Board of Adjustment
February 26, 2026
VAR-26-002

POPECOUNTY MINNESOTA

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STAFF REPORT

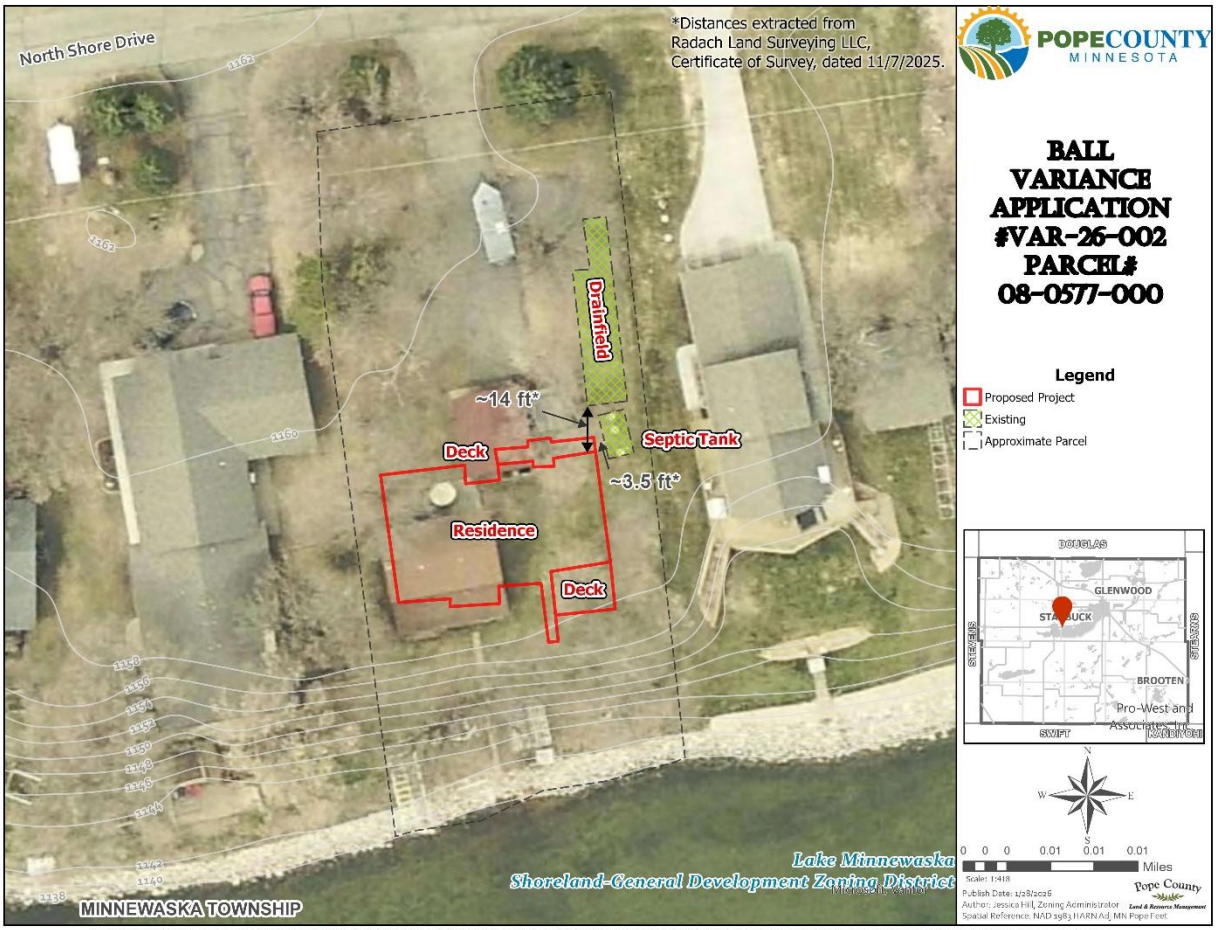
Applicant Information

Applicant: Steve and Jeanne Ball

Application: Variance (VAR-26-002)

Zoning: Shoreland-General Development (S-GD)

Location: Lot 1, Block 1, Wild Wood Second Addition, Section 30, Township 125 (Minnewaska), Range 38, Pope County, Minnesota.



DISCLAIMER: THIS MAP IS NOT A SUBSTITUTE FOR ACCURATE FIELD SURVEYS OR FOR LOCATING ACTUAL PROPERTY LINES AND ANY ADJACENT FEATURES.

Background

The applicant is seeking a variance from the minimum setback standard between a residence and an onsite septic system. This relief is sought in conjunction with a proposal to replace the existing residential structure with a larger home. In 2020, the owner had installed a septic system which conforms with the minimum setback standard between a residence and a septic tank as prescribed in Section 10.20 subdivision 3.30 (Sanitation Standards) of the Pope County Land Use Controls Ordinance. However, the proposed residential structure does not meet the setback standards due to the increased size/area of the new structure. This 19,122 square foot parcel is located in Minnewaska Township and has approximately 90 feet of Lake Minnewaska shoreline.

Applicable Statutes

Local Ordinance

- Pope County Land Use Controls Ordinance
  - Section 10.20 Sanitation Standards (Subsurface Sewage Treatment System Ordinance)
    - Subdivision 3. SSTS Standards and Requirements

3.30. Minimum Setback Distances

Feature	Sewage Tank	Soil Treatment or Absorption Area
Deep water supply wells (50 feet of continuous casing or encountering 10 feet of continuous impervious material)	50	50
Shallow water supply wells (Less than 50 feet of continuous casing)	50	100
Buried pipe distributing water under pressure	10	10
Buried water suction pipe	50	50
Occupied Building*	10	20
Property lines	10	10
State, County, and Township Road Rights-of-Way	10	10
The Ordinary High Water Level of the following types of water bodies:		
General Development Lakes	50	50
Recreational Development Lakes	75	75
Natural Environment Lakes	150	150

Feature	Sewage Tank	Soil Treatment or Absorption Area
Rivers and Streams	100	100
Wetlands	50	50

*For structures other than buildings, these setbacks are allowed to be reduced if necessary due to site conditions (as determined by the Department), but in no case shall any part of a SSTS be located under or within the structure or other impermeable surface.

- Section 11.6 Variance from Standards

State Statute/Rule

- Minnesota Statute Chapter 394 Planning, Development, Zoning *(enabling legislation)*
  - 394.27 Subd 7 *Variances; practical difficulties*
- Minnesota Administrative Rules Chapter 6120, *Shoreland and Floodplain Management*
  - 6120.3300 Zoning Provisions 6120.3900 Subp. 3 Variances: *Variances may only be granted in accordance with Minnesota Statutes, chapters 394 or 462, as applicable. They may not circumvent the general purposes and intent of the official controls. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. Conditions may be imposed in the granting of variances to ensure compliance and to protect adjacent properties and the public interest. In considering variance requests, boards of adjustment must also consider whether property owners have reasonable use of the lands without the variances, whether existing sewage treatment systems on the properties need upgrading before additional development is approved, whether the properties are used seasonally or year-round, whether variances are being requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties.*

Staff Comments

Staff offers the following comments for consideration:

The Pope County Land Use Controls Ordinance, section 10.20 (Sanitation Standards) requires septic drainfields be located twenty (20) feet from Occupied Buildings and septic tanks to be located ten (10) feet from Occupied Buildings. As proposed, the structure would be located approximately **3.5 feet** from the septic tank and **14 feet** from the drainfield, resulting in a reduction of 6.5 feet and 6 feet respectively. The proposed septic system location was chosen by the certified septic design professional as most practical with consideration having been given to the well, existing residential structures, topography, vegetation, and soils. Setbacks ensure the protection of health and safety, and that construction, use, or operation of a septic system does not damage or hinder the construction, use, or operation of other nearby structures, and vice versa.

Based on Minnesota Statute 394.27 subd. 7: A variance may be granted if enforcement of the zoning ordinance as applied to a particular piece of property would cause the landowner "practical difficulties." There is a Three Factor Test for establishing practical difficulties. If the applicant does not satisfy all three factors of the test, then the variance should not be granted.

1. **Reasonableness**

   The first factor is that the property owner proposes to use the property in a reasonable manner. This factor means that the landowner would like to use the property in a particular reasonable way but cannot do so under the rules of the ordinance. It does not mean that the land cannot be put to any reasonable use whatsoever without the variance. In this case the question is not whether the property can be used for residential purposes, but whether or not the proposed expansion necessitates the reduced setbacks.

2. **Uniqueness**

   The second factor is that the landowner's problem is due to circumstances unique to the property not caused by the landowner. The uniqueness generally relates to the physical characteristics of the particular piece of property, that is, to the land and not personal characteristics or preferences of the landowner. When considering this variance to reduce the setback distance between an occupied residential structure and the onsite septic system, the focus of this factor is whether there is anything physically unique about the particular piece of property, such as sloping topography or other natural features like wetlands or trees that prevent the features from being located in compliance. In this case the septic system has been installed a sufficient distance from an existing residential structure. However, the owner desires to redevelop the property with a larger structure that will be closer to the septic system. Variances are generally not intended to accommodate design preferences where compliant development alternatives may exist.

3. **Essential Character**

The third factor is that the variance, if granted, will not alter the essential character of the locality. Under this factor, consider whether the resulting structure will be out of scale, out of place, or otherwise inconsistent with the surrounding area. A reduced internal setback between a home and septic system components are not likely to affect neighborhood character.

Staff Recommendation

Having reviewed and considered the application, local ordinances, state statutes, and all comments received, staff has not found evidence that a practical difficulty exists. However, the public hearing as well as the applicant may offer additional facts that are not yet evident for the Board of Adjustment to consider.

Staff Findings

The Staff proposes the following findings of fact for consideration by the Board of Adjustment:

1. **Variance request consistent with purposes and intent of the official controls and the comprehensive plan:**

   Findings: The Minnesota DNR Shoreland Rules Ch 6120 as well as the Pope County Land Use Controls Ordinance regulate the location of structures and septic system components in shoreland designated areas. The purpose of the requirements is to maintain neighborhood character and aesthetics as well as for the protection of surface water resources and personal property. The locating (as proposed) of the septic system components does not create an aesthetic issue with the travelling public or neighboring property owners and is not in conflict with the Pope County Comprehensive Plan. However, minimum setback standards have been established in an effort to protect the structural integrity of the home, allow space for routine maintenance (home and tank), prevent health hazards, and safeguard against system failure.

   Approval: The variance request does not conflict with the intent of official controls.

   Denial: Because of the potential impact on personal property, the variance partially conflicts with the intent of official controls. Request does conflict.

2. **Use of property/structure is a reasonable use:**

   Findings: Residential use served by an onsite septic system is a reasonable use of property within a Shoreland-General Development district. However, the ordinance provides standards governing the relationship between structures and septic components.

3. **Character of locality and detriment to neighboring properties:**

   Findings: Granting the variance will not change the character of the locality or be a detriment to the neighboring properties.

4. **Plight of the landowner is due to circumstances unique to the property and not self-created:**

   Findings: There has been no identified circumstance unique to the property that causes the need for the variance. There currently exists a residential structure that is located in conformance with the setback standard from the septic tank. So, the variance is necessitated by property owner preference to replace existing structure with a larger structure.

REPORT APPENDIX

- **Routing Sheet** *(Comments, concerns and conditions)*
- **Public Notice**
- **Supplemental Information**
  - **Attachment 1:** *Variance Application (Steve and Jeanne Ball, 5 January 2026)*
  - **Attachment 2:** *Existing Conditions & Proposed Conditions (Radach Land Surveying LLC, 7 November 2025)*
  - **Attachment 3:** *Site Visit Photos (L&RM Staff, 17 February 2026)*
  - **Attachment 4:** *SSTS Structure Setbacks and Other Requirements (MPCA, June 2019)*

Routing Sheet

Comments, Concerns and Conditions

Agency

MN DNR	No comment received.
MPCA (SSTS)	*COMMENTS: I am not terribly concerned, although the reason for the setback is so the drain field and or the tank doesn't cause issue to the lived in structure or foundation. But would encourage the following conditions and proper planning for when a new system is needed. I offer this as an idea due to the recent install date of the system.* *PROPOSED CONDITIONS: 1. This counts only for the existing system. If any of the system components is found non-compliant in the future, the following applies:* *2. If/when a new system component (tank or drain field) is installed, that new system must meet all setback conditions (e.g. drain field fails but tank is still compliant, irregardless, all system components upon the issuance of a SSTS construction permit must be brought into setback compliance).*

County Department

Attorney	No comment received.
Pope County SSTS	*COMMENTS: The proposed request does not seem to meet the practical difficulty criteria in that, based on permit history, the applicant was responsible for locating the septic in its current location thus causing the setback issues they are looking to address with this request. In addition, the applicant fails to identify unique characteristics of this property which would prevent locating a structure outside of the area limited by septic system setbacks. It appears there is room to do so.* *In regards to the specific septic system setbacks, the applicant is requesting a deviation which is, in our opinion, beyond substantial and bordering on dangerous in the sense that that there is, for all intense and purposes, no room for construction equipment to navigate this area without tracking over the septic tank during the new construction as well as for future repairs of the structure. Septic tanks are only able to sustain a designed load force. Necessary construction equipment/vehicle traffic combined with the existing soil load my exceed design parameters of the tank and cause a failure. There are other potential impacts such as the pressure a full tank can put on the soil and nearby foundations, the migration of leaking effluent towards the structure, and impacts to the system from the adjacent roofed structure such as through stormwater runoff.*

Reference document: "MPCA SSTS structural setback and other requirements." Link: https://www.pca.state.mn.us/sites/default/files/wq-wwists4-47.pdf

Galen Gruber

Land Use Specialist II

Township

Minnewaska — No comment received.

Other Comments Received

No comment received.

Public Notice

POPE COUNTY LAND & RESOURCE MANAGEMENT
POPE COUNTY COURTHOUSE
130 E. MINNESOTA AVENUE
GLENWOOD, MINNESOTA 56334
(320) 634-7791

POPE COUNTY BOARD OF ADJUSTMENT
NOTICE OF PUBLIC HEARING FOR
VARIANCE REQUEST

Notice is hereby given that a Public Hearing will take place in conjunction with the Board of Adjustment meeting to be held at 6:00 pm or shortly thereafter on Thursday, February 26th, 2026 in the Pope County Courthouse, 3rd Floor Board Room, to consider the following variance request.

Description of Request: Variance hearing on the application by Steve and Jeanne Ball (VAR-26-002, Parcel#08-0577-000), if granted would allow applicants relief from the minimum setback standards for septic system components to occupied buildings in a Shoreland-General Development (S-GD) zoning district per section 10.20, Subdivision 3, Subsection 3.30 of the Pope County Land Use Controls Ordinance.

Legal Description/Site Location: Lot 1, Block 1, Wild Wood Second Addition, Section 30, Township 125 (Minnewaska), Range 38, Pope County, Minnesota.

Public participation will include an opportunity to:

1) submit written concerns and comment prior to the scheduled meeting. All such communications will be shared with the Board of Adjustment prior to or during the meeting;
2) submit concerns and comments via Pope County's Public Comment web map, go to https://www.popecountymn.gov, at the top of the page hover over Government, then under Board of Adjustment/Planning Advisory Commission, select Submit a Public Comment or type in the following link to access the Public Comment web map: (https://popecounty.maps.arcgis.com/apps/webappviewer/index.html?id=22a203912a864a77b4cdabe672e35e3f)
3) opportunity to review the staff prepared report via Pope County website;
4) observe and/or participate by providing verbal comments in the Public Hearing portion of the Board of Adjustment meeting.

Interested parties and citizens may contact the Land and Resource Management office for further information as to how to participate in the meeting. Thank you for your patience and consideration in this matter.

Dated: February 6, 2026
By: Jessica Hill, Zoning Administrator, Land & Resource Management

Supplemental Information

Supplemental Information Attachment 1:

Variance Application
(Steve and Jeanne Ball, 5 January 2026)

VAR-26-002

POPECOUNTY MINNESOTA

VARIANCE APPLICATION

L&RM FORM 18

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VARIANCE APPLICATION

A variance allows a modification or variation of the provisions of the Pope County Land Use Controls Ordinance where it is determined that, by reason of exceptional circumstances, the strict enforcement of any provision of the ordinance would cause the landowner "practical difficulty" (see Practical Difficulty Test on the following page).

Variances from official zoning controls are defined under Minnesota Statute 394.27 and require the landowner to prove the property could not otherwise be used or enjoyed in the proposed way by complying with the Pope County Land Use Controls Ordinance and there will be no negative impact on surrounding properties.

Prior to submission of this application, please discuss your variance request with the Land and Resource Management department.

Applicant Information

Applicant Names	Steve and Jeanne Ball
[redacted]	

Property Description

Property Address	27873 N. Shore Dr.	City	Starbuck	State	MN
Township Name	Minnewaska	Section		Twp	
Parcel No.	08-0577-000	Associated Parcel No.		Range	56381

Project Narrative

What is the variance application for?	Keeping existing Septic "Reduced setback"

Provide written justification for request including discussion of how any potential conflicts with existing nearby land uses will be minimized:

Homeowner requests to keep existing septic system with new home being built. System was designed and built in 2020 & meets new home size requirements. Potential conflict is new home proposed will be 3.5'-4' from tank on NE corner of home. Proposed home will be approximately 14' from drain field beginning. Existing well stays.

Pope County Land & Resource Management
130 East Minnesota Ave. | Glenwood, Minnesota 56334 |
Phone: (320) 634-7791 | Email: pub.lrm@popecountymn.gov
Website: https://www.popecountymn.gov/land-resource-management/

Practical Difficulty Test

A variance may be granted if enforcement of the zoning ordinance as applied to a particular piece of property would cause the landowner "practical difficulties." There is a three factor test for establishing practical difficulties. If the applicant does not satisfy all three factors of the test, then the variance should not be granted.

1. Reasonableness

The first factor is that the property owner proposes to use the property in a reasonable manner. This factor means that the landowner would like to use the property in a particular reasonable way but cannot do so under the rules of the ordinance. It does not mean that the land cannot be put to any reasonable use whatsoever without the variance.

2. Uniqueness

The second factor is that the landowner's problem is due to circumstances unique to the property not caused by the landowner. The uniqueness generally relates to the physical characteristics of the particular piece of property, that is, to the land and not personal characteristics or preferences of the landowner.

3. Essential Character

The third factor is that the variance, if granted, will not alter the essential character of the locality. Under this factor, consider whether the resulting structure will be out of scale, out of place, or otherwise inconsistent with the surrounding area.

Questions	Yes/No
Does your project satisfy all three factors of the Practical Difficulty Test?	Yes
Please state how your project satisfies all three factors in the space provided below:	

① Property owner proposes to use property in a reasonable manner for homesteading. Also the existing system is up-to-code & conforming as is 5yr old system. The existing system will not alter any essential character of surrounding neighbors or public health, safety or welfare

② With the uniqueness of this parcel & well designed existing system, we do not want to move the system due to closeness of lake and alter land for another system.

③ By leaving the existing conforming system as is, the home/foundation will be better built, will be more to scale, meeting all impervious requirements & more safe for neighborhood.

Homeowner does intend to plant a native buffer between home & lake on slope. Concrete contractor has no issues with closness to the tank.

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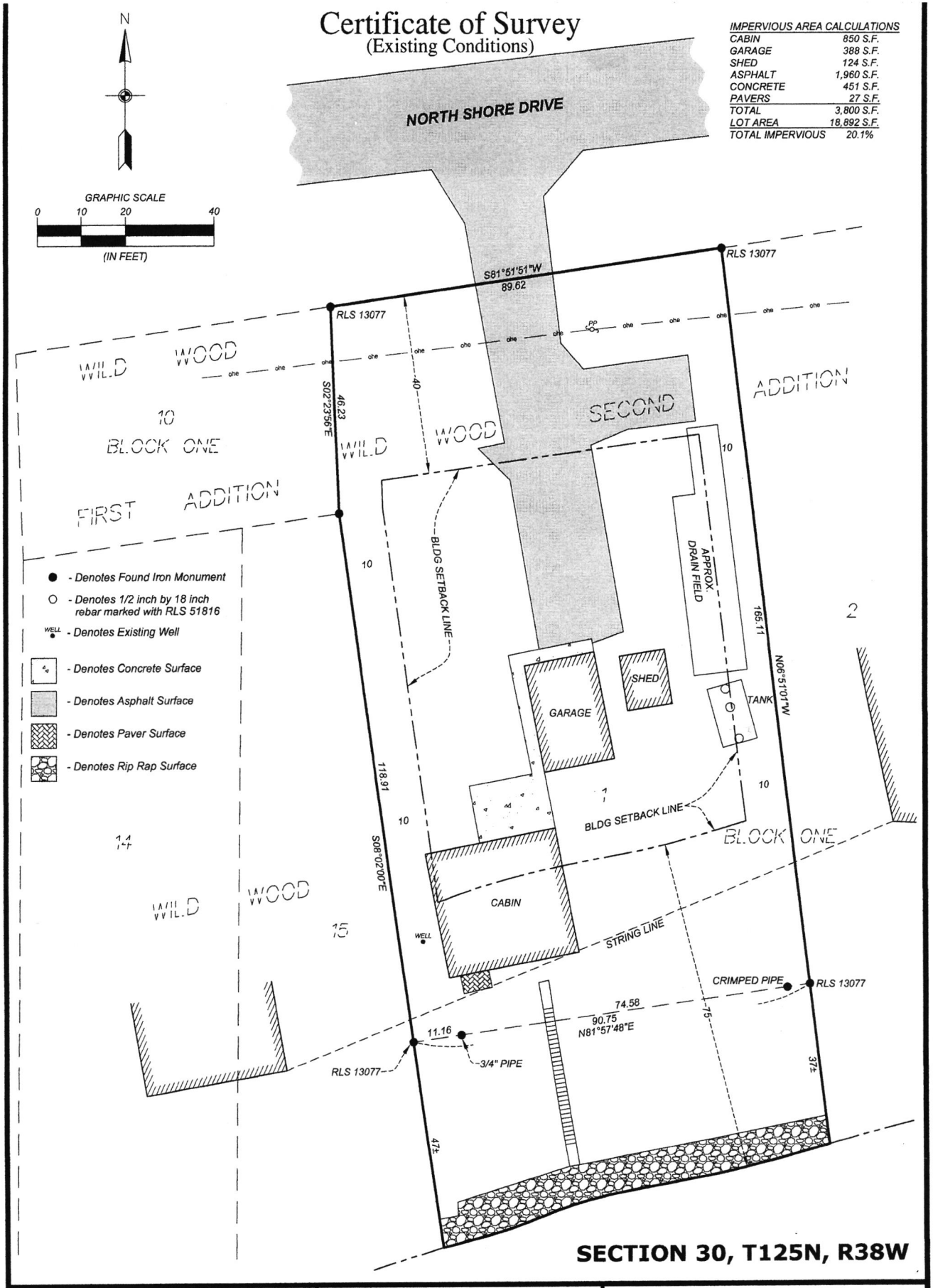
Supplemental Information Attachment 2:

Existing Conditions & Proposed Conditions
(Radach Land Surveying LLC, 7 November 2025)

Certificate of Survey
(Existing Conditions)



IMPERVIOUS AREA CALCULATIONS	
CABIN	850 S.F.
GARAGE	388 S.F.
SHED	124 S.F.
ASPHALT	1,960 S.F.
CONCRETE	451 S.F.
PAVERS	27 S.F.
TOTAL	3,800 S.F.
LOT AREA	18,892 S.F.
TOTAL IMPERVIOUS	20.1%

SECTION 30, T125N, R38W

RADACH
land surveying llc
4288 Little Ida Beach Rd NW, Alexandria, MN 56308
(320) 815-8582 | micah@radachlandsurveying.com

DRAWN BY: MTR
ISSUE DATE:10/21/2025
JOB NO. 524A

SURVEY PREPARED FOR:

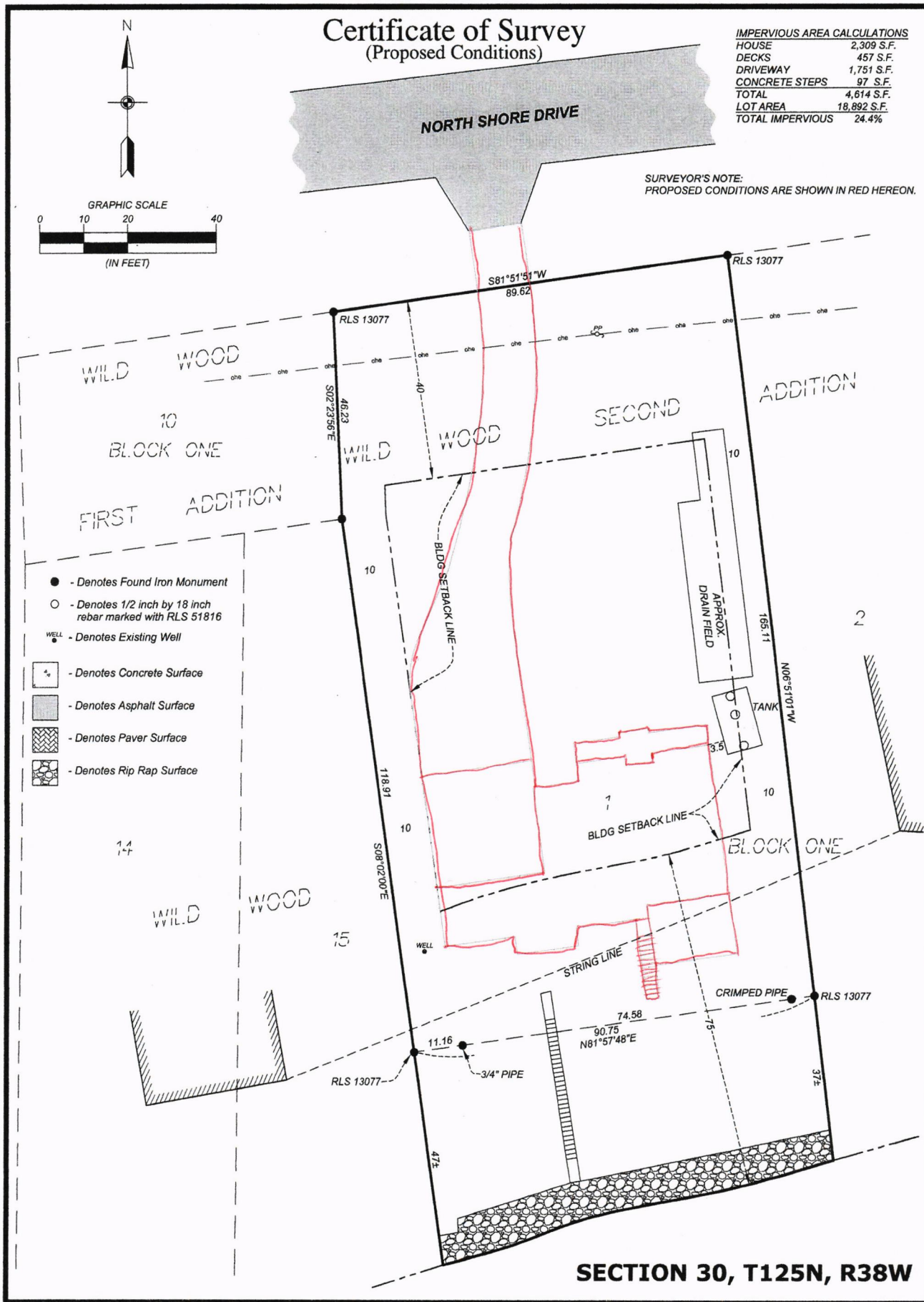
Steve Ball

I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly licensed land surveyor under the laws of the State of Minnesota

Name: Micah T. Radach
Date: 11/7/2025 License #: 51816

Signature: _____

Certificate of Survey
(Proposed Conditions)



SECTION 30, T125N, R38W

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DRAWN BY: MTR
ISSUE DATE:10/21/2025
JOB NO. 524A

SURVEY PREPARED FOR:

Steve Ball

I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly licensed land surveyor under the laws of the State of Minnesota

Name: Micah T. Radach

Date: 11/7/2025 License #: 51816

Signature: _____

Supplemental Information Attachment 3:

Site Visit Photos
(L&RM Staff, 17 February 2026)

Supplemental Information Attachment 4:

SSTS Structure Setbacks and Other Requirements (MPCA, June 2019)

SSTS structure setbacks and other requirements

Siting septic systems near structures, buildings, and lot improvement

A Subsurface Sewage Treatment System (SSTS) setback is the required distance between a septic system and nearby structures, buildings, and lot improvements (known collectively as "structures" in Minnesota rules). Setbacks ensure the protection of health and safety, and that construction, use, or operation of a septic system does not damage or hinder the construction, use, or operation other nearby structures, and vice versa.

Setback requirements

Structures should be a minimum of 10 feet from sewage tanks, and a minimum of 20 feet from the adsorption area of the drainfield. Further requirements:

- The soil dispersal unit/drainfield must never be covered by an impermeable surface that cuts off oxygen.
- Sewage tanks must not be buried where heavy equipment will drive over them, unless the tank is designed for the anticipated load.
- Lot improvements must not damage or prohibit use of the secondary (back-up) soil dispersal site.
- A setback is required from all occupied structures.

Common lot improvements where setbacks come into play:

- Dwellings with basements or frost footings
- Dwellings with foundations (mobile homes)
- Garages or decks with frost footings
- Buildings with slab-on-grade foundations
- Driveways, patios, and other paved areas
- Sheds, gazebos, saunas, and kennels
- Fences, retaining walls, and swimming pools

Setback decision guidance

Except the instances listed above, many setback determinations need case-by-case consideration by the local government unit. This section is intended to help guide those local decisions, in instances where:

An existing structure could be damaged during SSTS installation

Some parts of SSTS installation create a risk to nearby structures, such as:

- When a septic tank is being swung into an excavation
- A tail swing from excavation equipment
- Driving SSTS construction equipment on paved areas that are not designed for heavy loads

However, it may not be prudent to require setbacks on all structures. Carefully consider possibilities for damage during SSTS construction, and require setbacks or restrictions based on the specific risk and the value of the nearby structures.

The in-ground structural integrity of an existing structure could be damaged during SSTS installation

Building designers must consider how a sewage tank may affect the building's foundation or footings, which come in many different designs and materials (e.g., piers, piles, wood, pea gravel, masonry, etc.). Several factors must be considered when siting a sewage tank near a building's footings or foundation:

- **Frost depth and frost protection:** Soil protects footings and foundations from freezing and soil movement. In southern Minnesota, a minimum of 42 inches of soil coverage is required; it's 60 inches in northern Minnesota. More coverage may be required depending on soil type and conditions. Septic tank placement must not affect soil coverage minimums. Placing tanks in the upper or downside toe of a nearby slope may be preferable to siting it next to the foundation.
- **Minimum soil-bearing capacity:** Usually, a minimum 2:1 ratio is needed for soil bearing (projection area) under, and extending away from, a building's footing. The footing or foundation design must be reviewed if sewage tanks are placed in or below this area. Placing tanks in the upper or downside toe of a nearby slope may be preferable to siting it next to the foundation.
- **Tank weight:** A sewage tank's weight or even pressure from the tank installation can affect foundations.
- **Insulation:** The building code requires soil coverage extensions or foundation insulation for some frost-free foundation designs. The soils or insulation can extend out as much as six feet from the building and would affect sewage tank placement.
- **Deck- or porch-type pier (isolated) footings:** Differential movement or settlement of nearby soils could affect these types of footing when sewage tanks are placed too close.
- **Drainage:** Most buildings' footings or foundations include exterior drainage systems to remove hydraulic loading in the soils. Excavations must be located where they don't affect foundation drainage at the surface or below ground.
- **Other:** The building code doesn't address damage to foundations from existing sewage tanks that leak. In addition, the pressure from pump trucks driving in or near foundations must be considered.

An SSTS could be damaged during construction of a nearby structure

Septic systems can be damaged by nearby construction activities, including equipment driving over and crushing or compacting either the drainfield or the sewage tank. If it's a concern, impose a restriction such as fencing around the SSTS.

Operating and maintaining the SSTS is hindered by operation or use of nearby structures

For example:

- Adding a new structure changes how rain and spring meltwater drain on the site. Water coming off a new roof or a new parking lot sloped toward the SSTS direct more water to the septic system
- A new structure blocks pump trucks or SSTS repair/replacement equipment from accessing the system
- A new structure hinders access to maintenance hole covers

Some of these issues may require a setback; others can handled with a restriction or guidance.

Operation or maintenance of SSTS could hinder operation or use of a nearby structure

The building code doesn't require a setback from a structure or septic system for operational issues, but a setback may be useful in some situations. For example, the noise and possible odors of an aerobic treatment unit should perhaps be setback from a dwelling's window.

Personal and public health and safety are at risk

An example of this would be sewage effluent travelling laterally into the foundation drain tile/sump and odors emitting from the sump basket.