

CARVER COUNTY BOARD OF ADJUSTMENT

Regular Meeting – **Wednesday, October 6, 2021**

Commissioners' Meeting Room

2nd Floor Human Services Bldg

Government Center – Chaska

AGENDA

7:00 p.m.

1. Approve minutes of September 1, 2021 meeting
Pages 1-1 through 1-6
2. **File #20210051** - Public hearing on request by David A Dotzenroth for a
variance. (Reduced SSTS Setback from OHW)
Watertown Township Pages 2-1 through 2-8
Issue Order #PZ20210051 – David A Dotzenroth Revocable Trust

Other Business

CARVER COUNTY BOARD OF ADJUSTMENT
Regular Meeting – September 1, 2021
Minutes

Members Present: Gerald Bruner, Robin Bielefeldt, Richard Kvitek, Virgil Stender, Scott Smith, Kellen Schmidt, Joe Polunc

Members Absent: None

Members Late: None

Staff Present: Jason Mielke, Christina Neel, Joe Enfield, Matt Steele, Nancy Buckentine

Pursuant to due call and published notice thereof, the September 1, 2021, meeting of the Carver County Board of Adjustment was called to order by Chairman Bruner at 7:00 p.m.

Agenda – Chairman Bruner asked for any changes or corrections to the agenda, or a motion to accept the agenda as printed. A motion was made by Bielefeldt to approve the agenda as printed. Kvitek seconded the motion for approval. All voted aye. Motion carried.

Minutes – Chairman Bruner asked for any changes or corrections to the minutes or a motion to accept the minutes from the August 4, 2021, meeting as printed. Stender indicted an error in the motion to close the public hearing for File PZ20210043 listed on page 2-2. The second for the motion should be listed as being made by Smith. No other changes or corrections were noted. A motion was made by Bielefeldt to approve the August 4, 2021 meeting minutes. Smith seconded the motion for approval. All voted aye. Motion carried.

Public Hearing - File # 20210050 – Bradley & Therese Gunderson – Chairman Bruner called the public hearing to order at 7:01 p.m. to consider the application of Bradley & Therese Gunderson pursuant to Chapter 152 of the County Code. The purpose of the public hearing was to consider a request for reduced setback for a septic system to a bluff pursuant to Chapter 52 of the County Code. The property is in Section 24 of Dahlgren Township.

The following were present: Bradley Gunderson

The following items were entered into the hearing record:

Exhibit A - Legal Description

Exhibit B - Affidavit of Publication of the Hearing Notice

Exhibit C - Affidavit of Mailing of the Hearing Notice

Exhibit D – Site Plan

Exhibit E - Letter from the Applicant dated August 4, 2021

Exhibit F – Letter to the Board of Adjustment and Dahlgren Township dated August 23, 2021 and all attachments

Joe Enfield, Carver County Senior Environmentalist, explained the applicant owns an approximate 2.3-acre parcel which is improved with a house and attached garage. He is requesting a variance to replace the septic system with a Type IV system in which the drainfield would not meet the required bluff setback.

The system design places the drainfield approximately 20 feet from the edge of the bluff, reflecting a 30-foot setback variance. The Type IV septic system will reduce the footprint of the drainfield to minimize the encroachment of the required bluff setback. The applicant has identified a practical difficulty in that the lot consists of a large area of elevation changes, limiting a suitable location for a septic system. The property is also not able to connect to city sewer services with the City of Carver at this time. This variance request would be a minimum variation from the Zoning Code requirements to allow for installation of a compliant septic system. The need for the variance is not the result of any actions by the applicant. Dahlgren Town Board heard the request at their August 9, 2021, meeting and recommended approval of the request without any additional concerns or objections. Enfield read the proposed conditions for consideration if the request is approved.

Mr. Gunderson stated there is really no other practical location to put the system because of the slope of the lot. He stated the existing septic system is failing and needs to be replaced. The municipal sewer services are not available to their lot at this time. He stated the proposed Type IV system is a little more expensive and will be more environmentally friendly.

Bruner stated he had visited the site and felt there were limited options due to the grade of the lot.

Bielefeldt concurred with that statement, noting that there is significant slope to the lot.

Bruner asked if this parcel was in the Orderly Annexation area for the City of Carver.

Mr. Gunderson stated there is a lot of development happening nearby, but there has been no formal discussion for annexation of this parcel at this time.

There was no one present or representing the Dahlgren Town Board at the meeting.

There was no one present from the public present to address this request.

A motion was made by Stender to close the public hearing. Kvitek seconded the motion to close the public hearing. All voted aye. Motion carried. The public hearing was closed at 7:09 p.m.

Bielefeldt stated he felt there was no other reasonable option but to place the replacement septic system in an area nearer the bluff than the required 50-foot setback.

Schmidt agreed with that statement and stated there is no other suitable location on the property.

A motion was made by Kvitek to **approve and issue Order PZ20210050** allowing for a reduced setback to the bluff for a Type IV septic system and the following conditions:

1. The required SSTS construction permit must be obtained prior to the installation of the new septic system.
2. The required SSTS Operating permit must be obtained prior to the installation of the new septic system.
3. The SSTS shall be installed according to the final design approved by Carver County Environmental Services.

Schmidt seconded the motion for approval. All voted aye. Motion carried.

Public Hearing - File # 20210049 – Andrew Schroeder – Chairman Bruner called the public hearing to order at 7:11 p.m. to consider the application of Andrew Schroeder pursuant to Chapter 54 of the County Code. The purpose of the public hearing was to consider a request for reduced setback for a new house from an existing feedlot pursuant to Chapter 54 of the County Code. The property is in Section 18 of Young America Township.

The following were present: Andrew Schroeder, Lindsay Schroeder, Bill Schroeder, Virgil Vollbrecht, Ron Trick

The following items were entered into the hearing record:

Exhibit A - Legal Description

Exhibit B - Affidavit of Publication of the Hearing Notice

Exhibit C - Affidavit of Mailing of the Hearing Notice

Exhibit D – Site Plan

Exhibit E - Letter from the Applicant dated August 6, 2021

Exhibit F – Letter to the Board of Adjustment and Young America Township dated August 23, 2021, and all attachments

Matt Steele, Carver County Feedlot Officer, stated the applicant's family owns an approximate 155.24-acre parcel improved with a farmhouse, a manufactured house, and various agricultural buildings. There are two '1 per 40' building eligibilities remaining on the property. The property consists primarily of crop production land and contains a large wooded area in the northeast section of the property. The applicant, Andrew Schroeder, is proposing to create a new approximate 3.7-acre residential lot, using one of the available building eligibilities to construct a permanent house, which would be approximately 110 feet from an existing feedlot. The Zoning Code requires a minimum of 1,000 feet from an existing feedlot to a new residence, and therefore, a variance is being requested. The proposed new residential lot meets all the minor subdivision requirements and is most practically located to retain the prime farmland in production. The applicant describes a practical difficulty in that the subject parcel is comprised of tillable land and placing the house outside of the 1,000-foot setback would require removing prime production tillable land from the family farm operation. The lot size would also be restricted, as the County Code allows no more than 2 acres of prime ag soils in a new residential lot of less than 20 acres. The proposed location would preserve nearly all of the tillable acreage and the location of the house would be beneficial for the applicant to be close to the family farm when the time comes for him to take over the operation. The applicant currently resides on the property in a manufactured home which is approximately 200 feet from the existing feedlot area. If this request is approved, the manufactured home would be removed from the property. The primary and alternate septic sites on the proposed lot have been identified and approved by the Environmental Services department. On August 20, 2021, staff received a letter of support for this request from adjacent property owners, Gene & Janice Eggersgluess. The Young America Town Board reviewed this request and recommended approval at their August 10, 2021, meeting. Steele read the proposed conditions for consideration if the request is approved.

Andrew Schroeder, 13123 Zebra Av, stated he agreed with the information as presented and had no additional comments.

Virgil Vollbrecht, Young America Township supervisor, stated the applicant attended their meeting and explained his desire to build a permanent house on the family farm with the anticipation of owning and managing the operation in the future. The board considered the fact that he is currently living and working

on the farm and agreed that this variance is a reasonable request and recommended approval.

There was no one from the public for comments about this request.

A motion was made by Bielefeldt to close the public hearing. Stender seconded the motion. All voted aye. Motion carried. The public hearing was closed at 7:20 p.m.

Bielefeldt stated that an 890-foot variance seems to be a large request, however, understanding the circumstances of living and working on the family farm, it is reasonable and he would be in favor of granting the request.

Bruner stated he visited the site and agreed it is a large variance if you look at the number, but it makes good sense to have the house in that location.

A motion was made by Kvitek to **approve and issue Order PZ20210049** allowing for the construction of a house and garage at a minimum of approximately 110 feet from an existing registered feedlot and the following conditions:

1. The permittee shall obtain the appropriate building permit(s) and septic permit(s) prior to the construction of the residential house. A grading plan and erosion/sediment control plan shall also be prepared, submitted, and implemented in accordance with the CCWMO Water Rules (Chapter 153) as part of the building permit application process.
2. The previous Conditional Use Permit issued for a Farm-Related Manufactured Home (CUP #4148) shall be terminated upon approval of the Variance. The manufactured home on site shall be removed within 30 days of the Certificate of Occupancy (CO) being issued.
3. Subsurface Sewage Treatment System (SSTS) currently serving the manufactured home on site shall be properly abandoned in accordance with Minn. Rules Chapter 7080.2500 and Chapter 52 of the Carver County Code of Ordinances, within 30 days of the Certificate of Occupancy (CO) being issued.
4. All construction activities shall be done in accordance with the submitted site plan(s). The new construction shall not encroach any closer to the existing feedlot than as approved as part of this permit application (Approx. 110 feet).

Bielefeldt seconded the motion for approval. All voted aye. Motion carried.

Public Hearing - File # 20210048 – Richard & Jane Ziegler – Chairman Bruner called the public hearing to order at 7:22 p.m. to consider the application of Richard & Jane Ziegler pursuant to Chapter 152 of the County Code. The purpose of the public hearing was to consider a request for reconfiguration of a non-conforming parcel pursuant to Chapter 152 of the County Code. The property is in Section 17 of Young America Township.

The following were present: Richard Ziegler, Jane Ziegler, Virgil Vollbrecht, Ron Trick

The following items were entered into the hearing record:

Exhibit A - Legal Description

Exhibit B - Affidavit of Publication of the Hearing Notice

Exhibit C - Affidavit of Mailing of the Hearing Notice

Exhibit D – Site Plan

Exhibit E - Letter from the Applicant dated July 28, 2021

Exhibit F – Letter to the Board of Adjustment and Young America Township dated August 23, 2021, and all attachments

Neel explained the applicants own an approximate 1-acre parcel which is primarily wooded land improved with a double-wide house and a detached garage. They are requesting a minor subdivision to reconfigure a non-conforming parcel to increase the lot size to 1.5 acres and allow for replacement of the existing house with a modular house and a new septic system. The applicants' letter describes a unique situation in that the 1-acre parcel was subdivided in 1976 as a future building site. The current minimum lot size is 1.5 acres. The applicant is proposing to add .5 acres to the existing lot to satisfy the lot size requirement, however, the parcel would still be a non-conforming parcel as it would not have any road frontage. The applicant has stated that the practical difficulty is related to the absence of any road frontage to the current parcel and the limited parcel size restricts the area to support the replacement house and septic system to meet the required setbacks. Adding the .5 acre to the existing parcel, would allow adequate room for the replacement house and new septic system to meet all required setbacks. The proposed half-acre addition would be to the south of the existing parcel, which is also owned by the applicants, and would require fewer trees to be removed as part of the construction process. Granting this variance does not appear to conflict with the intent of the Comprehensive Plan and/or the County Zoning Code. On August 23, 2021, Joe Enfield, Carver County Senior Environmentalist, reviewed the request and stated that the existing SSTS must be replaced within 10 months of the issuance of the building permit. The Young America Town Board reviewed the request and recommended approval at their August 10, 2021, meeting. Neel read the proposed conditions for consideration if the request is approved. On August 30, 2021, staff received a telephone call from William Flusemann, 12825 County Rd 131, who was unable to attend this meeting, but extended his approval of the variance request. Neel read the proposed conditions for consideration if the variance is approved.

Richard Ziegler, 12773 County Rd 131, stated he had no additional comments about the staff report. He stated that he had spoken with two other neighbors who were notified about the variance request, and they had no objection to the request.

Virgil Vollbrecht, Young America Township supervisor, stated the applicants attended the meeting and explained their request. The Township recommended approval of increasing the lot size to 1.5-acres to accommodate replacement of the house and septic system.

No one from the public was present for comment.

A motion was made by Stender to close the public hearing. Bielefeldt seconded the motion. All voted aye. The public hearing was concluded at 7:28 p.m.

Bielefeldt confirmed that the lot reconfiguration is between two parcels owned by the applicant.

Bruner stated he visited the site and felt this was a good solution to allow for the house replacement and septic system.

Schmidt stated it makes good sense and allows for the new house and septic system to meet all required setbacks.

Stender asked if the septic system would be installed within the 10-month requirement.

Mr. Ziegler stated they want to begin construction as soon as the permits are issued. Their excavator is ready to begin the work this fall.

A motion was made by Bielefeldt to **approve and issue Order PZ20210048** allowing for reconfiguration of a non-conforming parcel and the following conditions:

1. A Minor Subdivision application and combination form shall be submitted and approved prior to the recording of any deeds. The parcels shall be subdivided and combined in accordance with the County Zoning Code and County Recorder's Office requirements including but not limited to, a completed minor subdivision application, a survey, SSTS compliance and appropriate deeds.
2. The existing SSTS shall be replaced within 10 months of the issuance of the building permit.

Smith seconded the motion for approval. All voted aye. Motion carried.

Adjournment

A motion was made by Bielefeldt to adjourn the meeting. Kvitek seconded the motion for adjournment. All voted aye. The meeting was adjourned at 7:32 p.m.

COUNTY OF CARVER
PUBLIC SERVICES DIVISION
Environmental Services Department

September 20, 2021

TO: Carver County Board of Adjustment & Watertown Town Board

FROM: The Environmental Services Department

SUBJECT: Application for a Variance (SSTS Setbacks).

FILE #: PZ20210051
OWNER: The David A Dotzenroth Revocable Trust
APPLICANT: David A Dotzenroth
SITE ADDRESS: 10085 County Rd. 24, Watertown Township
VARIANCE TYPE: Reduced SSTS Setback from OHW
PURSUANT TO: Carver County Code: Section 52.022
LEGAL DESCRIPTION: See attached Exhibit "A"
PARCEL #: 10-013-0800

BACKGROUND:

1. The David A Dotzenroth Revocable Trust owns an approximate 17.50-acre residential parcel located in Gov't Lot 2 in the Northeast Quarter (NE1/4) of the Northwest Quarter (NW¼) of Section 13, Watertown Township. The property is improved with a house with attached garage and an outbuilding. The property is located within the Agricultural Zoning District, and the CCWMO (Crow River Watershed).
2. The applicant, David A Dotzenroth, is requesting a variance that would allow for the installation of a Subsurface Sewage Treatment System (SSTS) that would not meet the required setback standard of the tanks for Ordinary High Watermark (OHW) of a Natural Environment Lake.

LEGAL BACKGROUND:

§ 52.022 SSTS SETBACKS.

SSTS must be designed and installed to comply with the following minimum setback distances measured in feet:

<i>Feature</i>	<i>Tank(s)/ Sealed Privy</i>	<i>Soil Treatment and Dispersal Area/ Unsealed Privy</i>	<i>Building Sewer or Supply Pipes</i>
Ordinary high watermark of natural environment lakes	150	150	-

STAFF ANALYSIS:

1. Section 52.022 of the County Code addresses the minimum setback requirements. The proposed SSTS setbacks would be approximately 57 feet from the OHW to the septic and lift tanks. The setback standard is 150 feet, reflecting a variance of approximately 93 feet for the tanks.
2. The applicant has identified a practical difficulty in that the parcel is an existing lot of record, which has a large area of elevation change for an SSTS installation and it is not feasible to be connected to municipal services.

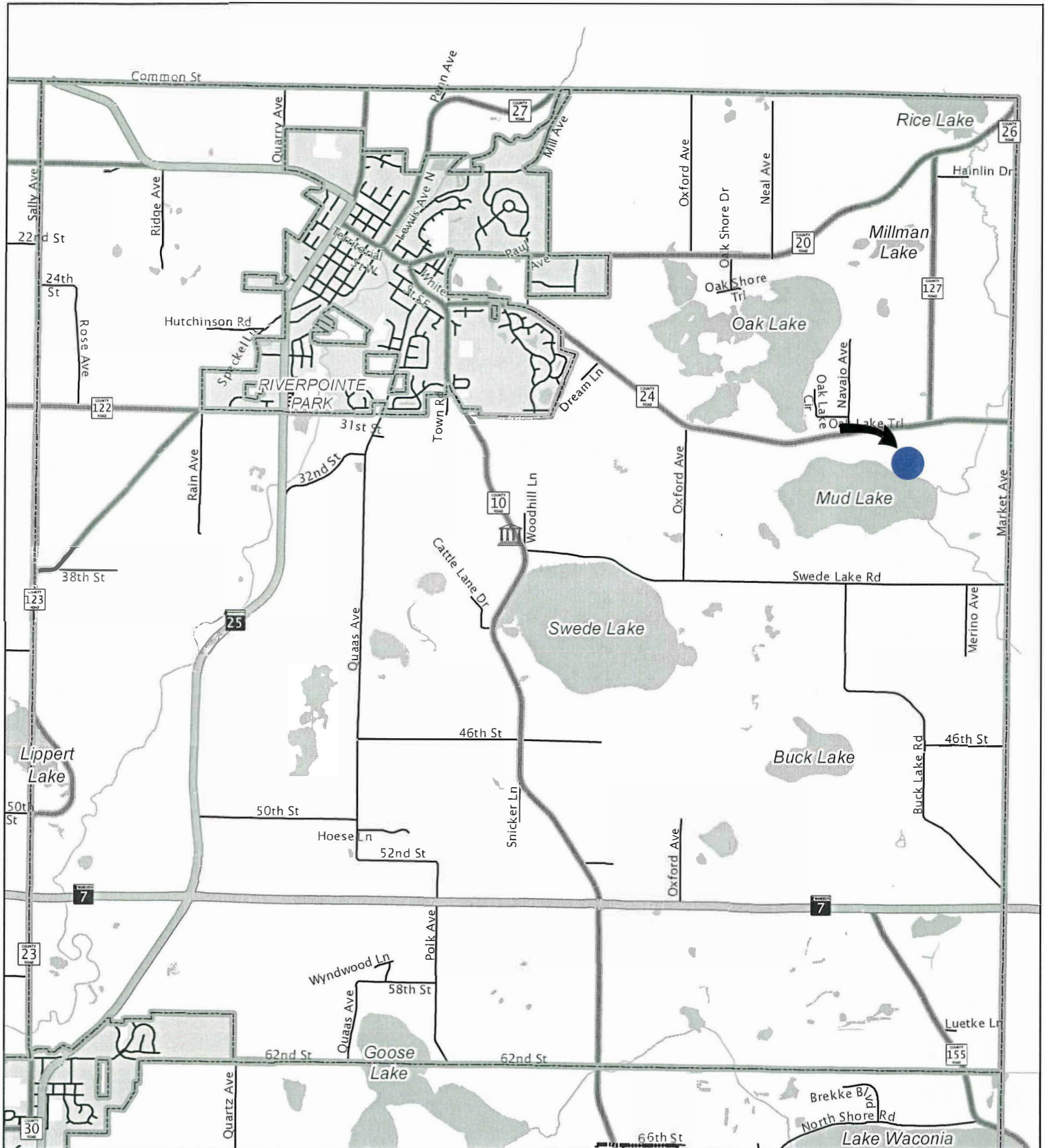
3. The request would be the minimum variation from the requirements of the County Code to alleviate the practical difficulty. The registered tanks would be placed in the same location as the old failing tanks.
4. The request would not have an adverse effect on government services and would not result in any change in the character of the neighborhood.
5. The need for the variance is not a result of the actions of the applicant. A compliance inspection determined the current SSTS was non-compliant. The proposed system will be replacing the existing non-compliant SSTS.
6. The Watertown Town Board has reviewed and recommended approval of the request during their September 7, 2021, Town Board meeting. There were no comments for this application (i.e. no concerns or objections).

BOARD CONSIDERATION:

If the Board of Adjustment determines that a practical difficulty has been identified, and that approving the variance would serve in the interest of justice, the following conditions should be attached to the approved variance:

1. The required SSTS construction permit must be obtained prior to the installation of the new septic system.
2. The required SSTS Management plan must be obtained prior to the installation of the new septic system.
3. The SSTS shall be installed according to the final design approved by Carver County Environmental Services.

WATERTOWN TOWNSHIP



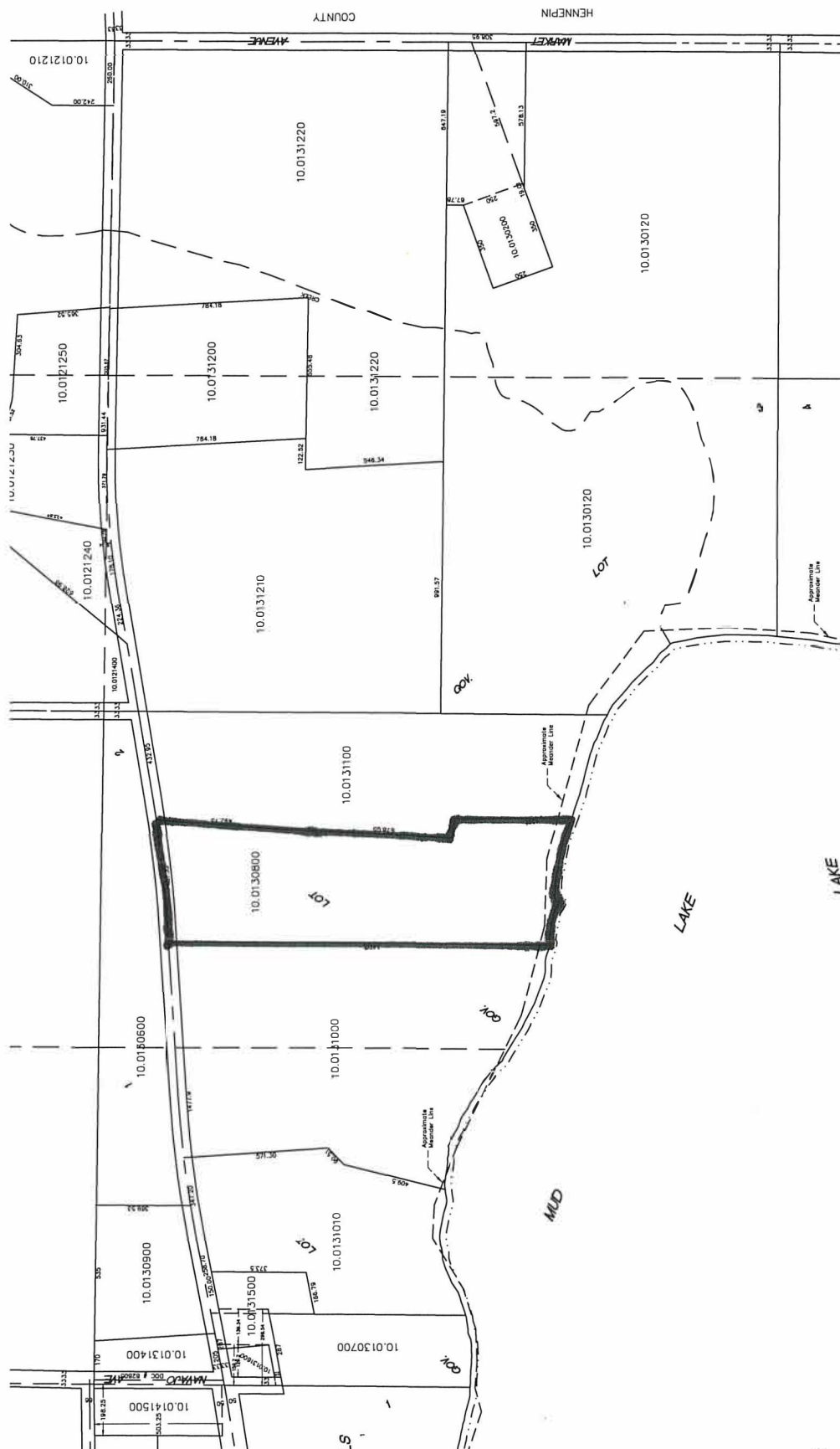
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0 1 2 Miles



Map Created by Carver County GIS

THIS IS NOT A LEGALLY RECORDED PLAT.
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AS THEY APPEAR IN THE CARVER COUNTY
OFFICES AND OTHER SOURCES. THIS MAP
IS ONLY TO BE USED FOR REFERENCE
PURPOSES. THE COUNTY AND ITS AGENTS
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INACCURACIES CONTAINED THEREIN.



Kendell Kubasch

Sites, Soils and Septic

Minnesota Pollution Control State Certified

On-Site Installer, Designer, Site Evaluator and Inspector

Certificate #0899

9129 70th St. S.W.
Howard Lake, MN 55349
(320) 543-2678

210 6th St. N
Winsted, MN 55395
(320) 485-2640

8-22-2021

Parcel # 10.0130800 Replace/Upgrade residential septic

To the carver county variance committee:

Request for variance required to Replace/Upgrade residential septic for the property located at 10085 County Rd. 24 Watertown Minnesota, 55388.

Work Scope: Removal and Replacement with a sealed septic tanks and pump tank in the area of the existing tanks due to rapidly rising terrain to the north should not pose any problem although it will not meet the 150 foot setback therefore requiring this variance. I believe there is more than adequate space and set back both vertically and horizontally to install a septic system on the adjacent hillside located northwest of the dwelling. The tanks themselves can be vacuum tested before their installation as can any additional pipe between the dwelling and the tanks. The treatment area itself will be well beyond the 150 foot setback.

Being fully respectful of the natural environment lake category, I feel that installation tanks will provide the best solution and not pose any environmental hazards. Installation will be as far as is practical from the high water mark as documented with Carver County (Mud-10009400) and of course subject to inspection by Carver County officials.

Kendell Kubasch
Kubasch Excavating

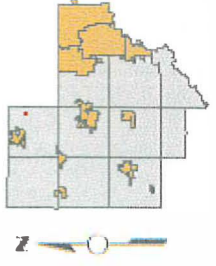
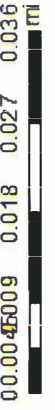
DOTZENROTH SSTS VARIANCE



Date: 9/20/2021



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Watertown Hpp.

717

mg

- Scan back to can letter w. town signs



CARVER
COUNTY

Township Presentation & Recommendation Form

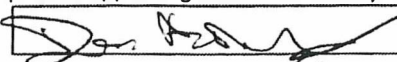
PARCEL #	01-0130800	Permit #	PZ20210051
Owner's Name:	DAVID DOTZENROTH	Owner's Mailing Address:	10075 C.R. 24
City:	Watertown	Owner State:	MN
		Owner Zip:	55388
Applicant (if other than owner):		Site Address:	10085 C.R. 24

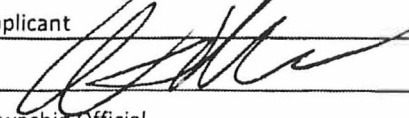
Type of Request:	☐ CUP	☐ IUP	☐ Preliminary Plat	☐ Final Plat	☒ Variance	☐ Appeal
Description of Request:	Upgrade Septic System					
Date of County Public Hearing:	October 6, 2021	Date of Township Meeting:	9/7/21			

Actions:

Township Action Taken: ☒ Recommends approval and use of the Township Road (if applicable) with the following comments: ☐ Recommends denial for the following reasons: ☐ No recommendation, but will comment on the request at the Planning Commission or Board of Adjustment hearing: Township recommends approval as presented
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*Important: I understand that I must appear at the Town Board meeting to present my request and obtain their recommendation prior to appearing before the County Planning Commission or Board of Adjustment.

* 
Signature of Applicant


Signature of Township Official

Date 8-20-21

Date 8/17/2021

EXHIBIT "A" – LEGAL DESCRIPTION

PID NUMBER: 10-013-0800

File# PZ20210051

APPLICANTS: David A Dotzenroth & Jennifer P Haag-Dotzenroth
OWNER: David A Dotzenroth Revocable Trust

* * * * *

That part of Government Lot 2, Section 13, Township 117, Range 25, described as follows: Beginning at a point in the centerline of County Road No. 8, Carver County, Minnesota, 1764.9 feet northeasterly of the West line of said Section 13, measured along said centerline; thence South parallel with said West line 1490.0 feet, more or less, to the shore of Mud Lake; thence southeasterly along said shore to its intersection with the East line of said Lot 2; thence North along said East line 1865.9 feet, more or less, to the centerline of said County Road No. 8; thence southwesterly along said centerline 914.3 feet to the point of beginning, according to the map or plat thereof on file and of record in the Office of the Register of Deeds in and for said County and State, EXCEPT that part of Government Lot 2, Section 13, Township 117 North, Range 25 West, Carver County, Minnesota, described as follows: Commencing at a point in the centerline of County Road No. 24, a distance of 2246.25 feet northeasterly of the westerly line of said Section 13, as measured along said centerline; thence deflect to the right 104 degrees 05 minutes, a distance of 492.75 feet; thence deflect to the left 1 degree 32 minutes, a distance of 678.05 feet; thence deflect to the left 84 degrees 00 minutes, a distance of 76.20 feet; thence deflect to the right 80 degrees 39 minutes, parallel with the easterly line of said Government Lot 2 and 433.76 feet distant therefrom, a distance of 459 feet, more or less, to the northerly shore of Mud Lake; thence southeasterly along said northerly shore, a distance of 522 feet, more or less, to the easterly line of said Government Lot 2; thence northerly along said easterly line, a distance of 1864 feet, more or less to the shoreline of County Road; thence southwesterly along said centerline, a distance of 432.95 feet to the point of beginning, according to the United States Government Survey thereof and situate in Carver County, Minnesota. Together with an easement for ingress and egress along and 16.50 feet easterly of a line described as follows: Commencing at a point in the centerline of County Road No. 24, a distance of 2246.25 feet northeasterly of the westerly line of said Section 13 as measured along said centerline; thence deflect to the right 104 degrees 05 minutes, a distance of 492.75 feet; thence deflect to the left 1 degree 32 minutes, aid stance of 678.05 feet and there terminating, according to the United States Government Survey thereof and situate in Carver County, Minnesota.