements for a buildable lot should be grandfathered in. I have done nothing wrong and yet I have to fight to keep what the City is trying to take away from me.

Thank you.

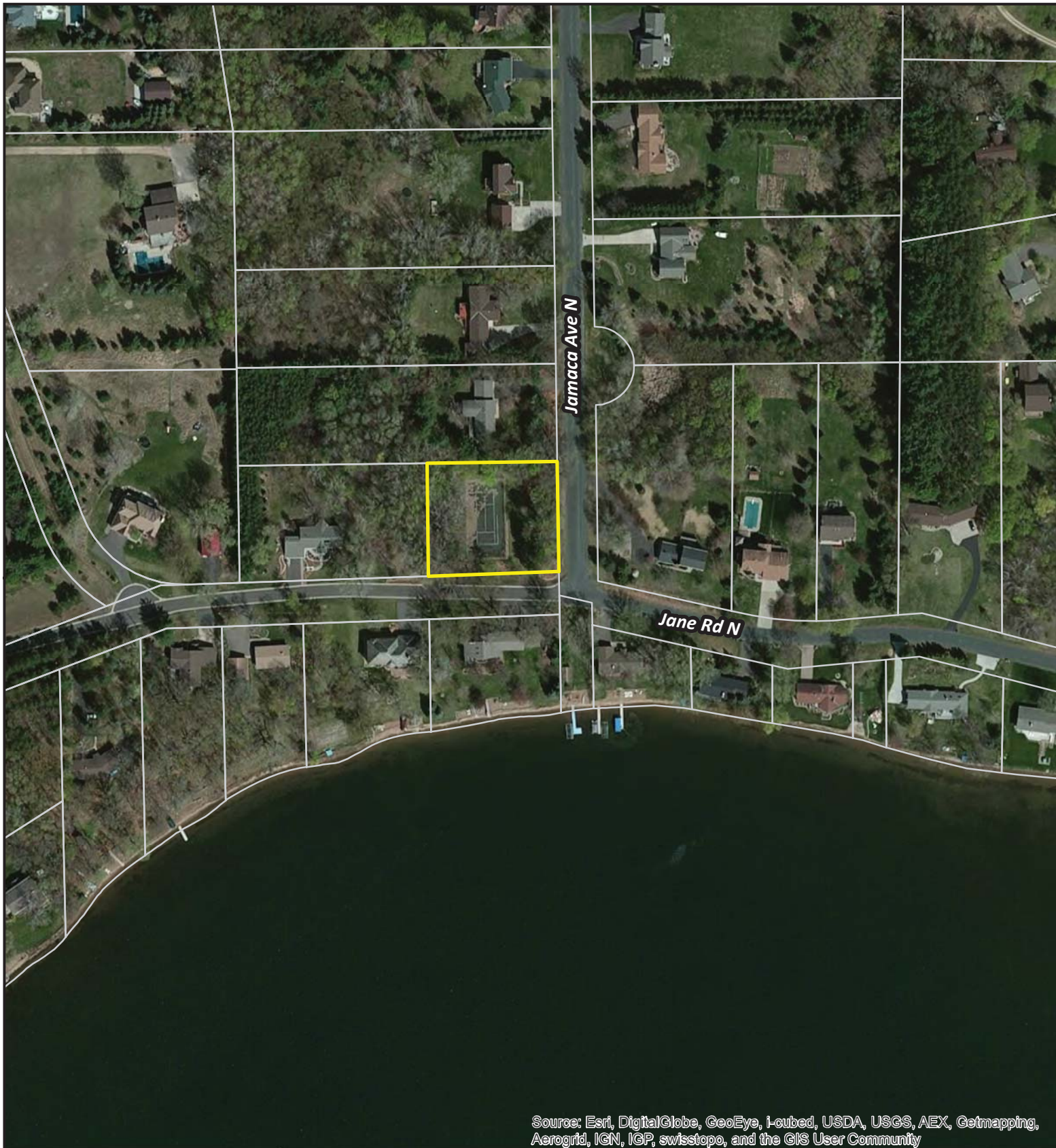


Suzanne Horning

(651) 770-8991

[hahbsetc@comcast.net](mailto:hahbsetc@comcast.net)





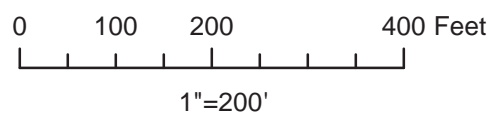
## Location Map: 09.029.21.11.0015



Data Source: Washington County, MN  
2-26-2014



Variance Request  
09.029.21.11.0015









# KRAUSE'S ADDITION

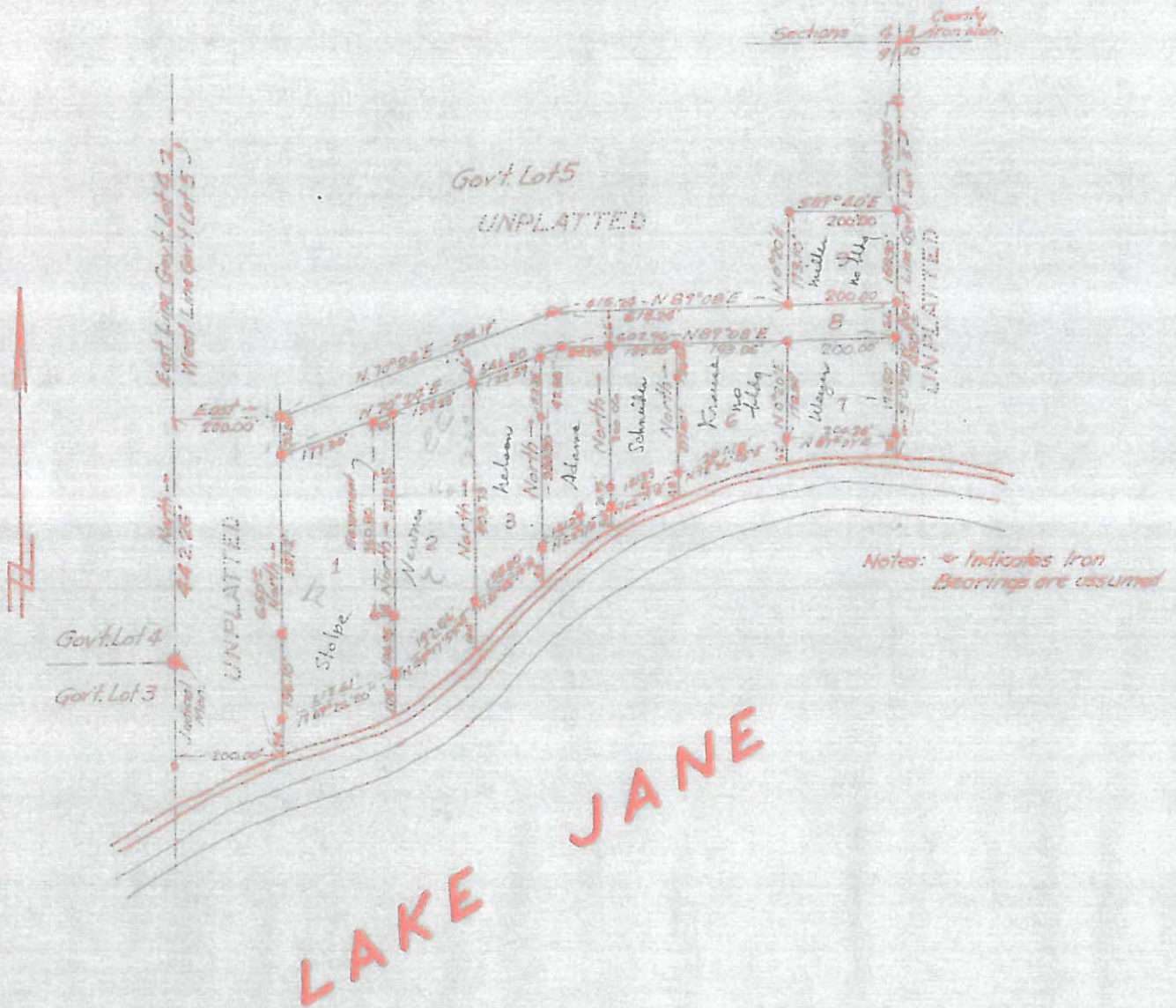
PART OF GOVT. LOT 5 SECTION 9, T. 29 N., R. 21 W.

EAST OAKDALE TOWNSHIP - WASHINGTON COUNTY

MINNESOTA

SCALE: 1" = 200 FT.

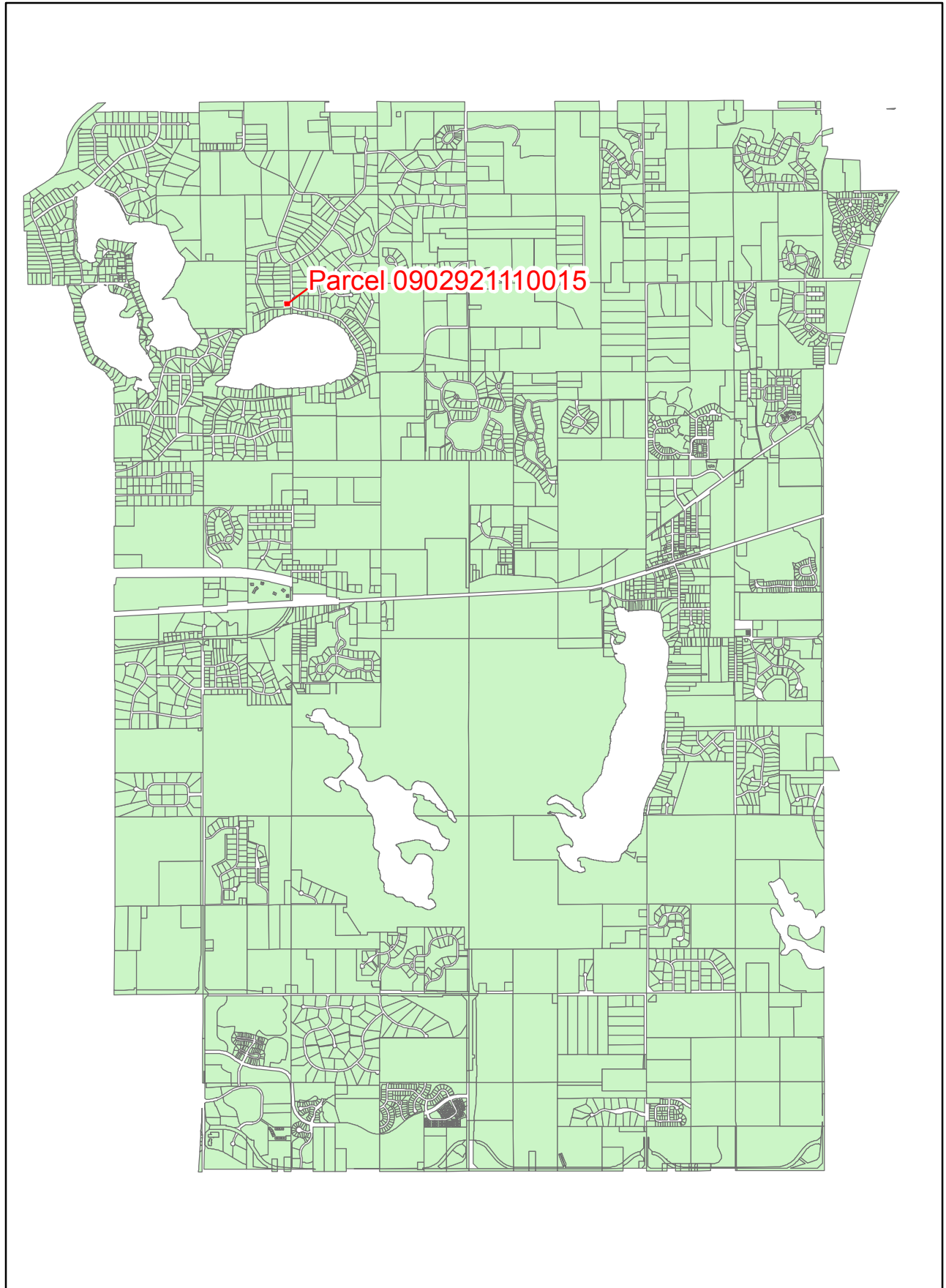
J.R. Hoffman  
Surveyor



I have surveyed the property described on this plat and to having placed iron monuments at same are correct, there is no undrained road nor easement on or across same the land conveyed in fee in each recorded is the same as the land shown on this plat excepting each particular recorded

This plat approved and accepted by the Town Board of Washington County, Minnesota this 1st day of June 1900

*Maximilian*  
Chairman, Town Board





Fee \$ \_\_\_\_\_

**City of Lake Elmo  
DEVELOPMENT APPLICATION FORM**

- |  |  |   |
|--|--|---|
| <input type="checkbox"/> Comprehensive Plan Amendment              | <input checked="" type="checkbox"/> Variance * (See below)           | <input type="checkbox"/> Residential Subdivision Preliminary/Final Plat                         |
| <input type="checkbox"/> Zoning District Amendment                 | <input type="checkbox"/> Minor Subdivision                           | <input type="checkbox"/> 01 – 10 Lots   |
| <input type="checkbox"/> Text Amendment                            | <input type="checkbox"/> Lot Line Adjustment                         | <input type="checkbox"/> 11 – 20 Lots   |
|  |  | <input type="checkbox"/> 21 Lots or More  |
| <input type="checkbox"/> Flood Plain C.U.P. Conditional Use Permit | <input type="checkbox"/> Residential Subdivision Sketch/Concept Plan | <input type="checkbox"/> Excavating & Grading Permit  |
| <input type="checkbox"/> Conditional Use Permit (C.U.P.)           | <input type="checkbox"/> Site & Building Plan Review                 | <input type="checkbox"/> Appeal <span style="float: right;"><input type="checkbox"/> PUD</span> |

**APPLICANT:** Suzanne Horning, as Trustee (see attached) 8991 Jane Road North, Lake Elmo, MN 55042  
(Name) (Mailing Address) (Zip)

**TELEPHONES:** 239-765-8708 (Florida Phone Number)  
(Home) (Work) (Mobile) (Fax)

**FEE OWNER:** Suzanne Horning, as Trustee (see attached) 8991 Jane Road North, Lake Elmo, MN 55042  
(Name) (Mailing Address) (Zip)

**TELEPHONES:** 239-765-8708 (Florida Phone Number)  
(Home) (Work) (Mobile) (Fax)

**PROPERTY LOCATION (Address and Complete (Long) Legal Description):** Krause's Addition Lot 9  
Subdivision Cd 37425

**DETAILED REASON FOR REQUEST:** Please see attached.

**\*VARIANCE REQUESTS:** As outlined in Section 301.060 C. of the Lake Elmo Municipal Code, the Applicant must demonstrate a hardship before a variance can be granted. The hardship related to this application is as follows:  
Please see attached.

In signing this application, I hereby acknowledge that I have read and fully understand the applicable provisions of the Zoning and Subdivision Ordinances and current administrative procedures. I further acknowledge the fee explanation as outlined in the application procedures and hereby agree to pay all statements received from the City pertaining to additional application expense.

Suzanne R. Horning 4/13/14  
Signature of Applicant Date

\_\_\_\_\_  
Signature of Applicant Date



2200 IDS Center  
80 South 8th Street  
Minneapolis MN 55402-2157  
tel 612.977.8400  
fax 612.977.8650

February 3, 2014

Christie J. Cirilli  
(612) 977-8926  
ccirilli@briggs.com

**VIA E-MAIL**

Kyle Klatt  
Planning Director  
Lake Elmo City Hall  
3800 Laverne Avenue North  
Lake Elmo, MN 55042

**Re: Application for Variance - Krause's Addition, Lot 9 Subdivision Cd 37425**

We represent Suzanne Horning, as Trustee of the Suzanne R.W. Horning Qualified Personal Residence Trust (the "Applicant"), in connection with her application for a variance. The Applicant requests that the City grant a variance for the property legally described as Krause's Addition, Lot 9 Subdivision Cd 37425, located in the City of Lake Elmo (the "Property").

Please find attached as exhibits written statements as required by the Variance Procedure for the City of Lake Elmo. Also included with this letter is (1) the Applicant's completed and signed land use application form; (2) verification of the Applicant's ownership of the Property; (3) address labels for the certified list of property owners located within three hundred fifty (350) feet of the subject property obtained from and certified by a licensed abstractor; (4) the proposed septic design plan for the Property; and (5) copies of a certified survey depicting the Property.

We look forward to working with you in this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Christie Cirilli".

Christie J. Cirilli

CJC

cc: Sue Horning  
Dan Cole

Kyle Klatt  
February 3, 2014  
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**EXHIBIT A**

(List of Current Property Owners/Applicant)

Suzanne R.W. Horning, Trustee of the Suzanne R.W. Horning Qualified Personal Residence Trust under Agreement dated December 26, 2008, by Quit Claim Deed dated December 26, 2008, filed December 31, 2008, as Document No. 3720033.

Kyle Klatt  
February 3, 2014  
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**EXHIBIT B**

(List of Site Data)

1. Legal Description: Krause's Addition, Lot 9 Subdivision Cd 37425
2. Parcel Identification Number: 09.029.21.11.0015
3. Parcel Size (in acres and square feet): 0.785 acres/34,194.6 square feet
4. Existing Use of Land: Vacant parcel
5. Current Zoning: R1 One-Family Residential District



Kyle Klatt  
February 3, 2014  
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**EXHIBIT C**

(Provision of Zoning Code for which Applicant seeks a variance)

The Applicant is seeking a variance under Sections 154.041 and 154.080 of the Zoning Code. Section 154.041, which applies to R-1 One-Family Residential Districts, requires a minimum buildable lot size of 1-1/2 acre per unit without sanitary sewer or 24,000 square feet per unit with sanitary sewer. Section 154.080 contains an exception to this for any "existing lot." An "existing lot" is defined as "a lot or parcel of land in a residential district which was of record as a separate lot or parcel in the office of the County Recorder or Registrar of Titles, on or before the effective date of th[e] chapter." Section 154.080 states that "[a]ny [existing] lot or parcel of land which is in a residential district may be used for single-family detached dwelling purposes, provided the area and width of the lot are within 60% of the minimum requirements of this chapter; provided, all setback requirements of this chapter must be maintained; and provided, it can be demonstrated safe and adequate sewage treatment systems can be installed to serve the permanent dwelling."

The Property at issue therefore qualifies as an exception to the general lot requirements of Section 154.041 and must instead comply with the 60% (0.90 acre) lot requirement of Section 154.080. At 0.785 acres, the Property falls just short of the buildable lot requirements for existing lots in R1 One-Family Residential Districts. As a result, the Applicant is seeking a variance to the existing lot requirement contained in Section 154.080.

Finally, the Applicant is seeking a variance from Section 154.017 of the Zoning Code, which mandates that any variance granted by the City "shall expire if work does not commence within 12 months of the date of granting such variance or if that use ceases for more than 6 consecutive months." Because the Applicant desires to convey the Property to her children through her estate for buildable-lot purposes, any such work performed on the Property would not commence until after the twelve (12) month period required under Section 154.017 of the Zoning Code.

Kyle Klatt  
February 3, 2014  
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**EXHIBIT D**

(Written Description of Proposal)

The Applicant proposes the issuance of a variance to Section 154.080 of the Zoning Code and request that the Property, at 0.785 acres, be characterized as a buildable lot under the Zoning Code.

The Applicant further requests a variance to the requirement under Section 154.017 that work be commenced within twelve (12) months of the variance's issue date. The variance to the buildable lot size will be of no use to the Applicant without a variance to this requirement as well.



Kyle Klatt  
February 3, 2014  
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**EXHIBIT E**

(Narrative of Pre-Application Discussions)

Christie Cirilli, Attorney with Briggs & Morgan, P.A. (the “Applicant’s Counsel”) spoke with Kyle Klatt, the Planning Director for the City of Lake Elmo (the “Planning Director”), on behalf of the Applicant. Applicant’s Counsel discussed Applicant’s pursuance of a variance under Section 154.017 of the Lake Elmo Zoning Code. Applicant’s Counsel inquired regarding the current standard for variances applied by the City of Lake Elmo. The Planning Director confirmed that the “practical difficulties” standard, as discussed in Minnesota Statutes 462.357, had been adopted by the City and incorporated into Section 154.017 of the Lake Elmo Zoning Code.

The Planning Director stated that the Property had been characterized as a non-buildable lot since 1979, but acknowledged that the Property was improperly assessed and taxed as a buildable lot during the Applicant’s ownership of the Property. Applicant’s Counsel explained to the Planning Director that the Property was being assessed and taxed as a buildable lot when the Applicant purchased the Property, and as a result, the Applicant believed she was buying land with buildable lot value. Applicant’s Counsel explained to the Planning Director that the Property was of little or no value to the Applicant or anyone else without characterization as a buildable lot because the Applicant was interested in transferring the Property via her estate to her children for buildable purposes. The Planning Director acknowledged the erroneous taxation of the Property, despite stating that the zoning classification of the property is separate and distinct from the taxation of the parcel – meaning that the fact that the Property was taxed as a buildable lot does not change the fact that it was characterized as unbuildable under the zoning code. The Planning Director confirmed, however, that the fact that the Applicant purchased the parcel at a buildable lot price and for buildable lot value would be considered by the Planning Commission in its decision of whether or not to grant a variance.

The Planning Director explained that he was not sure how much application of the new “practical difficulties” standard would affect the Planning Commission’s analysis and issuance of variances. The Planning Commission has not had many variance applications come before it since the new standard took effect. The Planning Director informed Applicant’s Counsel that, if the Planning Commission were to grant a variance for the Property, work would have to be commenced on the Property within 12 months of the date the variance was granted – otherwise, the variance would expire. Applicant’s Counsel responded that this may be an issue for Applicant, and an additional variance may be requested to waive this requirement.

The Applicant also separately had conversations with the City regarding her Property. In particular, the Applicant spoke with Dean Zuleger, the City Administrator for the City of Lake

Kyle Klatt  
February 3, 2014  
Page 7

Elmo, who informed the Applicant that he was unaware of any issues with the buildable nature of the Property. Mr. Zuleger acknowledged that other buildable lots in the area were of a similar size to the Property and that he did not see any reason why the Property should not be buildable as well. The discussions with Mr. Zuleger also revealed a prior variance that was issued for the Property in 1985. Upon following up with the Planning Director, there was not much information on file with the City regarding said variance, only that a variance was issued at that time regarding the buildable nature of the Property. This prior variance supports the current application for a variance for the Property.

The Applicant's Counsel further had discussions with Mr. Klatt regarding a variance passed by the Lake Elmo City Council on October 15, 2013, which variance was passed despite a recommendation from the Planning Commission to deny such variance. The property related to the variance request was of a considerably smaller size than the Applicant's property and was located on the shoreline. Mr. Klatt explained that the primary reason for granting the variance was that the property had room for adequate septic systems, and as a result the City Council passed the variance.



Kyle Klatt  
February 3, 2014  
Page 8

**EXHIBIT F**

(Explanation of Applicant's Practical Difficulties)

Section 154.017 of the Zoning Code states that a variance shall be granted "where strict enforcement of the [Zoning Code] would cause practical difficulties because of circumstances unique to the individual property under consideration and then only when it is demonstrated that such actions will be in keeping with the spirit and intent of this chapter." Under this Section, the "practical difficulties" standard means that "the property owner proposes to use the property in a reasonable manner not permitted by an official control."

The Applicant is proposing to use the Property in a reasonable manner not permitted by an official control. At 0.785 acres, the Property has been characterized as a non-buildable lot by the Zoning Code, which has a buildable lot size requirement for existing lots of 0.90 acres. The Applicant is proposing to reclassify the Property as a buildable lot prior to her conveyance of the Property through her estate. Given that the Property's acreage constitutes roughly 87% of the buildable lot size requirement, the Property is very close to meeting the required buildable lot size under the Zoning Code. As a result, it is unlikely that any structure built on the Property (that complied with the Zoning Code's building requirements) would be notably more obstructive than structures built on lots meeting the minimum 0.90 acre requirement.

The Property is zoned for residential use and the Applicant will have no use for the Property if it is not classified as a buildable lot. The other lots surrounding the Property are not much larger than the Property and were grandfathered in under the Zoning Code, as the Property at issue should have been. The Property was a platted lot approved by the City at its current size and was intended to be buildable. Therefore, classifying the Property as a buildable lot will not alter the "spirit and intent of the chapter."

Given that the proposed use of the Property is not unreasonable and that the Property should have been previously grandfathered in under the Zoning Code, the Planning Commission should grant a variance given the particularly unusual circumstances of the Applicant, as described on Exhibit G.



Kyle Klatt  
February 3, 2014  
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**EXHIBIT G**

(Explanation of Applicant's Unique Circumstances)

Section 154.017 of the Zoning Code further states that a variance shall only be granted where "[t]he plight of the landowner is due to circumstances unique to the property not created by the landowner." The Applicant at issue has particularly unusual circumstances, which are not by fault of her own.

The Applicant was not the subdivider of the surrounding development and therefore did not create the problem. At the time the Applicant purchased the Property in 1985, the Applicant believed the Property was buildable. The Property was platted and approved by the City at its current size. The surrounding lots were of a similar size and were characterized as buildable. The Applicant paid a buildable lot value for the Property and has been paying taxes, assessed by Washington County, Minnesota, on that buildable lot value for the past twenty-seven (27) years. As a result, the Applicant had good reason to believe that she owned buildable land. The Applicant's belief that the land was buildable affected her decision to purchase and retain the Property.

The Property was specifically characterized as an assessable lot on the City's assessment role on September 10, 1985, at which time the City held a meeting for approval of a special assessment by local property owners. By characterizing the Property as an assessable lot, the City was acknowledging the value the Property was receiving from City improvements and assessing a fee on the Property for those improvements. The Property does not, however, receive any value from City improvements if it is not also buildable. As a result, the City's characterization of the Property as an assessable lot suggests that the Property was intended to be buildable as well.

The Applicant had no reason to believe that her land was not buildable. Any plight of the Applicant was due to the error of other parties. As a result, the Applicant has unique circumstances that she has not created and which justify the City's grant of a variance for the Property.



Kyle Klatt  
February 3, 2014  
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## EXHIBIT H

### (Essential Character of Neighborhood)

In order to obtain a variance from the City, the Applicant is required to show that the issuance of a variance would not alter the essential character of the neighborhood in which the Property is located. In other words, the Property must be consistent and not interfere with the use of the property surrounding it.

The Property is located in Krause's Addition of the City of Lake Elmo. Other lots within Krause's Addition that have houses built on them are not discernibly different in size than the Property. As previously stated, many of these lots were grandfathered in when the Zoning Code requirements changed, and the Property at issue should have been grandfathered in as well. Furthermore, the City Council recently granted a variance on October 15, 2013 for a lot of a considerably smaller size than the Applicant's property, constituting approximately 0.4 acres of land. The City Council's primary reason for granting the variance was that the property had adequate room for appropriate septic systems on the property. The Applicant's Property also has adequate room for appropriate septic systems on the property, with room for both a primary and backup drainfield location, as demonstrated by the septic design submitted in connection with the application. In addition, unlike the property at issue in the October 15, 2013 variance request, the Applicant's property is not located on the shoreline and therefore any building on the Applicant's Property won't interfere with any of the neighboring property rights associated therewith.

Springborn's Green Acres, which adjoins the Property to the North, contains two lots (Lot 2 and Lot 3) that both have less buildable area than the Property at issue, due to drainage and utility easements that bisect each lot. Lot 2 and Lot 3 are shown to each constitute 1.6 acres, but their buildable lot areas are actually only 150 feet by 170 feet due to the easements burdening each lot. Therefore, if granted a variance, the buildable lot area of the Property at issue would be greater than that of both Lot 2 and Lot 3 in Springborn's Green Acres.

Given the size of lots surrounding the Property and adequate room for appropriate septic systems on the property, the issuance of a variance for the Property would not alter the essential character of the neighborhood.

651-631-0361  
 FAX 651-631-8505  
 Email: kemp@pro-bis.net  
 www.kemp@pro-bis.com

VICINITY MA  
(NO SEC 5)

### FLOODPLAIN SUMMARY

[illegible]

## ZONING REQUIREMENTS

1. What is the purpose of the experiment?  
 To determine the effect of temperature on the rate of reaction between hydrogen peroxide and potassium iodide.

2. What are the variables in the experiment?  
 Independent variable: Temperature (°C)  
 Dependent variable: Rate of reaction (measured by the time taken for the solution to turn blue)

3. What is the hypothesis?  
 The rate of reaction will increase as the temperature increases.

4. What are the materials and apparatus used?  
 Materials: Hydrogen peroxide (H<sub>2</sub>O<sub>2</sub>), Potassium iodide (KI), Sulfuric acid (H<sub>2</sub>SO<sub>4</sub>), Starch solution.  
 Apparatus: Conical flask, Measuring cylinder, Stopwatch, Water bath.

5. What is the procedure?  
 1. Prepare a series of conical flasks containing a fixed volume of potassium iodide and starch solution.  
 2. Add a fixed volume of hydrogen peroxide to each flask.  
 3. Place the flasks in a water bath at different temperatures.  
 4. Start the stopwatch when the reaction begins (mixing the solutions).  
 5. Stop the stopwatch when the solution turns blue.  
 6. Record the time taken for the color change.

6. What are the results?  
 (Table with 2 columns: Temperature (°C) and Time taken (s))

7. What is the conclusion?  
 The rate of reaction increases with temperature.

8. What are the sources of error?  
 Inaccurate measurement of time, inconsistent volumes of reagents.

9. What are the improvements?  
 Use a more precise stopwatch, ensure accurate volumes using volumetric flasks.



407 JAMICA AVENUE 100-24  
(WEST SIDE OF "ENNY'S CORNER")  
LAKELAND MINNEZOTA



4911 JAWACA AVENUE N  
NORTH SIDE OF TWINN COUNTRY SHOWN  
LAKE ELMO MINNCO



4944 JAMAICA AVENUE NORTH  
SOUTH SIDE OF TENNES COURT  
LAKE ELMO MINNESOTA



49th JAWABA STREET N  
EAST 90E OF TENNESSEE  
LAKE ELMO WINNEBO



JAMA 2A AVENUE NORTH ADJACENT TO PHOENIX  
(FROM SOUTH FAIRWAY)  
Call 1166 999999



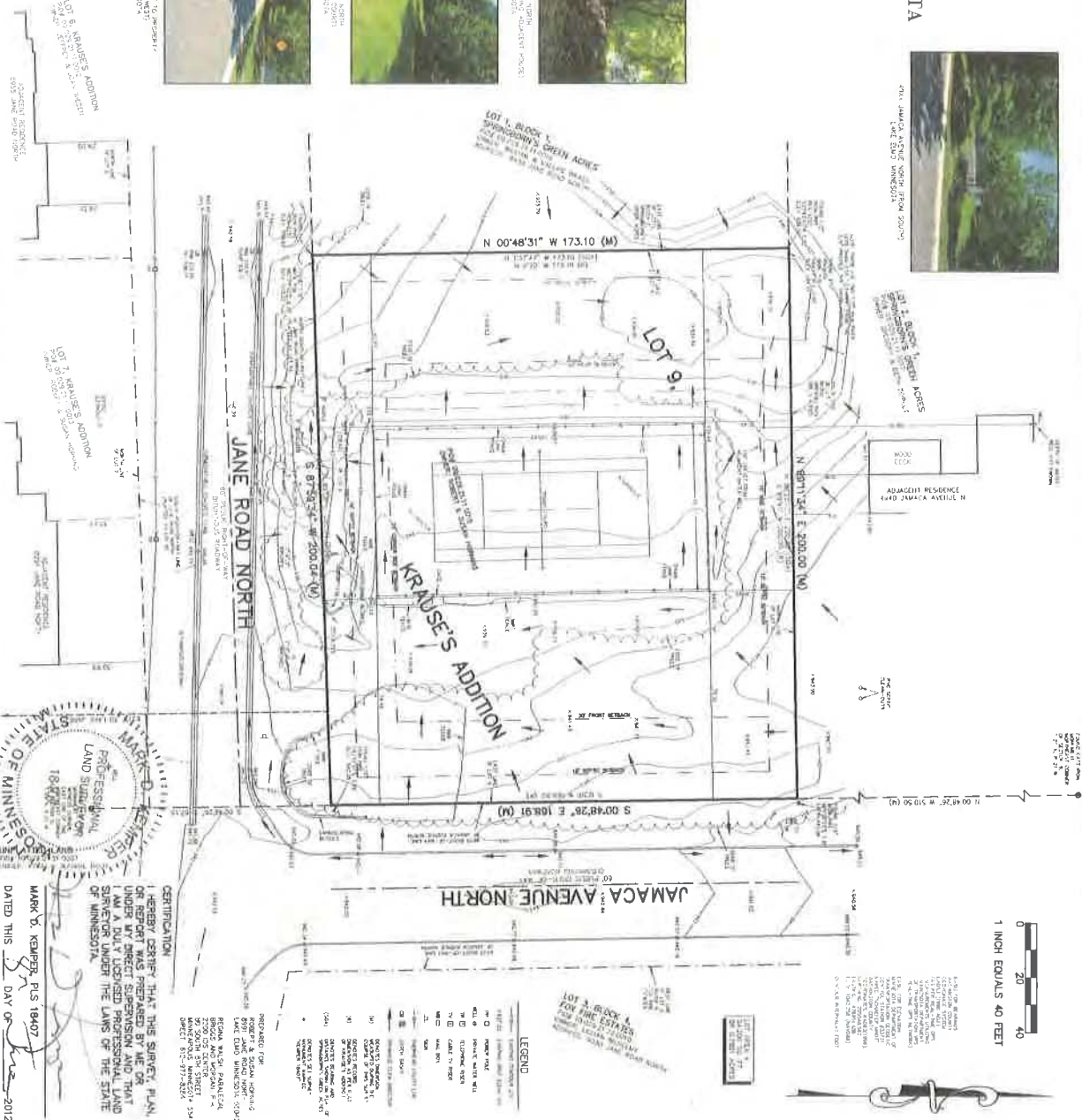
JANE O'GAD REPORT 20 JANUARY 16 2000  
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## EXISTING IMPERVIOUS COVERAGE

1002-4961/04/0410-0000\$15.00/0  
© 2004 Blackwell Publishing Ltd  
doi:10.1017/S1002496104001000

# CERTIFICATE OF SURVEY

120B4 (120B4S.DWG)



6-55. 2007. *Chrysothrix*  
6-56. 2010. *Chrysothrix*  
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6-99. 2010. *Chrysothrix*  
6-100. 2010. *Chrysothrix*

LEGEND

PREPARED FOR  
ROBERT & SUSAN HORNIG  
8591 JANE ROAD NORTH  
LAKE ELMO MINNESOTA 55042

RECEIVED BY THE  
COURT CLERK  
OF THE  
COUNTY OF  
MINNESOTA  
ON  
JANUARY 2, 2012  
AT  
ST. PAUL, MINN.

KENPER &amp; ASSOCIATES INC (



# KRAUSE'S ADDITION

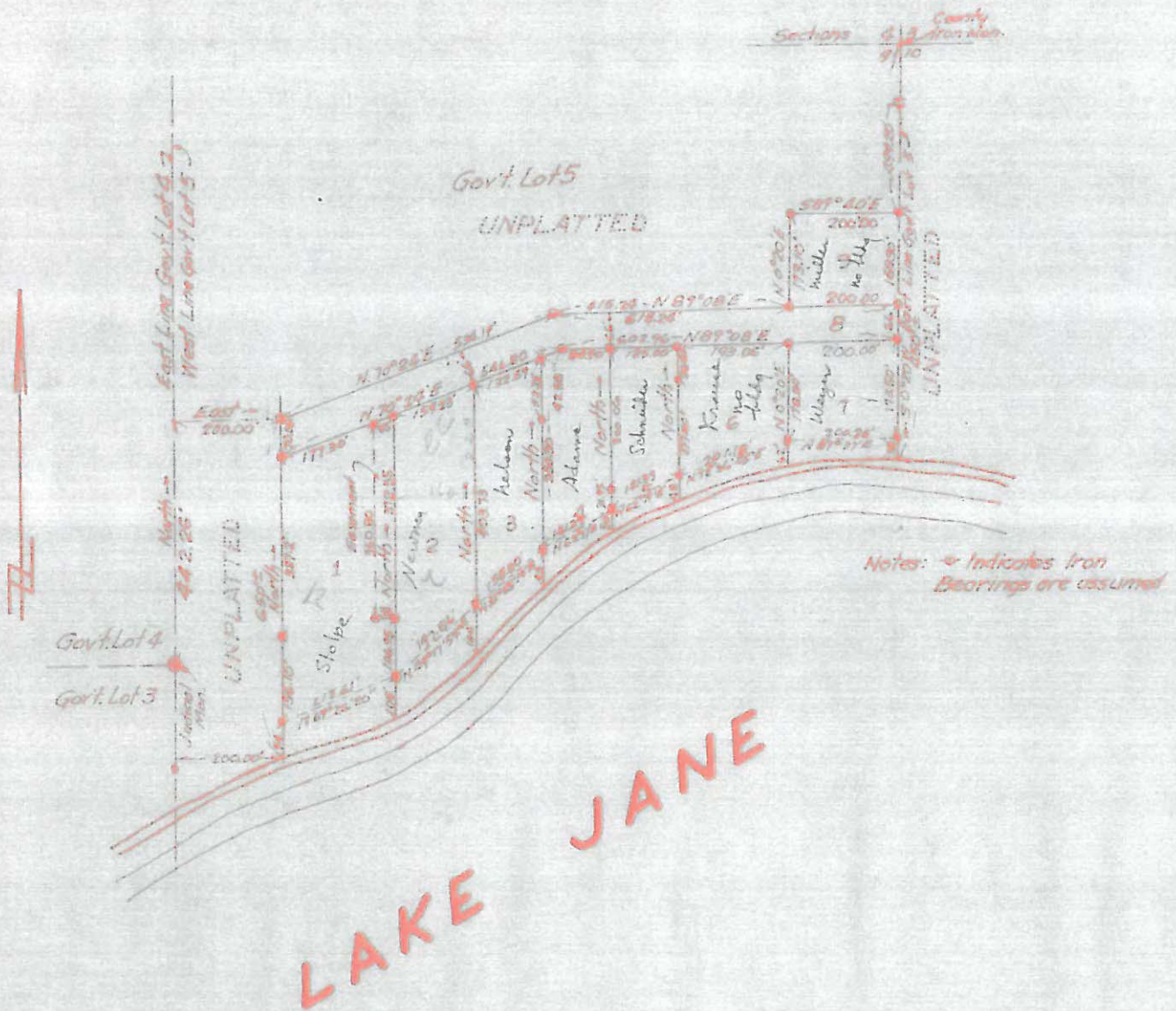
PART OF GOVT. LOT 5 SECTION 9, T. 29 N., R. 21 W.

EAST OAKDALE TOWNSHIP - WASHINGTON COUNTY

MINNESOTA

SCALE: 1" = 200 FT.

J.R. Hoffman  
Surveyor



I have surveyed the property described on this plat and to having placed iron monuments at same are correct, there is no undrained road nor easement on or across same the land conveyed in fee in each recorded is the same as the land shown on this plat excepting each particular recorded

This plat approved and accepted by the Town Board of Washington County, Minnesota this 1st day of June 1900

*Maximilian*  
Chairman, Town Board



# MOUND SYSTEM DESIGN

## INDIVIDUAL SEWAGE TREATMENT SYSTEM

Owner's Name	SUZANNE HORNING
Job Site Address	LOT 9, KRAUSE'S ADDITION 49XX JAMACA AVE.
City or Township	LAKE ELMO
Use of Building	SFD

Design Flow Rate	750	Perc Rate	16-30	Land Slope	1	Percent
Two Required Tank Sizes	1500 Gallons 1000 Gallons	Lift Station Tank Size	1200	Gallons		
Rock Bed Width	10	Rock Bed Length	75			
Required Absorption Width	20	Feet		Depth of Clean Sand Fill at Upslope Edge of Rock Layer		Feet
Minimum Downslope Dike Width After Accounting for the Absorption Area				13	Feet	
Minimum Upslope Dike	10	Feet		Minimum Length of Dike	95	Feet
Any Other Special Conditions THIS DESIGN IS INTENDED TO DEMONSTRATE SUITABILITY OF LOT FOR SEPTIC PURPOSES ONLY IN ORDER TO OBTAIN A ZONING VARIANCE. ANY CHANGES OF FUTURE HOUSE OR SEPTIC LOCATION WILL REQUIRE ADDITIONAL TESTING OR SIZING TO SEPTIC SYSTEM						

COMPLETE THE PRESSURE DISTRIBUTION SYSTEM WORK SHEET ATTACHED.

This design <u>must</u> be accompanied by a site plan that clearly shows the location of the area tested and approved by the following (MOUND SYSTEMS SITE PLANS MUST CLEARLY SHOW THE LOCATION OF THE MOUND):	
1.	Use an appropriate scale and indicate direction by use of a north arrow.
2.	Show ALL property boundaries, rights-of-way, easements, wetlands. If necessary, an enlarged detail of house site may also be required.
3.	Show location of house, garage, driveway and all other improvements existing or proposed.
4.	Show location and layout of sewage treatment mound, and back-up mound.
5.	Show location of water supply (well and/or community supply line).
6.	Dimension all setbacks and separation distances.

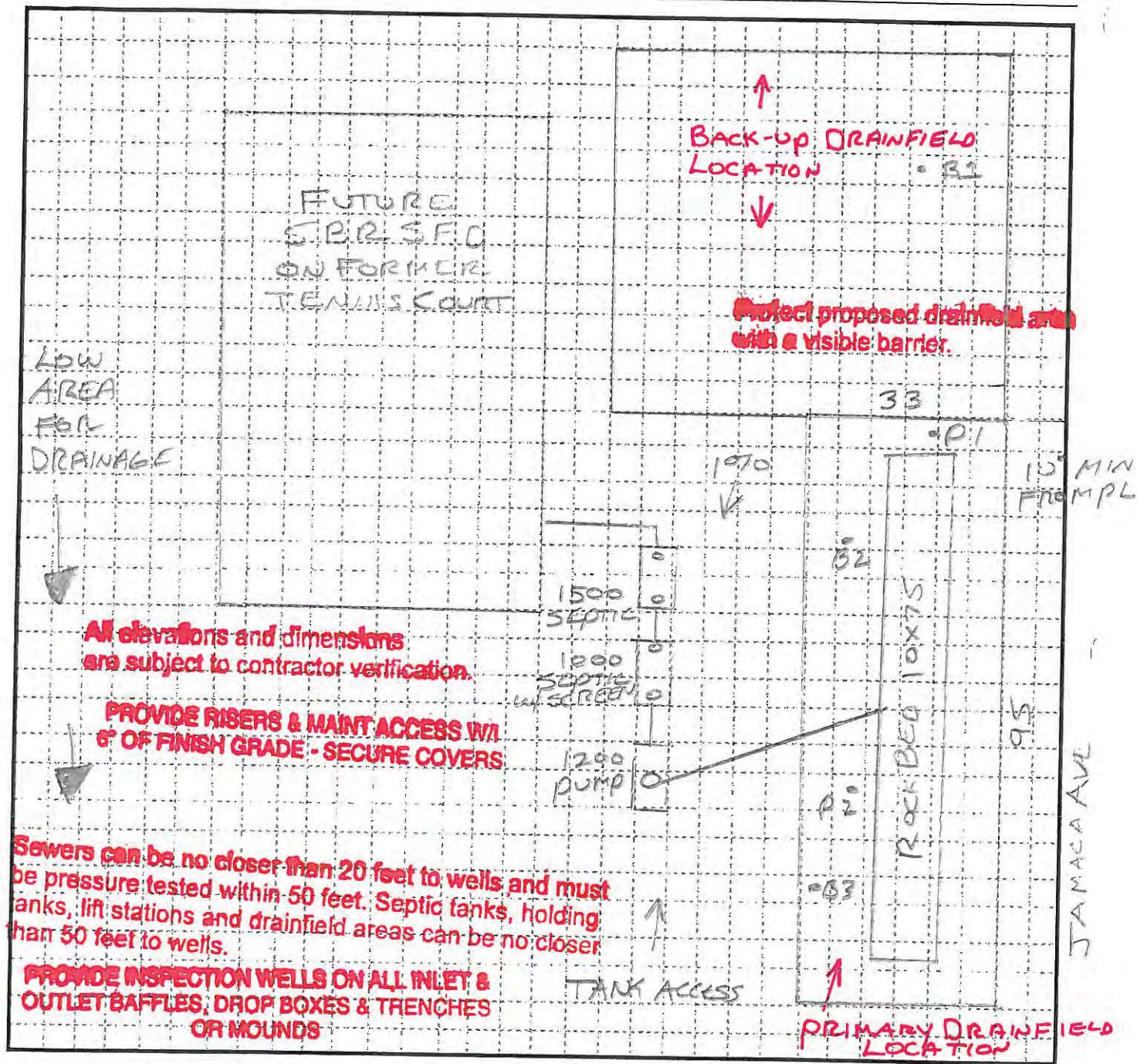
This system has been designed by a Pollution Control Agency (PCA) Certified Professional.	
Designer Name	TOM TROOEN
PCA Certification #	1568
Address	12020 SQUARE LAKE TR. STILLWATER MN 55080
Phone #	612-594-4496
Signature	Tom Trooen
Date	8-11-12



Site Evaluation Map Date 8-11-12 Site Evaluator TOM TROOEN

Legal location and directions to lot \_\_\_\_\_

Any surface signs of compaction? \_\_\_\_\_



### Mapping Checklist

Map scale: 1:25

Lot dimensions: JANE ROAD

Indicate north ↑

Locate dwelling \_\_\_\_\_

and other improvements \_\_\_\_\_

Locate existing and/or proposed system, \_\_\_\_\_ replacement area, \_\_\_\_\_ unsuitable areas \_\_\_\_\_

Indicate easements: phone \_\_\_\_\_ electric \_\_\_\_\_ gas \_\_\_\_\_ Show slope: \_\_\_\_\_% direction \_\_\_\_\_

Indicate setbacks: building 20' \_\_\_\_\_ property lines 10' \_\_\_\_\_ water well 100'/50' \_\_\_\_\_

water suction pipe 50' \_\_\_\_\_ pressure pipe 10' \_\_\_\_\_ streams, lakes, rivers 50'/75'/100' \_\_\_\_\_

Locate borings, perc tests, indicating elevation, \_\_\_\_\_ horizontal and vertical reference points \_\_\_\_\_

Is proposed location staked? \_\_\_\_\_ Accessible for pumping? \_\_\_\_\_



# MOUND DESIGN WORKSHEET

(For Flows up to 1200 gpd)

## A. FLOW

Estimated 750 gpd  
or measured \_\_\_\_\_ x 1.5 = \_\_\_\_\_ gpd.

Estimated Sewage Flows in Gallons per day (gpd)

Number of Bedrooms	Type I	Type II	Type III	Type IV
2	300	225	180	60% of the values in Type I, II or III columns
3	450	300	218	
4	600	375	256	
5	750	450	294	
6	900	525	332	
7	1050	600	370	
8	1200	675	408	

## B. SEPTIC TANK LIQUID VOLUMES

1500 gallons + 1000

## C. SOILS (refer to site evaluation)

- Depth to restricting layer = 29 inches \_\_\_\_\_ feet
- Depth of percolation tests = 12 inches
- Texture SILT LOAM Percolation rate 16-30 mpi
- Land slope 1 %

Septic Tank Capacities (in gallons)

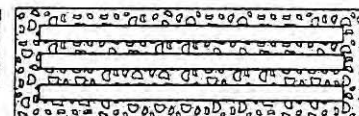
Number of Bedrooms	Minimum Liquid Capacity	Liquid capacity with garbage disposal
2 or less	750	1125
3 or 4	1000	1500
5 or 6	1500	2250
7, 8 or 9	2000	3000

## D. ROCK LAYER DIMENSIONS

- Multiply flow rate by 0.83 to obtain required area of rock layer:  $A \times 0.83 =$   
750 gpd x 0.83 sq. ft./gpd = 750 sq. ft.
- Select width of rock layer (max 10' if <120 mpi max 5') = 10 ft.
- Length of rock layer = area ÷ width =  
750 sq. ft. ÷ 10 ft. = 75 ft.



Width 10 ft  
<120mpi <10'  
>120mpi <5'



Length 75 ft

## E. ROCK VOLUME

- Multiply rock area by rock depth to get cubic feet of rock; 750 sq. ft. x 1 ft. = 750 cu. ft.
- Divide cu. ft. by 27 cu. ft./cu. yd. to get cubic yards;  
750 cu. ft. ÷ 27 = 28 cu. yd.
- Multiply cubic yards by 1.4 to get weight of rock in tons; 28 cu. yd. x 1.4 ton/cu. yd. = 39 tons.

## F. ABSORPTION WIDTH

- Percolation rate in top 12 inches of soil is 16-30 mpi  
Texture SILT LOAM
- Select allowable soil loading rate from table;  
.60 gpd/ft<sup>2</sup>
- Calculate adsorption width ratio by dividing rock layer

Absorption Width Sizing Table

Percolation Rate in Minutes per Inch (MPI)	Soil Texture	Gallons per day per square foot	Ratio of Adsorption width to Rock Layer Width
Faster than 0.1	Coarse Sand	1.20	1.00
0.1 to 0.5	Sand	1.20	1.00
0.1 to 0.5	Fine Sand	0.60	2.00
6 to 15	Sandy Loam	0.79	1.52
<u>16 to 30</u>	Loam	<u>0.60</u>	<u>2.00</u>
31 to 45	Silt Loam	0.50	2.40
46 to 60	Clay Loam	0.45	2.67
60 to 120	Clay	0.24	5.00
Slower than 120	Clay	0.20	6.00

loading rate of 1.20 gpd/ft<sup>2</sup> by allowable soil loading rate;

$$1.20 \text{ gpd/ft}^2 \div \underline{.60} \text{ gpd/ft}^2 = \underline{2.00}$$

- Multiply adsorption width ratio by rock layer width to get required adsorption width;

$$\underline{10} \times \underline{2.00} \text{ ft} = \underline{20} \text{ ft}$$



## G. MOUND SLOPE WIDTH & LENGTH (landslope 1% or more)

1. Subtract rock layer width from absorption width  
to obtain minimum downslope width

$$20 \text{ ft} - 10 \text{ ft} = 10 \text{ feet}$$

2. Calculate minimum mound size

a. Determine depth of clean sand fill at upslope edge of rock layer:

$$\text{Separation } 3' - 2 \text{ ft} = 1 \text{ foot}$$

b. Add depth of clean sand for separation (2a) at upslope edge, depth of rock layer (1 foot) to depth of cover (1 foot) to find the mound height at the upslope edge of rock layer;

$$1 \text{ ft} + 1 \text{ ft} + 1 \text{ ft} = 3 \text{ feet}$$

c. Enter table with landslope and upslope ratio. Select berm multiplier of 3.85

d. Multiply berm multiplier by upslope mound height to find upslope width:

$$3 \times 3.85 = 12 \text{ feet}$$

e. Multiply rock layer width by landslope to determine drop in elevation;

$$10 \times 1\% \div 100 = .1 \text{ feet}$$

f. Add depth of clean sand for slope difference (2e) at downslope rock edge, to the mound height at the upslope edge of rock layer (2b) to find the downslope mound height;

$$3 \text{ ft} + .1 \text{ ft} = 3.1 \text{ feet}$$

g. Enter table with landslope and downslope ratio. Select downslope multiplier of 4.17

h. Multiply downslope multiplier by downslope mound height to get downslope width:

$$3.1 \times 4.17 = 13 \text{ feet}$$

i. Compare the values of step G.1 10 and Step G.2h 13

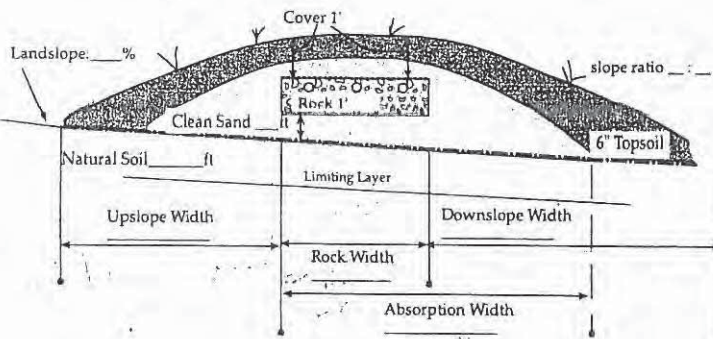
Select the greater of the two values as the downslope width: 13 feet

j. Total mound width is the sum of upslope (G.2d) width plus rock layer width (D.2) plus downslope width (G.2i);

$$10 \text{ ft} + 10 \text{ ft} + 13 \text{ ft} = 33 \text{ feet}$$

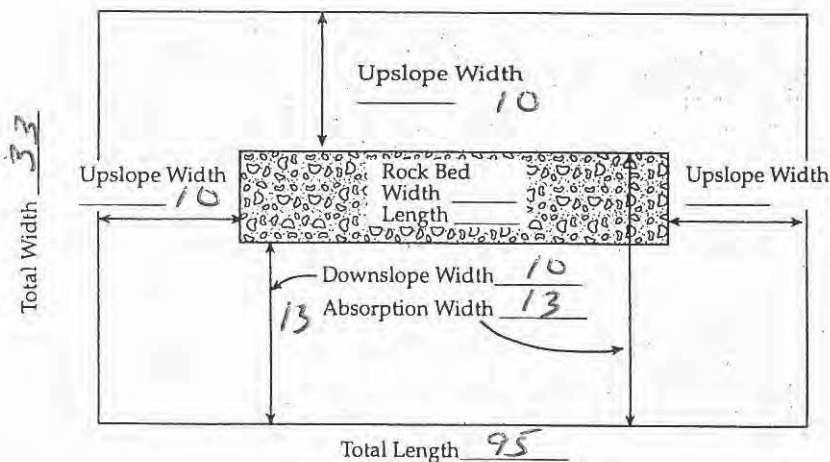
k. Total mound length is the sum of upslope width (G.2d) plus rock layer length (D.3) plus upslope width (G.2d);

$$10 \text{ ft} + 10 \text{ ft} + 75 \text{ ft} = 95 \text{ feet}$$



SLOPE MULTIPLIER TABLE

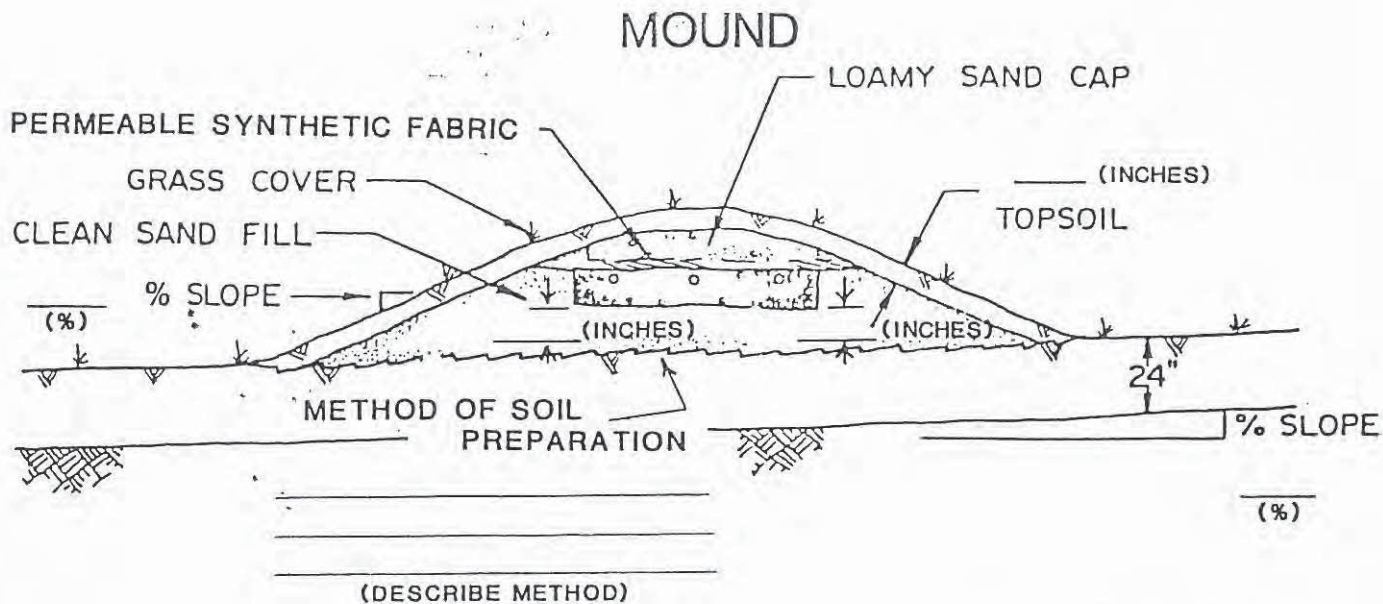
Land Slope, in %	UPSLOPE multipliers for various slope ratios						DOWNSLOPE multipliers for various slope ratios					
	3:1	4:1	5:1	6:1	7:1	8:1	3:1	4:1	5:1	6:1	7:1	
0	3.0	4.0	5.0	6.0	7.0	8.0	3.0	4.0	5.0	6.0	7.0	
1	2.91	3.85	4.76	5.66	6.54	7.41	3.09	4.17	5.26	6.38	7.53	
2	2.83	3.70	4.54	5.36	6.14	6.90	3.19	4.35	5.56	6.82	8.14	
3	2.75	3.57	4.35	5.08	5.79	6.45	3.30	4.54	5.88	7.32	8.86	
4	2.68	3.45	4.17	4.84	5.46	6.06	3.41	4.76	6.25	7.89	9.72	
5	2.61	3.33	4.00	4.62	5.19	5.71	3.53	5.00	6.67	8.57	10.77	
6	2.54	3.23	3.85	4.41	4.93	5.41	3.66	5.26	7.14	9.38	12.07	
7	2.48	3.12	3.70	4.23	4.70	5.13	3.80	5.56	7.69	10.34	13.73	
8	2.42	3.03	3.57	4.05	4.49	4.88	3.95	5.88	8.33	11.54	15.91	
9	2.36	2.94	3.45	3.90	4.30	4.65	4.11	6.25	9.09	13.04	18.92	
10	2.31	2.86	3.33	3.75	4.12	4.44	4.29	6.67	10.00	15.00	23.3	
11	2.26	2.78	3.23	3.61	3.95	4.26	4.48	7.14	11.11	17.65	30.	
12	2.21	2.70	3.12	3.49	3.80	4.08	4.69	7.69	12.50	21.43	43.75	



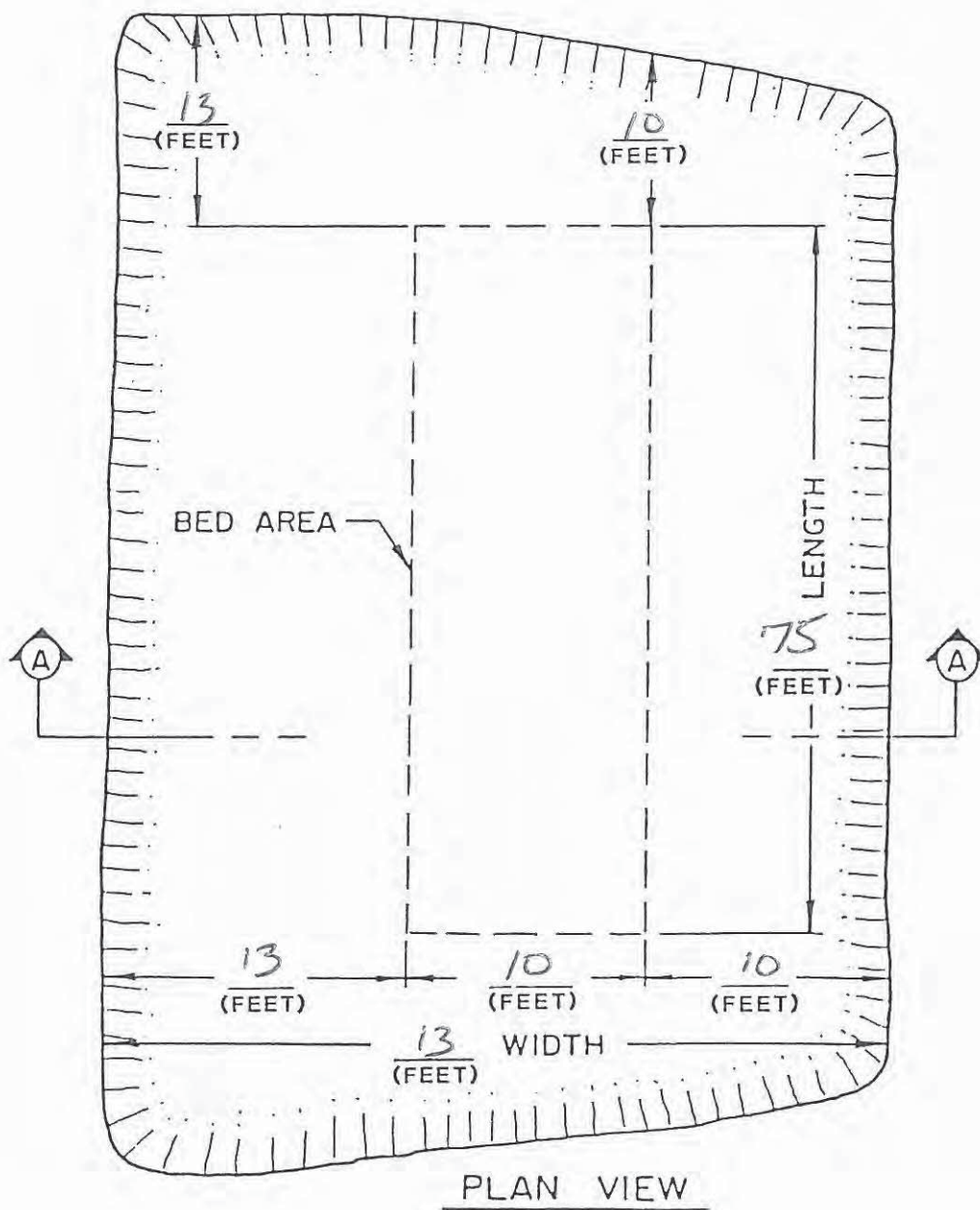
**Final Dimensions:**

$$33 \times 95$$





**CROSS SECTION A-A**





Test hole location P1 Hole # \_\_\_\_\_

TIME	INTERVAL (MINUTES)	WATER DEPTH	WATER DROP (fraction)	WATER DROP (decimal)	PERC RATE CALCULATION
<u>12:45</u> <u>1:15</u>	START 30	<u>8</u> <u>6 1/4</u>	<u>1 3/4</u>	<u>1.75</u>	$\frac{30}{\text{TIME}} \div \frac{\text{DROP}}{(\text{Decimal})} = \frac{17}{\text{PERC}}$ <b>A</b>
<u>1:15</u> <u>1:45</u>	REFILL 30	<u>8</u> <u>6 3/4</u>	<u>1 13/16</u>	<u>1.81</u>	$\frac{30}{\text{TIME}} \div \frac{\text{DROP}}{(\text{Decimal})} = \frac{17}{\text{PERC}}$ <b>B</b>
<u>1:45</u> <u>2:15</u>	REFILL 30	<u>8</u> <u>6 3/8</u>	<u>1 5/8</u>	<u>1.63</u>	$\frac{30}{\text{TIME}} \div \frac{\text{DROP}}{(\text{Decimal})} = \frac{18}{\text{PERC}}$ <b>C</b>
_____ _____	REFILL _____	_____ _____	_____	_____	$\frac{\text{TIME}}{\text{TIME}} \div \frac{\text{DROP}}{(\text{Decimal})} = \frac{\text{PERC}}{\text{PERC}}$ <b>D</b>
_____ _____	REFILL _____	_____ _____	_____	_____	$\frac{\text{TIME}}{\text{TIME}} \div \frac{\text{DROP}}{(\text{Decimal})} = \frac{\text{PERC}}{\text{PERC}}$ <b>E</b>
_____ _____	REFILL _____	_____ _____	_____	_____	$\frac{\text{TIME}}{\text{TIME}} \div \frac{\text{DROP}}{(\text{Decimal})} = \frac{\text{PERC}}{\text{PERC}}$ <b>F</b>
_____ _____	REFILL _____	_____ _____	_____	_____	$\frac{\text{TIME}}{\text{TIME}} \div \frac{\text{DROP}}{(\text{Decimal})} = \frac{\text{PERC}}{\text{PERC}}$ <b>G</b>
_____ _____	REFILL _____	_____ _____	_____	_____	$\frac{\text{TIME}}{\text{TIME}} \div \frac{\text{DROP}}{(\text{Decimal})} = \frac{\text{PERC}}{\text{PERC}}$ <b>H</b>

conversion  
 1/16 = .06  
 1/8 = .13  
 3/16 = .19  
 1/4 = .25  
 5/16 = .31  
 3/8 = .38  
 7/16 = .44  
 1/2 = .5  
 9/16 = .56  
 5/8 = .63  
 11/16 = .69  
 3/4 = .75  
 13/16 = .81  
 7/8 = .88  
 15/16 = .94

P2

TIME	INTERVAL (MINUTES)	WATER DEPTH	WATER DROP (fraction)	WATER DROP (decimal)	PERC RATE CALCULATION
<u>12:50</u> <u>1:20</u>	START 30	<u>8</u> <u>6 1/8</u>	<u>1 7/8</u>	<u>1.88</u>	$\frac{30}{\text{TIME}} \div \frac{\text{DROP}}{(\text{Decimal})} = \frac{16}{\text{PERC}}$ <b>A</b>
<u>1:20</u> <u>1:50</u>	REFILL 30	<u>8</u> <u>6 1/4</u>	<u>1 3/4</u>	<u>1.75</u>	$\frac{30}{\text{TIME}} \div \frac{\text{DROP}}{(\text{Decimal})} = \frac{17}{\text{PERC}}$ <b>B</b>
<u>1:50</u> <u>2:20</u>	REFILL 30	<u>8</u> <u>6 1/2</u>	<u>1 1/2</u>	<u>1.5</u>	$\frac{30}{\text{TIME}} \div \frac{\text{DROP}}{(\text{Decimal})} = \frac{20}{\text{PERC}}$ <b>C</b>
_____ _____	REFILL _____	_____ _____	_____	_____	$\frac{\text{TIME}}{\text{TIME}} \div \frac{\text{DROP}}{(\text{Decimal})} = \frac{\text{PERC}}{\text{PERC}}$ <b>D</b>
_____ _____	REFILL _____	_____ _____	_____	_____	$\frac{\text{TIME}}{\text{TIME}} \div \frac{\text{DROP}}{(\text{Decimal})} = \frac{\text{PERC}}{\text{PERC}}$ <b>E</b>
_____ _____	REFILL _____	_____ _____	_____	_____	$\frac{\text{TIME}}{\text{TIME}} \div \frac{\text{DROP}}{(\text{Decimal})} = \frac{\text{PERC}}{\text{PERC}}$ <b>F</b>
_____ _____	REFILL _____	_____ _____	_____	_____	$\frac{\text{TIME}}{\text{TIME}} \div \frac{\text{DROP}}{(\text{Decimal})} = \frac{\text{PERC}}{\text{PERC}}$ <b>G</b>
_____ _____	REFILL _____	_____ _____	_____	_____	$\frac{\text{TIME}}{\text{TIME}} \div \frac{\text{DROP}}{(\text{Decimal})} = \frac{\text{PERC}}{\text{PERC}}$ <b>H</b>

conversion:  
 1/16 = .06  
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 1/4 = .25  
 5/16 = .31  
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 9/16 = .56  
 5/8 = .63  
 11/16 = .69  
 3/4 = .75  
 13/16 = .81  
 7/8 = .88  
 15/16 = .94



Date: 8-11-12Project Location: 49XX JAMACA AVE LAKE ELMO, MN 55042

Client: \_\_\_\_\_

Borings made by: \_\_\_\_\_

Address: \_\_\_\_\_

TOM TROOEN1568

City \_\_\_\_\_

State \_\_\_\_\_

Zip \_\_\_\_\_

Lic. # \_\_\_\_\_

Boring method: Auger ☒ Pit ☐ Probe ☐ Other \_\_\_\_\_Color classification system: ☒ Munsell ☐ Other \_\_\_\_\_Boring Number B1

Surface Elevation \_\_\_\_\_

Soil type at system depth: \_\_\_\_\_

Boring Number B2

Surface Elevation \_\_\_\_\_

Soil type at system depth: \_\_\_\_\_

Depth (Feet)	Texture	Color	Depth (Feet)	Texture	Color
7"	LOAMY TOPSOIL	10YR 3/2	6"	LOAMY TOPSOIL	10YR 3/2
1	FINE SILT LOAM	10YR 4/6	1	FINE SILT LOAM	10YR 4/6
2			2		
3			3		
43"			38"	SANDY SILT LOAM	7.5YR 5/6
4	SANDY SILT LOAM	7.5YR 5/6	46"		
5			5		
6			6		
60"			7		
7					

Slope: 1 %End of boring at 6 feet.Standing water table: yes ☐ no ☒Present at \_\_\_\_\_ feet of depth,  
\_\_\_\_\_ hours after boring.Mottled soil: MOTTLES @ 52"

Observed at \_\_\_\_\_ feet of depth.

Not present in boring hole \_\_\_\_\_

Observations and comments:

Slope: 1 %End of boring at 46" feet.Standing water table: yes ☐ no ☒Present at \_\_\_\_\_ feet of depth,  
\_\_\_\_\_ hours after boring.Mottled soil: MOTTLES @ 40"

Observed at \_\_\_\_\_ feet of depth.

Not present in boring hole \_\_\_\_\_

Observations and comments:

# Soil Boring Log

Date: \_\_\_\_\_

## Project Location:

Client: \_\_\_\_\_ Borings made by: \_\_\_\_\_  
 Address: \_\_\_\_\_

City \_\_\_\_\_

State \_\_\_\_\_

Zip \_\_\_\_\_

Lic. # \_\_\_\_\_

Boring method: Auger \_\_\_\_\_ Pit \_\_\_\_\_ Probe \_\_\_\_\_ Other \_\_\_\_\_

Color classification system: Munsell \_\_\_\_\_ Other \_\_\_\_\_

Boring Number B3  
 Surface Elevation \_\_\_\_\_  
 Soil type at system depth: \_\_\_\_\_

Boring Number \_\_\_\_\_  
 Surface Elevation \_\_\_\_\_  
 Soil type at system depth: \_\_\_\_\_

Depth (Feet)	Texture	Color	Depth (Feet)	Texture	Color
—	LOAM/TOPSOIL	10YR 3/2	—		
1 —	FINE SILT LOAM	10YR 5/6	1 —		
—			—		
2 —			2 —		
—	SAND/SILT LOAM	7.5YR 4/6	—		
3 —			3 —		
—			—		
4 —			4 —		
—			—		
5 —			5 —		
—			—		
6 —			6 —		
—			—		
7 —			7 —		

Slope: 1 %  
 End of boring at 38" ~~feet~~

Standing water table: yes ☒ no  
 Present at \_\_\_\_\_ feet of depth,  
 \_\_\_\_\_ hours after boring.

Mottled soil: MOTTLES @ 29"  
 Observed at \_\_\_\_\_ feet of depth.  
 Not present in boring hole \_\_\_\_\_  
 Observations and comments:

Slope: \_\_\_\_\_ %  
 End of boring at \_\_\_\_\_ feet.

Standing water table: yes ☐ no  
 Present at \_\_\_\_\_ feet of depth,  
 \_\_\_\_\_ hours after boring.

Mottled soil:  
 Observed at \_\_\_\_\_ feet of depth.  
 Not present in boring hole \_\_\_\_\_  
 Observations and comments:



## Sizing of Pump Station

## 1. Determine Surface Area

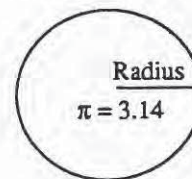
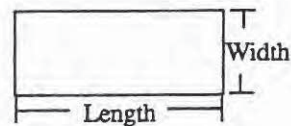
Rectangle = Area = L x W

$$\underline{5} \times \underline{10} = \underline{50} \text{ square feet}$$

Circle = Area =  $\pi \times (\text{Radius})^2$ 

$$3.14 \times \underline{\quad} \times \underline{\quad} = \underline{\quad} \text{ square feet}$$

Other = Get Surface Area from Manufacturer

         square feet

## 2. Calculate Gallons Per Inch

There are 7.5 gallons per cubic foot of volume, therefore you must multiply the area times the conversion factor and divide by 12 inches per foot to calculate gallons per inch

Area x 7.5 + 12

$$\underline{50} \times 7.5 + 12 = \underline{31} \text{ gallons/inch}$$

## 3. Calculate Gallons to Cover Pump (with 2 inches of water covering pump)

(Height (in) + 2 inches) x gallons/inch

$$(\underline{10} + \underline{2}) \times \underline{31} = \underline{370} \text{ gallons}$$

## 4. Calculate Total Pumpout Volume

A. To maximize pump life select sump size for 4 to 5 pump operations per day.

$$\underline{750} \text{ gpd} \div \underline{5} = \underline{150} \text{ gallons per dose}$$

B. Calculate drainback

a. Determine total pipe length, 50 feet.b. Determine liquid volume of pipe, 10 gallons per 100 feet. (see page F-13)

c. Multiply length by volume: Drainback quantity =

$$\underline{50} \text{ feet} \times \underline{10} \text{ gallons} + 100 \text{ ft.} = \underline{5} \text{ gallons.}$$

C. Total pump out volume equals dose volume + drainback

$$\underline{150} \text{ gallons per dose} + \underline{5} \text{ gallons} = \underline{155} \text{ Total gallons}$$

Estimated Sewage Flow in Gallons per Day (gpd)				
Number of Bedrooms	Type I	Type II	Type III	Type IV
2	300	225	180	60% of the volume in this column
3	450	300	218	
4	600	375	256	
5	750	450	294	
6	900	525	332	
7	1050	600	370	
8	1200	675	408	

Pipe diameter (inches)	Gallons per 100 feet
1	4.49
1.25	7.77
1.5	10.58
2	17.43
2.5	24.87
3	38.4
4	66.1

## 5. Calculate Volume for Alarm (typically 2 to 3 inches)

Depth (in) x gallons/inch =

$$\underline{31} \times \underline{2} = \underline{62} \text{ gallons}$$

## 6. Calculate Reserve Capacity (75% the daily flow)

Daily flow (see page D-7) x .75 =

$$\underline{750} \times .75 = \underline{560} \text{ gallons}$$

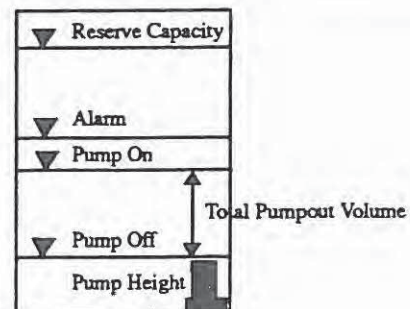
## 7. Calculate total gallons

gallons over pump + gallons pumpout + gallons alarm + gallons reserve

$$3 + 4 + 5 + 6$$

$$\underline{370} + \underline{155} + \underline{62} + \underline{560} = \underline{1147} \text{ gallons}$$

USE AT  
1200 GALLON PUMPTANK



## 8. Total Depth (Total gallon divided by gallon per inch)

Total Gallon ÷ gallon/inch

$$\underline{\quad} \div \underline{\quad} = \underline{\quad} \text{ inches}$$

## 9. Float Separation Distance (equal total pumpout volume)

Total pumpout volume ÷ gallons/inch

$$\underline{155} \div \underline{31} = \underline{5} \text{ inches}$$



# PUMP SELECTION PROCEDURE

## A. Determine pump capacity: gravity distribution

- Minimum required discharge is 10 gpm
- Maximum suggested discharge is 45 gpm

## pressure distribution

see pressure design worksheet

Selected pump capacity: 30 gpm

Perforation Discharges in gpm				
head (feet)	perforation diameter (inches)			
	1/8*	3/16	7/32	1/4
1.0 <sup>a</sup>	0.18	0.42	0.56	0.74
2.0 <sup>b</sup>	0.26	0.59	0.80	1.04
5.0	0.41	0.94	1.26	1.65

<sup>a</sup> Use 1.0 foot for single-family homes.  
<sup>b</sup> Use 2.0 feet for anything else.  
 \* Potential for plugging

## B. Determine head requirements:

- Elevation difference between pump and point of discharge.

8 ± feet

- Special head requirement:

If pumping to a pressure distribution system, five feet for pressure required at manifold. If gravity system, zero. 5 feet

- Friction loss

a. Enter friction loss table with gpm and pipe diameter.

Read friction loss in feet per 100 feet from table.

F.L. = 1.55 ft./100 ft of pipe

b. Determine total pipe length from pump to discharge point. Estimate by adding 25 percent to pipe length for fitting loss. Equivalent pipe length times 1.25 = total pipe length

50 x 1.25 = 62.5 feet

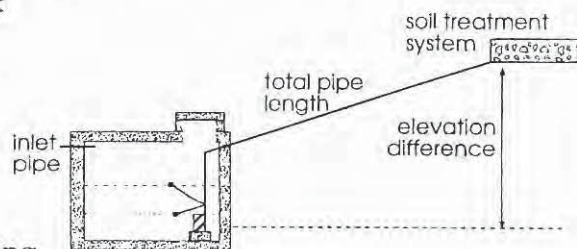
c. Calculate total friction loss by multiplying friction loss in ft/100 ft by equivalent pipe length.

Total friction loss = 62.5 x 1.55 ÷ 100 = 1 feet

- Total head required is the sum of elevation difference, special head requirements, and total friction loss.

8 + 5 + 1 (1) (2) (3c)

Total head: 14 feet



Friction Loss in Plastic Pipe Per 100 feet			
flow rate gpm	nominal pipe diameter		
	1.5"	2"	3"
20	2.47	0.73	0.11
25	3.73	1.11	0.16
30	5.23	1.55	0.23
35	6.96	2.06	0.30
40	8.91	2.64	0.39
45	11.07	3.28	0.48
50	13.46	3.99	0.58
55		4.76	0.70
60		5.60	0.82
65		6.48	0.95
70		7.44	1.09

## C. Pump selection

- A pump must be selected to deliver at least 30 gpm (Step A) with at least 14 feet of total head (Step B).



**Table III Minimum Setback Distances (Feet)**

<b>Feature</b>	<b>Sewage Tank</b>	<b>Soil Treatment Area</b>
Water Supply Well less than 50 feet deep and not encountering at least ten feet of impervious material.	50	100
Any other water supply well or buried water suction pipe	50	50
Buried pipe distributing water under pressure	10	10
Occupied buildings and buildings with basements or crawl spaces	10	20
Non-occupied structures	5	10
Property lines	10*	10*
Above ground swimming pools	10	10
In ground swimming pools	10	10
<b>The Ordinary High Water Mark of:</b>		
Natural Environment Lakes and Streams	150*	150*
Recreation Development Lakes and Streams	75*	75*
General Development Lakes and Streams	75*	75*
All unclassified waters	75*	75*
St. Croix River Rural Districts	150*	150*
St. Croix River Urban Districts	100*	100*
<b>Blufflines:</b>		
St. Croix River Blufflines	40*	40*
Shoreland Blufflines	20*	20*



PLANNING COMMISSION  
DATE: 3/24/14  
AGENDA ITEM: 4B – PUBLIC HEARING  
CASE # 2014-08

ITEM: Horning Lot Size Variance – Krause’s Addition, Lot 9  
SUBMITTED BY: Kyle Klatt, Community Development Director  
REVIEWED BY: Nick Johnson, City Planner

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### SUMMARY AND ACTION REQUESTED:

The Planning Commission is being asked to consider a request from Suzanne Horning (as Trustee of the Suzanne R.W. Horning Trust) for a variance that would classify Lot 9 of Krause’s Addition to Lake Elmo as a buildable lot. The lot currently does not meet the City’s minimum lot size for a lot of record in a RS – Rural Single Family Residential Zoning District. The applicant has also requested a variance from Section 154.017 of the Zoning Ordinance, which states that any variance granted by the City “shall expire if work does not commence within 12 months of the date of the granting of the variance. The applicant has asked that the 12-month time limit be waived for this request.

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### GENERAL INFORMATION

*Applicant:* Briggs and Morgan (Christine Cirilli), 2200 IDS Center, 80 South 8<sup>th</sup> Street, Minneapolis, MN acting on behalf of:  
Suzanne Horning (Trustee), 8991 Jane Road North  
*Property Owners:* Suzanne and Robert Horning Trust, 8991 Jane Road North  
*Location:* Lot 9 of Krause’s Addition to Lake Elmo. PID Number 09.029.21.11.0015  
*Request:* Variance – Lot Size and Time Limit for Completion  
*Existing Land Use:* Vacant parcel, prior recreation use (tennis courts) accessory to 8991 Jane Road North  
*Existing Zoning:* RS – Rural Single Family  
*Surrounding Land Use:* Single family residential  
*Surrounding Zoning:* RS – Rural Single Family  
*Comprehensive Plan:* Rural Single Family  
*Proposed Zoning:* No Change  
*History:* Krause’s Addition was platted in 1963. The home at 8991 Jane Road North (across the street and also owned by the applicant) was constructed in 1979. The City granted a lot size variance for the subject property in 1985, but no home was ever



built on the site. A permit to install a tennis court on the subject property was approved later in 1985.

*Deadline for Action:*           Application Complete – 2/3/14  
   60 Day Deadline – 4/3/14  
   Extension Letter Mailed – No  
   120 Day Deadline – 6/3/14

*Applicable Regulations:*   154.450 – RS – Rural Single Family Residential Zoning District  
   154.109 – Variances (Administration and Enforcement)  
   150.250 – Shoreland Overlay District

## **REQUEST DETAILS**

The City of Lake Elmo has received a request from Briggs and Morgan, PA acting on behalf of Suzanne Horning, for a variance from the minimum lot size requirements in the RS – Rural Single Family Residential zoning district. The application also includes a request for the City to waive the one-year deadline for completion of the work proposed under the variance. In this case, the applicant has requested that the variance be granted without a deadline so that a home could be built on the lot at an unspecified time in the future. The applicant is therefore not proposing to construct any buildings on the property, and is instead seeking a variance to classify the lot as a buildable parcel in advance of any specific building plans for the property.

The lot under consideration is 0.785 acres (34,195 square feet) in size and the minimum lot size within the RS – Rural Single Family Residential zoning district is 1.5 acres. As an existing lot of record, otherwise known as a lot that was platted prior to the City's zoning regulations becoming effective, this property would be considered buildable if it met 60% of the district's minimum lot size. The applicant would therefore need at least 0.9 acres (39,204 square feet) for this lot to be considered buildable under the current zoning regulations.

The site is currently occupied by a tennis court that was built in the mid-1980's, and has served as an accessory use to the home located at 8991 Jane Road North. Should the variance be approved, the applicant intends to convey the lot to her children as a buildable lot, although she has not provided any specific time frame for a home to be constructed. The application materials include a septic system analysis documenting that a system compliant with Washington County septic regulations may be constructed on the property. For the purposes of this report, the septic designer assumed that a new home would be built on the same area presently occupied by the tennis court.

In addition to the above-referenced septic report, the applicant has provided a detailed project narrative with an analysis of the required variance findings. The applicant has also provided a detailed survey of the lot showing the existing topography, drainage patterns, tree cover, and improvements that are currently situated on the property. There are no specific site development plans, and any future construction on this property will need to comply with the City's zoning and subdivision requirements (with the exception of minimum lot size should the variance be granted).

## **BACKGROUND**

The lot that is the subject of the variance request is part of Krause's Addition to the City of Lake Elmo, which was platted in 1963 when this area was still part of East Oakdale Township. The attached copy of the plat shows that the lot is the same size as it was when originally subdivided. It

likely would have been considered buildable up to the incorporation of the area into the City of Lake Elmo and the adoption of City zoning regulations in the late 1970's. The home at 8991 Jane Road North was constructed in 1979, and it appears that this property (Lot 7) and the subject property (Lot 9) have been under common ownership since at least this time. In June of 1985, a previous owner applied for and was granted a variance by the City to grant Lot 9 status as a buildable lot. It appears that this action was taken in response to the City's adoption of the 1.5-acre minimum lot size for single-family residential lots in this neighborhood. No home was ever constructed after the granting of the variance, and a tennis court was installed on the property later in 1985.

As noted in the application materials, the present owner acquired the property sometime in 1985. It appears that the property transfer occurred after the construction of the tennis court. Additionally, the applicant has described that City assessed the subject property as a buildable lot in 1985 for a City project. Based on this information, it does appear that the City would have considered the lot to be a buildable lot at the time the property was purchased by the applicant. The applicant has also pointed out that the property has been assessed as a buildable lot the entire time that they have owned it.

When the City was planning for the reconstruction of Jane Road North in 2012, the Planning Department was asked to review the assessment rolls for the project and to identify vacant, buildable parcels that would need to pay an assessment. Lot 9 of Krause's Addition was not deemed buildable because it does not meet the 60% size requirement referenced above. Because the current Zoning Regulations include a one-year time limitation concerning the time frame for construction of projects subject to a variance, it is Staff's opinion that the 60% requirement does apply in this situation. The applicant has therefore submitted a variance request in order to re-classify this property as a buildable lot.

The applicant's parcel is situated at the intersection of Jamaca Avenue North and Jane Road North, and is approximately 230 feet north of Lake Jane. Other than a tennis court, there have been no other improvements constructed on the site. There is a fairly heavy amount of tree cover surrounding the tennis court around the periphery of the lot. All of the surrounding lots are occupied by single family residential homes. In general, the properties to the north and west are larger lots (1.5 acres), while the properties to the south and east are smaller lots (generally under 1 acre). In particular, there is a cluster of homes along the northern edge of Lake Jane that are very similar in size, and sometimes smaller, than the applicant's parcel.

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## PLANNING AND ZONING ISSUES

In reviewing the applicable codes that apply to the subject property, Staff would like the Planning Commission to consider the following as it reviews this request:

- **RS District Setbacks.** Any new construction on the lot will need to comply with all required setbacks for the RS District. The portion of the lot that abuts Jamaca Avenue North is considered the front property line, and is therefore subject to a slightly larger setback.
- **Driveway Access.** Although the City Code does not include any restrictions on the location of a driveway on the property, Staff is recommending that any future driveway access Jane Road North instead of Jamaca Avenue North, since the latter is the less traveled roadway in adjacent to the lot.



- **Impervious Coverage.** The RS District allows a maximum impervious coverage of 25% while the Shoreland Ordinance limits lot coverage to 15% or 6,000 square feet, whichever is greater. The tennis court currently occupies 7,395 square feet, which is 21.6% of the lot. At the time a new house is constructed on the property, the applicant will need to comply with the maximum impervious coverage allowed under the Shoreland Ordinance.
- **Shoreland Setbacks.** The lot is far enough away from Lake Jane that any new structure will be able to comply with structure and septic system setbacks.
- **Drainage Area.** There is an existing drainage area immediately to the west and to the northwest of the applicant's lot, and it appears that a portion of the drainage area is also located on this lot. While the adjacent Sprinborn's Green Acres plat includes a drainage easement over the adjacent lots, there is currently no such easement in place on the applicant's property. Staff is recommending that the applicant be required to provide a drainage easement over the portion of the lot that collects storm water runoff as a condition of approval and prior to the issuance of any building permits for the property.
- **Septic and Drainfield Areas.** The subject parcel is large enough to meet the City's minimum requirement of 20,000 square feet for a primary and secondary septic system site.
- **Surrounding Lots.** The neighboring lots within the public hearing notification area range in size from 11,424 square feet (0.26 acres) to 83,025 square feet (1.9 acres), and of these 13 lots, the average size is 41,592 square feet (0.95 acres).
- **Variance Expiration.** The City Code specifies that variances are valid one year from the date a variance is issued. If construction has not taken place within one year, the variance becomes void. While the applicant has requested a full waiver of this requirement, Staff is recommending that the City maintain a specific deadline for construction of a home on the parcel. Staff is suggesting five years as a reasonable expectation.

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## REVIEW AND ANALYSIS

An applicant must establish and demonstrate compliance with the variance criteria set forth in Lake Elmo City Code Section 154.017 before an exception or modification to city code requirements can be granted. These criteria are listed below, along with comments from Staff regarding applicability of these criteria to the applicant's request.

- 1) **Practical Difficulties.** A variance to the provision of this chapter may be granted by the Board of Adjustment upon the application by the owner of the affected property where the strict enforcement of this chapter would cause practical difficulties because of circumstances unique to the individual property under consideration and then only when it is demonstrated that such actions will be in keeping with the spirit and intent of this chapter. Definition of practical difficulties - "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.

Under this standard, the City would need to find that the classification of the subject parcel as a buildable lot is a reasonable use of the property not otherwise permitted under the zoning ordinance. In this instance, the property was originally platted as a buildable lot and there is evidence in the

City's records that the current owner purchased the property with the understanding that it was a buildable lot. Additionally, the lot is consistent in size with other parcels platted at the same time and that have subsequently been built upon. The property has direct access to a platted and improved street, and a house can be placed on the property in manner consistent with the surrounding homes. Concerning the time extension associated with the variance request, Staff is recommending that a 5-year deadline is a reasonable expectation for construction of a new home. Proposed findings related to this criterion are as follows:

**FINDINGS:** *That the proposed use is reasonable because the lot was platted as a buildable parcel and all other parcels of similar size have had houses constructed on them since the subdivision was approved. The property is very close to meeting the required 0.9 acre minimum lot size requirement, and construction of a home on this lot will not be any more obstructive than structures built on lots meeting the 0.9 acre requirement. The applicant also purchased the lot at the time it was a buildable parcel, and the continued use of the property for a tennis court is not reasonable given the separation of this parcel by road right-of-way from any others under common ownership. The applicant has demonstrated the ability to install a compliant septic system on the property. A five year deadline for construction of a home on the property is a reasonable period of time for this work to be completed.*

- 2) **Unique Circumstances.** The plight of the landowner is due to circumstances unique to the property not created by the landowner.

In order to demonstrate compliance with this standard, the Planning Commission would need to identify those aspects of the applicant's property that would not pertain to other properties within the same zoning classification. In this case, the lot was platted as a buildable lot within an older subdivision. Other properties in the area were platted at a later date and under a different set of regulations. The property owner also purchased the lot as a buildable lot, and the site has been assessed as such for the past 25 years. Again, Staff is suggesting some findings that could be considered by the Planning Commission as follows:

**FINDINGS:** *That the applicant's property is unique due to former platting of this property as a buildable lot and continued classification of the property as buildable since the lot was subdivided. The applicant purchased the property with the understanding that a house could someday be built on the property, and City records indicate that the lot was indeed buildable at the time of purchase. Other homes on neighboring smaller lots were constructed prior to the adoption of the City's zoning regulations.*

- 3) **Character of Locality.** The proposed variance will not alter the essential character of the locality in which the property in question is located.

A formal set of findings related to this standard is suggested as follows:

**FINDINGS:** *The applicant's lot is larger than many of the lots in the surrounding neighborhood and is close to the minimum size needed to be considered buildable. The lot is of sufficient size to allow the installation of a compliant septic system and to allow the placement of a home on the parcel consistent with neighboring structures.*

- 4) **Adjacent Properties and Traffic.** The proposed variance will not impair an adequate supply of light and air to property adjacent to the property in question or substantially increase the congestion of the public streets or substantially diminish or impair property values within the neighborhood.

Propose findings for this criterion are as follows:



**FINDINGS.** *No impacts above and beyond those considered normal for any other single-family lot in the surrounding neighborhood would be expected should the variance be granted.*

Please note that the applicant has also provided a set of findings as part of the attached narrative and supporting documentation included with the application.

Considering the potential findings of fact as suggested in the preceding section, Staff is recommending approval of the variance request based on the findings noted in items 1-4 above and with conditions of approval related to the drainage area on the site, the location of the driveway access, and the time limit for the expiration of the variance.

## **DRAFT FINDINGS**

Please refer to the comments in the previous section. Staff will be reviewing these findings with the Commission at its meeting.

## **RECCOMENDATION:**

Staff recommends that the Planning Commission recommend approval of the request from Briggs and Morgan, PA acting on behalf of Suzanne Horning, for a variance from the minimum lot size requirements in the RS – Rural Single Family Residential zoning district and from the maximum time of one year for which a variance is valid. This recommendation includes the following conditions of approval:

- 1) The driveway for the future home of the lot shall access Jane Road North. Driveway access to Jamaca Avenue North shall be prohibited.
- 2) The applicant shall provide a drainage easement for the portion of the lot that collects storm water runoff from the subject property and adjacent parcels prior to the issuance of a building permit for the site. The specific location of the drainage easement shall be approved by the City Engineer.
- 3) The variance shall be valid for a period of five years, but may be renewed upon review and approval by the Board of Adjustment.
- 4) A grading, erosion control, and storm water management plan shall be submitted in conjunction with a building permit for the property.
- 5) The applicant shall secure any required permits from the Valley Branch Watershed District prior to commencing any grading or construction activity on the site.

The suggestion motion for taking action on the Staff recommendation is as follows:

***“Move to recommend approval of the request for a variance from the minimum lot size requirements in the RS – Rural Single Family Residential zoning district and from the maximum time of one year for which a variance is valid, subject to the conditions of approval as recommended by Staff”***

## **ATTACHMENTS:**

1. Application Form
2. Application and Project Narrative

Larson asked if people from the greater Lake Elmo community can sign up for programming. Johnson again deferred to the applicants.

Brian Larson, representing Family Means, addressed the Planning Commission regarding the discrepancy of parking. He noted that when using the City's new required dimension of 9x18, they were able to site 108 parking stalls.

Tom Yuska, the Family Means program director, talked about how most of the participants traveled to the site. He noted that Lake Elmo Elementary does route a bus in front of the existing clubhouse. Yuska also shared that other participants are welcome beyond the Cimarron Park population, but that the program is focused on this population.

Larson asked if the center planned on providing before school care. Yuska noted that they do not have the capacity to provide before-school care.

Dodson asked how many students could be served by the facility. The program director noted that they likely serve 50-70 kids per day. Dodson asked what would happen to the building if the

Public Hearing opened at 7:26pm.

No one spoke.

The City received no written comments.

Public Hearing closed at 7:27pm

Williams stated he supports the request.

M/S/P: Larson/Kreimer, move to recommend approval of the Conditional Use Permit Amendment submitted by Family Means to allow for the construction of a 4,000 square-foot youth center based upon the request meeting the City's 12 required findings for a CUP, **Vote: 5-0, motion carried unanimously.**

2014-08

**Public Hearing:** *Variance - 09.029.21.11.0015 (Lot 9, Krause's Addition at Jamaca and Jane Road)*

Klatt started his presentation by explaining the request for a lot size variance. The code requires the lot size to be 0.9 acres and the subject property is 0.785 acres, 0.12 acres short of the minimum. The applicant has also requested a variance from the 12-month time limit for the commencement of work associated with the lot size variance. The applicant does not plan to build on the lot within a one-year period of time.



Klatt continued by providing background information about the parcel, starting with the location. The parcel is on the northwest corner of the intersection of Jane Road North and Jamaca Avenue North. The parcel is just north of Lake Jane. He moved on to present the site plan, describing the topography of the lot. Klatt noted that the northwest portion of the lot collects drainage, and that if the Variance were granted, the City should require that a drainage easement be provided where the water collects.

Klatt then described the general area, specifically noting the parcel sizes of the surrounding properties. He noted that the properties that are located close to Lake Jane are all smaller or similar in size as the subject property. The properties to the north of the subject parcel were platted at a later date.

In terms of history, he noted that the subject property was granted a variance in 1985. The applicants purchased the property at this time, when the lot was likely considered buildable. However, variances are typically valid for a one year period of time. It should be noted that according to current zoning rules, the lot is not considered buildable. In terms of additional info, Klatt described two road reconstruction projects, one in the 80s and one in 2012. In the 80s, the lot was assessed as buildable. In 2012, staff determined that the lot was not buildable.

Klatt discussed the required findings related to a variance. He noted that Staff has provided draft findings in the Staff Report. Klatt noted that the lot is able to site a septic system that will meet Washington County approval.

To wrap up, Klatt noted that Staff is recommending approval of the variance with 5 conditions of approval:

1. Staff is recommending that the driveway for the future home be located on Jane Rd. N.
2. The applicant must provide drainage easements on the site.
3. Staff is recommending that the Variance be valid for 5 years, as opposed to the indefinite approval that the applicant is requesting.
4. The variance is conditioned upon the approval of a future building plans.
5. The future building plans must meet the approval of Valley Branch Watershed District.

Haggard asked why there is a one year valid time period for variances. She also asked if the site will be able to be built upon with the condition that the driveway must be on Jane Rd. Klatt noted that the one year time period is standard because if the variance were open ended, there could be a lot of changes of City policy in the long interim period between when the variance is granted. Also, the site can change over the years.

Regarding the second questions, Klatt noted that the septic design that was submitted to the City included a septic system on the eastern side of the site. Staff is confident that a home can be built with the driveway access condition.

Dodson asked what the risks might be related to the Valley Branch Watershed District approval. Klatt noted that the risks are not great, that meeting VBWD standards are a common part of the process. Staff is recommending the condition so that the applicants are aware that a VBWD permit is likely.

Dodson asked about the northwest corner of the lot, where water pools at this time. Klatt noted that the City does not have topographic information of the surrounding properties. However, when the building permit is submitted, staff would work to ensure that the existing drainage condition is not exacerbated by the construction of the home.

Kreimer asked if the property was assessed in 2012. Klatt noted that it was not.

Williams asked if the septic system has been approved by Washington County. Klatt noted that the system has yet to be approved. Staff did send the variance and proposed system to Washington County for review. The County did not respond, which they typically would if they had concerns.

Following up on Kreimer's earlier question, Klatt noted that if the variance were granted, the City may wish to revisit the 2012 assessment. Haggard noted that the assessment should be triggered as soon as the variance would be granted.

Larson asked about the impacts to adjacent properties. He asked if constructing the home would be an improvement to the drainage situation. Klatt stated that without a plan to review, it is difficult to be sure. However, there will be an overall decrease in impervious surface.

Christine Cirilli, representing the Horning Family, provided some background information on the request. She noted that the applicants have been paying taxes and assessments for the lot from 1985 to 2012 as a buildable lot. The status change to non-buildable in 2012 was a surprise to the applicants. The representative of the family noted that the applicants understand that they have to comply with all of the other zoning and building requirements. They intend to build a home that is consistent with the character of the neighborhood.

Public Hearing opened at 8:06pm.

Greg Zeipelt, 4940 Jamaca Ave. N., noted that his property is directly north of the subject property. He noted that he was not aware of the plans to possibly build a home on the property. He shared that he is lived in the neighborhood for 16 years. When his



family purchased their home, their realtor researched the subject property and determined that the subject property was not a buildable lot. He continued by talking about the drainage issue. He noted that since the road project in 2012, the drainage has gotten worse in the northwest corner of the site.

Bill and Valerie Brass, 8930 Jane Road North, stated that they live to the immediate west of the subject property. She noted that she is concerned about the precedent of allowing variances for additional homes in the neighborhood. She also noted that all of the smaller parcels in the area are on the lake, not to the north of Jane Road. She finished up by stating her concern about the drainage issue. Bill added that they built their house in 1980, and the subject parcel was always the low spot in the area. He agreed that the drainage issue has gotten worse since the road project in 2012. Williams asked a question...the applicants answered

Jason Brash, 9030 Jane Road North, noted that he just moved to Lake Elmo. He noted that they moved here for the open space and large lots. He suggested that it stay that way.

Public Hearing closed at 8:18pm.

Williams asked if staff were aware of the drainage issues. Klatt noted that the City Engineer was aware that PW staff had visited the site. However, the Engineer did not note that any future action was pending.

Dodson noted that he is concerned about the drainage. However, he noted that the property owner does need to be considered. He feels that the property owner has a right to sell their property. It is clear that they have been paying taxes on the property as a buildable lot. Dodson noted that he is in favor of the variance and the 5-year timeframe.

Larson noted that due to the drainage problem, it is not yet determined if a home can be built on that site. It should be the responsibility of the City to ensure that the land can drain properly to serve all of the properties. Williams asked if condition #2 in the staff report would address his concern.

Kreimer noted that he does have some concerns related to the lack of a building plan.

Haggard wanted to clarify that this requested action is not a lot split. Klatt confirmed this fact.

Haggard also noted that she is concerned with the drainage. She would like the ultimate drainage situation to be improved. In addition, she does have concern about runoff to the lake. Also, she added that she would not like to see additional variances in

the future. Klatt noted that any future variance would have to go through the Planning Commission and Council, and staff is not anticipating any future requested variances.

Williams noted that in general he supports granting the variance. However, he would like to offer additional or different findings. Williams noted two proposed changes to the findings. He also recommended two additional conditions:

Condition #6: The applicant will submit a letter from Washington County that an approved septic system can be located on the site at the time of building permit.

Condition #7: The owner shall pay an assessment comparable to other properties in the area related to the Jane Road reconstruction project.

Williams asked if everyone was agreeable to these changes. Everyone agreed.

Larson asked if some additional information should be added to better address the drainage concern. Klatt suggested that some additional language could be added to state that the post home construction conditions not be worse than the existing condition related to the drainage area on the northwest corner of the site. Williams stated that the overall impervious coverage will be reduced. Klatt noted that is correct, but it is hard to note what the future condition will be without a plan. Williams asked if it would be helpful to add to condition #2. Klatt suggested adding language to condition #4 to state that the post-construction condition will not exacerbate the existing drainage situation.

Haggard asked if everyone was agreeable to the five year timeframe. Everyone agreed that the five-year timeframe is reasonable.

Larson asked about the ability to request an extension. Larson wanted it noted in the minutes that the request to extend the time period beyond 5 years should be legitimate and warranted.

M/S/P: Dodson/Williams, move to approve the variance from the minimum lot area requirements for 5 years for 09.029.21.11.0015 based upon the findings of fact as amended by the Planning Commission with the conditions as amended by the Planning Commission, **Vote: 5-0, motion carried unanimously.**

Haggard asked if the City is setting any precedent with the five-year timeframe. Klatt noted that each variance must be considered by its own merit.

**Public Hearing:** *Zoning Map Amendment and PUD Concept Plan – Launch Properties (PID: 09.029.21.11.0015 - Lake Elmo Avenue and Hudson Boulevard)*





## MAYOR & COUNCIL COMMUNICATION

**DATE:** 4/1/14  
**REGULAR**  
**ITEM #6**  
**RESOLUTION NO. 2014-021**

**AGENDA ITEM:** Horning Lot Size Variance – Lot 9 of Krause’s Addition

**SUBMITTED BY:** Kyle Klatt, Community Development Director

**THROUGH:** Dean Zuleger, City Administrator

**REVIEWED BY:** Planning Commission  
Nick Johnson, City Planner

### **SUGGESTED ORDER OF BUSINESS:**

- Introduction of Item .....Community Development Director
- Report/Presentation.....Community Development Director
- Questions from Council to Staff ..... Mayor Facilitates
- Call for Motion ..... Mayor & City Council
- Discussion ..... Mayor & City Council
- Action on Motion ..... Mayor Facilitates

**POLICY RECCOMENDER:** The Planning Commission considered an application for a lot size variance at its March 24, 2014 meeting. The Commission is recommending approval with the draft findings and conditions of approval as specified in Resolution 2014-021.

**FISCAL IMPACT:** N/A – if the parcel were considered a buildable lot, the City would have collected an assessment for the subject lot as part of a recent road project. The Planning Commission is recommending that the applicant pay a fee in lieu of this dedication at the time a building permit is issued for the site.

**SUMMARY AND ACTION REQUESTED:** The City Council is being asked to consider a request from Suzanne Horning (as Trustee of the Suzanne R.W. Horning Trust) for a variance that would classify Lot 9 of Krause’s Addition to Lake Elmo as a buildable lot. The lot currently does not meet the City’s minimum lot size for a lot of record in a RS – Rural Single Family Residential Zoning District. The applicant has also requested a variance from Section 154.017 of the Zoning

Ordinance, which states that any variance granted by the City “shall expire if work does not commence within 12 months of the date of the granting of the variance. The applicant has asked that the 12-month time limit be waived for this request.

*The suggested motions to adopt the Planning Commission recommendation is as follows:*

***“Move to adopt Resolution No. 2014-21 approving a Variance from the minimum lot size requirements in a RS District and the maximum time for which a variance is valid.”***

**LEGISLATIVE HISTORY/PLANNING COMMISSION REPORT:** The attached staff report to the Planning Commission provides an overview of the request and the draft findings that have since been slightly modified by the Planning Commission. The Commission conducted a public hearing concerning the variance at its March 24, 2014 meeting and received the following comments from neighboring property owners:

- Christine Cirilly, representing the applicant, stated that the applicant has been paying property taxes on the property as a building lot since 1985. She noted that the applicant intends to build a home that is consistent with the character of the neighborhood.
- Greg Zeipelt, 4940 Jamaca Avenue North, stated that, prior to purchasing his house immediately to the north of the applicants lot, he had been informed this lot was not buildable. He discussed the existing drainage in the neighborhood, and pointed out that drainage has gotten worse since the 2012 road project.
- Bill and Valerie Brass, 8930 Jane Road North, expressed concern about setting a precedence for allowing building on other substandard lots in the neighborhood. They also expressed concern about drainage in the area, and noted that the eastern portion of their lot collects water that drains from the subject property.
- Jason Brash, 9030 Jane Road North, explained that he recently moved to Lake Elmo and chose it for the open space and large lots. He encouraged the Planning Commission to keep it this way.

The Planning Commission generally discussed the drainage around the site; Staff responded that the City Engineer has been out to look at this area, but ultimately found that the water is draining to a low area in the neighborhood that has been previously designated as a ponding area. The Commission recommended the addition of two conditions of approval and asked that an existing condition be modified to require that any future construction on the site not exacerbate the existing drainage situation in the neighborhood.

The Planning Commission adopted a motion to recommend approval of the variance request with the findings and conditions as noted in the attached Resolution 2014-021. This resolution includes the conditions as revised and recommended by the Planning Commission. The motion passed unanimously.



**BACKGROUND INFORMATION (SWOT):**

- |                      |  |
|----------------------|--|
| <b>Strengths</b>     | <ul style="list-style-type: none"><li>• The Planning Commission found that the applicant met the City's four variance criteria.</li><li>• The variance will allow the applicant to build on a lot that has previously been considered buildable by the City.</li></ul> |
| <b>Weaknesses</b>    | <ul style="list-style-type: none"><li>• The City will need to track this variance to ensure the five-year deadline is met.</li></ul>   |
| <b>Opportunities</b> | <ul style="list-style-type: none"><li>• The variance will allow the current and past tax assessment for the property to match the classification as a buildable lot.</li></ul>   |
| <b>Threats</b>       | <ul style="list-style-type: none"><li>• The neighbors in attendance at the public hearing expressed concern over the existing drainage situation on the lot and the loss of open space in the neighborhood.</li></ul>  |

**RECOMMENDATION:** The Planning Commission is recommending that the City Council approve the request from Suzanne Horning (as Trustee of the Suzanne R.W. Horning Trust) for a variance that would classify Lot 9 of Krause's Addition to Lake Elmo as a buildable lot and to allow the variance to remain valid for longer than one year subject to conditions. The suggested motion to adopt the Planning Commission recommendation is as follows:

***"Move to adopt Resolution No. 2014-21 approving a Variance from the minimum lot size requirements in a RS District and the maximum time for which a variance is valid."***

**ATTACHMENTS:**

1. Resolution No. 2014-021
2. Planning Commission Staff Report – 3/24/14
3. Application and Project Narrative
4. Existing Site Conditions/Survey
5. Location Map
6. Krause's Addition Plat
7. Septic System Report – Tom Trooien

## LAKE ELMO CITY COUNCIL MINUTES

APRIL 1, 2014

2. Approve Payment of Disbursements and Payroll
3. ~~2014 Seal Coat Project – Approve Plans and Specifications and Authorize Ad for Bids; **RES. NO. 2014-20**~~
4. ~~Family Means CUP; **RES. NO. 2014-21**~~
5. Site Plan Review Ordinance; **ORD. 08-105**

Council Member Smith pulled Item 3 for discussion. Council Member Bloyer pulled Item 4 for discussion.

**MOTION:** Council Member Reeves moved **TO APPROVE THE CONSENT AGENDA AS AMENDED.** Council Member Nelson seconded the motion. **MOTION PASSED 5-0.**

### **ITEM 3: 2014 SEAL COAT PROJECT – APPROVE PLANS AND SPECIFICATIONS AND AUTHORIZE AD FOR BIDS**

Council Member Smith asked how the Seal Coat Project is going to be paid for. It was only budgeted for \$160,000. Where does the additional \$53,000 come from? Mayor Pearson noted that the Council agreed to spend more on roads. City Administrator Zuleger stated that due to the harsh winter conditions and further re-inspection of the road conditions, additional funds are needed. Council consensus is that if there is an item that is over what was budgeted, it should be noted so that Council is aware.

City Administrator Zuleger suggested that the item go back to the Finance Committee and be brought back to Council on 4/15/14. Ms. Smith thanked the Finance Director and finance committee for catching these items. Mr. Zuleger noted that the staff policy is that if department is over annual budget, the item must be brought to the Finance Committee.

**MOTION:** Council Member Nelson moved **TO POSTPONE ITEM UNTIL APRIL 15 SO THE FINANCE COMMITTEE CAN REVIEW.** Council Member Smith seconded the motion. **MOTION PASSED 5-0.**

### **ITEM 4: FAMILY MEANS CUP**

City Administrator Zuleger and Community Development Director Klatt explained the CUP application. Family Means has outgrown its current space. The proposal would allow an additional 4,000 sq. ft. addition to its current space. Parking will continue to be adequate. Planning Commission unanimously recommended approval.

**MOTION:** Council Member Bloyer moved **TO ADOPT RESOLUTION NO. 2014-21, APPROVING THE CONDITIONAL USE PERMIT AMENDMENT REQUEST BY FAMILY MEANS TO ALLOW FOR THE CONSTRUCTION OF A COMMUNITY CENTER IN THE CIMARRON MANUFACTURED HOME PARK.** Council Member Smith seconded the motion.

The Council was very supportive of Family Means and its work in the community.

**MOTION PASSED 5-0.**

### **REGULAR AGENDA**

### **ITEM 6: HORNING LOT SIZE VARIANCE; RES. NO. 2014-22**

Council Member Bloyer recused himself from discussing this item. **Council Member Bloyer left the room at 7:40PM. Council Member Bloyer returned at 7:47PM.**

Community Development Director Klatt provided an overview of the variance application. Reported concerns regarding drainage were noted. Staff recommends that easements for the drainage and ponding areas be reserved for the City. It was pointed out that in 1985 a previous variance was granted but has since expired. Staff believes that the application meets the City's variance criteria. The Planning Commission recommends approval with 7 conditions as identified in the resolution.



## LAKE ELMO CITY COUNCIL MINUTES

APRIL 1, 2014

Council Member Smith asked what the amount was for the recent road assessment. Mr. Klatt said that the engineer said it was \$2,900. Funds would go into the road fund. Ms. Smith asked how property taxes have been assessed as a buildable lot but the City does not consider it buildable. Mr. Klatt explained that the county's tax determination is different than the City zoning determination of what is buildable. It was explained that the assessment fee is to be paid at time of building permit.

Council Member Reeves asked about whether the grading should be required to "be improved" instead of "not exacerbate." Mr. Klatt stated that any reviewed building will in fact be an improvement. Ms. Smith noted that the footprint of the tennis court looks larger than many of the surrounding homes.

Christine Cirilli, attorney for applicant, spoke on behalf of Suzanne Horning. She reiterated that when the owner purchased the lot, it was buildable, but that she recently learned in 2012 that the variance had expired. Applicant has thought that it was a buildable lot the entire time. Ms. Smith asked if there was a plan to sell or build within the year. Ms. Cirilli stated that the owner would like her estate to have flexibility in time to build or sell.

Mayor Pearson asked that the record reflect that it is not the Cities responsibility to track the variance. Council Member Nelson asked if the conditions could terminate the variance if the property is transferred. Mr. Klatt reiterated that the applicant may want to sell the lot to another party who wants to build. Mr. Reeves asked what happens when it expires. Mr. Klatt stated that the applicant can re-apply at that time for an extension or another variance.

Mayor Pearson noted that some of the conditions seem superfluous and redundant. It was agreed that several conditions would have to be met anyhow. Mayor Pearson asked about the driveway. Mr. Klatt stated that it is to keep the access on the road with less traffic. It was explained that that the property would have only been assessed on the road section that the driveway would have been on despite it being a corner lot.

***MOTION: Council Member Smith moved TO ADOPT RESOLUTION NO. 2014-22, APPROVING A VARIANCE FROM THE MINIMUM LOT SIZE REQUIREMENTS IN A RS DISTRICT AND THE MAXIMUM TIME FOR WHICH A VARIANCE IS VALID. Council Member Reeves seconded the motion.***

Council Member Nelson thinks it appropriate that the road fee be paid back to the other residents. Additionally, the fee should be paid up front, not at the time of building permit. Finance Director Bendel stated that if the fee is assessed, it can be assessed to the property taxes. Also, the refunds could be credited to the other properties as an assessment payment.

Council Member Reeves asked about if permit expires, how would the assessment be addressed? Mr. Reeves is concerned about assessing now if something changes. The possibility of status changes to assessed properties was discussed.

***MOTION: Council Member Nelson moved TO AMEND THE MOTION THAT IF FOUND TO BE PERMISSIBLE, THE ROAD ASSESSMENT FEE BE RETURNED TO OTHER RESIDENTS OTHERWISE TO THE CITY, AND THE FEE IS ASSESSED IMMEDIATELY. Council Member Smith seconded the motion.***

When the fee should be assessed was further discussed.

***MOTION PASSED 3-1-1 (Reeves – Nay, Bloyer abstaining).***

***ORIGINAL MOTION PASSED 4-0-1 (Bloyer abstaining).***

**ITEM 7: LAUNCH PROPERTIES CUP CONCEPT PLAN AND ZONING MAP AMENDMENT; RES. NO. 2014-23, ORD. 08-106**

**CITY OF LAKE ELMO  
WASHINGTON COUNTY  
STATE OF MINNESOTA**

**RESOLUTION 2014-022**

*A RESOLUTION APPROVING A VARIANCE FROM THE MINIMUM LOT SIZE  
REQUIREMENT IN A RS DISTRICT AND FROM THE MAXIMUM TIME FOR WHICH A  
VARIANCE IS VALID*

**WHEREAS**, the City of Lake Elmo is a municipal corporation organized and existing under the laws of the State of Minnesota; and

**WHEREAS**, Suzanne Horning (as Trustee), 8991 Jane Road North, (the "Applicant") has submitted an application to the City of Lake Elmo (the "City") for a variance from the minimum lot size requirements in the RS – Rural Single Family Residential zoning district and to waive the one-year deadline for completion of the work proposed under the variance; and

**WHEREAS**, notice has been published, mailed and posted pursuant to the Lake Elmo Zoning Ordinance, Section 154.109; and

**WHEREAS**, the Lake Elmo Planning Commission held a public hearing on said matter on March 24, 2014; and

**WHEREAS**, the Lake Elmo Planning Commission has submitted its report and recommendation to the City Council as part of a Staff Memorandum dated April 1, 2014; and

**WHEREAS**, the City Council considered said matter at its April 1, 2014 meeting.

**NOW, THEREFORE**, based on the testimony elicited and information received, the City Council makes the following:

**FINDINGS**

- 1) That the procedures for obtaining said Variance are found in the Lake Elmo Zoning Ordinance, Section 154.109.
- 2) That all the submission requirements of said Section 154.109 have been met by the Applicant.
- 3) That the proposed variance includes the following components:



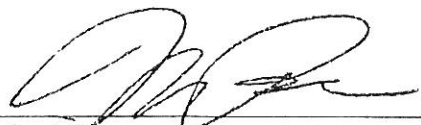
- a) A variance from the minimum lot size requirements in the RS – Rural Single Family Residential zoning district. The subject lot is 0.785 acres in size and the minimum required size to be buildable is 0.9 acres.
  - b) A variance to waive the one-year deadline for completion of the work proposed under the variance.
- 4) That the Variance will be located on property legally described as follows: Lot 9 of Krause's Addition to the City of Lake Elmo, Washington County, Minnesota. PID 09.029.21.11.0015.
  - 5) That the strict enforcement of Zoning Ordinance would cause practical difficulties and that the property owner proposes to use the property in a reasonable manner not permitted by an official control. *Specific findings: That the proposed use is reasonable because the lot was platted as a buildable parcel and all other parcels of similar size have had houses constructed on them since the subdivision was approved. The property is very close to meeting the required 0.9 acre minimum lot size requirement, and construction of a home on this lot will not be any more obstructive than structures built on lots meeting the 0.9 acre requirement. The applicant also purchased the lot at the time it was a buildable parcel. The applicant has demonstrated the ability to install a complaint septic system on the property. A five year deadline for construction of a home on the property is a reasonable period of time for this work to be completed.*
  - 6) That the plight of the landowner is due to circumstances unique to the property not created by the landowner. *Specific findings: That the applicant's property is unique due to former platting of this property as a buildable lot and continued classification of the property as buildable since the lot was subdivided. The applicant purchased the property with the understanding that a house could someday be built on the property, and City records indicate that the lot was indeed buildable at the time of purchase. Other homes on neighboring smaller lots were constructed prior to the adoption of the City's zoning regulations.*
  - 7) That the proposed variance will not alter the essential character of the locality in which the property in question is located. *Specific findings: The applicant's lot is larger than several of the lots in the surrounding neighborhood and is close to the minimum size needed to be considered buildable. The lot is of sufficient size to allow the installation of a compliant septic system and to allow the placement of a home on the parcel consistent with neighboring structures.*
  - 8) That the proposed variance will not impair an adequate supply of light and air to property adjacent to the property in question or substantially increase the congestion of the public streets or substantially diminish or impair property values within the neighborhood. *Specific findings: No impacts above and beyond those considered normal for any other single-family lot in the surrounding neighborhood would be expected should the variance be granted.*

### CONCLUSIONS AND DECISION

Based on the foregoing, the Applicant's application for a Variance is granted, subject to the following conditions:

- 1) The driveway for the future home of the lot shall access Jane Road North. Driveway access to Jamaca Avenue North shall be prohibited.
- 2) The applicant shall provide a drainage easement for the portion of the lot that collects storm water runoff from the subject property and adjacent parcels prior to the issuance of a building permit for the site. The specific location of the drainage easement shall be approved by the City Engineer.
- 3) The variance shall be valid for a period of five years, but may be renewed upon review and approval by the Board of Adjustment.
- 4) A grading, erosion control, and storm water management plan shall be submitted in conjunction with a building permit for the property. This plan shall not exacerbate any existing drainage issues and must be designed to mitigate any additional runoff from any future construction on the site.
- 5) The applicant shall secure any required permits from the Valley Branch Watershed District prior to commencing any grading or construction activity on the site.
- 6) The applicant shall submit a letter from Washington County that an approved septic system can be located on the site prior to the issuance of a building permit for the site.
- 7) The owner shall pay a fee comparable to the assessments levied against other homes in the neighborhood for the 2012 Jane Road North road project. The City will investigate options for reimbursing other property owners that were assessed for the 2012 project to account for the additional buildable lot.

Passed and duly adopted this 1<sup>st</sup> day of April 2014 by the City Council of the City of Lake Elmo, Minnesota.

  
Michael Pearson, Mayor

ATTEST:  
  
Adam Bell, City Clerk