



**Scott County**  
**Board of Adjustment**  
**March 9, 2020**  
**6:30PM**

**Scott County Government Center**  
**County Board Room**  
**200 Fourth Avenue West**  
**Shakopee, MN**



**Scott County**

**March 9, 2020  
Board of Adjustment**

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**SCOTT COUNTY  
BOARD OF ADJUSTMENT**

**Scott County Government Center  
200 Fourth Avenue West  
Shakopee, Minnesota**

**Monday, March 9, 2020  
County Board Room at 6:30 PM**

**AGENDA**

**I. ROLL CALL AND INTRODUCTIONS**

**II. APPROVAL OF NOVEMBER 12, 2019 BOA MINUTES**

**III. PUBLIC HEARING – 6:30 PM PAULY SEPTIC VARIANCE (PL#2020-008)**

- A. Request for a Variance from the required ten foot property line setback to one (1) foot and from required ten (10) foot structure setback to two (2) feet to install a septic holding tank.

<b>Location:</b>	Section 8
<b>Township:</b>	Blakeley
<b>Current Zoning:</b>	A-1

**IV. OFFICER ELECTIONS FOR 2020**

**V. GENERAL & ADJOURN**



SCOTT COUNTY  
BOARD OF ADJUSTMENT  
MEETING MINTUES

Scott County Government Center  
200 Fourth Avenue West  
Shakopee, Minnesota

Tuesday, November 12, 2019  
6:30 PM

**I. ROLL CALL AND INTRODUCTIONS**

Chair Hartmann opened the meeting at 6:30 PM with the following members present: Ray Huber, Donna Hentges, Gary Hartmann, Ed Hrabe, Lee Watson, Thomas Vonhof, and Barbara Johnson.

**County Staff Present:** Brad Davis, Planning Manager; Marty Schmitz, Zoning Administrator; Greg Wagner, Principal Planner; Nathan Hall, Associate Planner; Kate Sedlacek, Environmental Services; Deb Brazil, Administration; Tom Wolf, County Board Commissioner; and Deputy Clerk to the Board, Barb Simonson.

**II. APPROVAL OF MAY 13, 2019 MINUTES.**

**Motion by Commissioner Johnson; Second by Commissioner Vonhof to approve the May 13, 2019 minutes. The motion carried with 6 Ayes. Commissioner Hrabe abstained due to absence from the May 13, 2019 meeting.**

**III. PUBLIC HEARING 6:30 PM VARIANCE JAMES AND MARCELLA PAULY (PL#2019-078)**

1. Request for a Variance From the Required Ten (10) Foot Property Line Setback to a Septic Drainfield to Seven (7) feet to Replace A Septic System.

**Location:** Section 30  
**Township:** Spring Lake  
**Current Zoning:** UTR

Greg Wagner presented the staff report for this application. The specific details within the staff report and a video are available on the Scott County Website: [November 12, 2019 Board of Adjustment Agenda Packet](#). (To view the staff report on the website, click on the download arrow and click on Agenda, Save and Open. Next open the bookmark at the top of the page and click on the Pauly Variance project.)

The video of this meeting is unavailable for viewing on the website due to technical difficulties at the time of taping.

**Comments and Questions from the Commissioners:**

Commissioner Johnson inquired if the applicants would be able to build a garage on the property in the future. *Mr. Wagner reviewed setback requirements and it appears they would be able to fit a garage on the property.*

Commissioner Vonhof asked what would happen with the existing septic system. *Kate Sedlacek from Environmental Services reviewed the process for handling existing systems and noted it will depend on what type of system is actually found on the property, but that there are standard requirements for properly abandoning a septic system that will be reviewed as part of the replacement septic permit.*

Commissioner Hartmann asked what would happen to the existing drainfield. *Ms. Sedlacek reviewed options for handling the drainfield should there be one and noted it will again depend on what the contractor finds once they begin removal.*

Chair Hartman opened the meeting up to the public. No one approached the podium for comment.

Noting no comments from the public there was a motion by Commissioner Watson; second by Commissioner Vonhof to close the public hearing. The motion carried unanimously.

Motion by Commissioner Vonhof; second by Commissioner Hartmann to approve the variance based on the findings listed in the staff report, to recommend approval of the requested variance from the required ten (10) foot property line setback to a septic drainfield to seven (7) feet to preplace a septic system, noting Spring Lake Town Board recommended approval at their October 10, 2019 meeting.

The motion carried unanimously.

#### Criteria for Granting Variance:

1. *The conditions causing the hardship are unique to the property, applicant, or licensee*  
The conditions causing the hardship are due to the small property size, the location of the home and well, and the status of the existing septic system. The conditions are unique to the subject property.
2. *The variance is proved necessary in order to secure for the applicant right of rights that are enjoyed by other persons in the same area or district.*  
The variance would allow the applicant and new owner to have a compliant sewage treatment system for the home similar to the systems utilized by other owners in the same neighborhood and zoning district.
3. *Granting of the variance will not be contrary to the public interest or be damaging to the rights of other persons or properties in the same area or district.*  
Granting of the variance will allow a replacement system and help eliminate a potential failing system or discharge that could impact neighboring properties.
4. *The granting of the variance will not be contrary to the policy and intent of the ordinance or detrimental to the public health, safety, and welfare.*  
Granting the variance is not contrary to the intent of the ordinance and will be a benefit to the public health, safety, and general welfare by eliminating a non-compliant septic system.
5. *No variance shall be granted simply because there are no objections, because those who do not object outnumber those who do, or for any reason other than a proved hardship.*  
The small lot size and necessary replacement of the septic system appears to be a hardship and that sanitary sewer service is not available to this area of the County.

#### VII. GENERAL & ADJOURN

Motion by Commissioner **Hentges**; second by Commission **Huber** to adjourn the meeting at 6:45 PM. The motion carried unanimously.

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Gary Hartmann  
Chair, Board of Adjustment

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Date

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Barbara Simonson  
Deputy Clerk to the Board

DRAFT



# STAFF REPORT PREPARED FOR TOWNSHIPS & COUNTY BOARD OF ADJUSTMENT

GOVERNMENT CENTER 114 · 200 FOURTH AVENUE WEST · SHAKOPEE, MN 55379-1220  
(952)496-8653 · Fax (952)496-8496 · Web scottcountymn.gov

## Austin Septic Variance #PL2020-008

### Request:

A Variance from the required ten foot property line setback to one (1) foot and from required ten (10) foot structure setback to two (2) feet to install a septic holding tank.

Nathan Hall, Associate Planner, is the project manager and is available for questions at 952-496-8892.

### General Information:

<b>Applicant:</b>	Joshua Christopher Austin	<b>Site Location:</b>	16395 Elm Way
<b>Property Owners:</b>	Joshua Christopher Austin	<b>Township:</b>	Section 8, Blakeley
<b>Public Hearing Date:</b>	March 9, 2019	<b>Action Deadline:</b>	April 13, 2020 (60 Day)

### Zoning/Comprehensive Plan Information:

<b>Zoning District:</b>	Agricultural Preservation (A-1)	<b>Comprehensive Land Use Plan:</b>	Agricultural Preservation & Hamlet Mixed-Use Overlay
<b>Watershed District:</b>	Scott WMO	<b>School District:</b>	Belle Plaine #716
<b>Administrative Procedures Ordinance:</b>	Section 6		

### Report Attachments:

1. Site Location Map
2. Aerial Photo
3. Application Narrative
4. Property Survey
5. Tank Placement Drawing
6. Blakeley Township Recommendation
7. Scott County Environmental Services review memorandum dated Feb 14, 2020

### Request-

Variance from the required ten foot property line setback to one (1) foot and from required ten (10) foot structure setback to two (2) feet to install a septic holding tank.



to be set back 10 feet from a property line and nearby structures. Under the SSTS Ordinance all variance requests are to be considered by the Scott County Board of Adjustment according to Scott County Administrative Procedures Ordinance No. 13.

As proposed, the holding tank would be located 1 foot from the northeastern property line and 3.5 feet from the southeastern property line. The tank would also be located 3.5 feet from Mr. Austin's home and as close as 2 feet to a neighboring commercial structure. The placement of the proposed tank has been dictated by the size of the parcel and the requirement to remain 50 feet from nearby wells. A Type II system requires an annual operating license to ensure that the system is pumped and maintained on a regular basis.

**Environmental:**

Scott County Environmental Services has met with the applicants and reviewed the proposal. They have provided a review memorandum attached to this report where they are recommending approval of the requested variance subject to the applicant receiving approval from a licensed civil/structural engineer for the placement of the holding tank so close to the existing structures. The other factor in the septic system location is that the system must be at least 50 feet from a well, which is located just west and north of the home. Based on the well location the tank needs to be in the area proposed by the applicants. Staff indicated that since this is a Type II system it will require an annual operating license.

Staff supports the variance as it will benefit the property owner and adjacent parcels by eliminating an imminent health threat from a non-compliant septic system.

**Township Recommendation:**

The Blakeley Town Board recommended approval of the variance at their January, 2020 monthly meeting. A copy of the recommendation is attached.

**Staff Recommendation:**

Based on the representations, information, and site drawing provided by the applicants, staff recommends approval of the requested variance based on the criteria for granting a variance listed below.

**Criteria for Granting a Variance:**

1. *The conditions causing the hardship are unique to the property, applicant, or licensee*

The conditions causing the hardship are due to the small size of the property, the location of the home and well, and the status of the existing septic system. The conditions are unique to the subject property.

2. *The variance is proved necessary in order to secure for the applicant right of rights that are enjoyed by other persons in the same area or district.*

The variance would allow the applicant to have a compliant Type II septic system for the home and to use the property in a similar manner to others in the same neighborhood and zoning district.

3. *Granting of the variance will not be contrary to the public interest or be damaging to the rights of other persons or properties in the same area or district.*

Granting of the variance will allow a replacement system and help eliminate a non-compliant system or discharge that could impact neighboring properties.

4. *The granting of the variance will not be contrary to the policy and intent of the ordinance or detrimental to the public health, safety, and welfare.*

Granting the variance is not contrary to the intent of the ordinance and will be a benefit to the public health, safety, and general welfare by eliminating a non-compliant septic system.

5. *No variance shall be granted simply because there are no objections, because those who do not object outnumber those who do, or for any reason other than a proved hardship.*

The small lot size and necessary replacement of the septic system appears to be a hardship and that sanitary sewer service is not available to this area of the County.

**Board of Adjustment/Township Alternatives:**

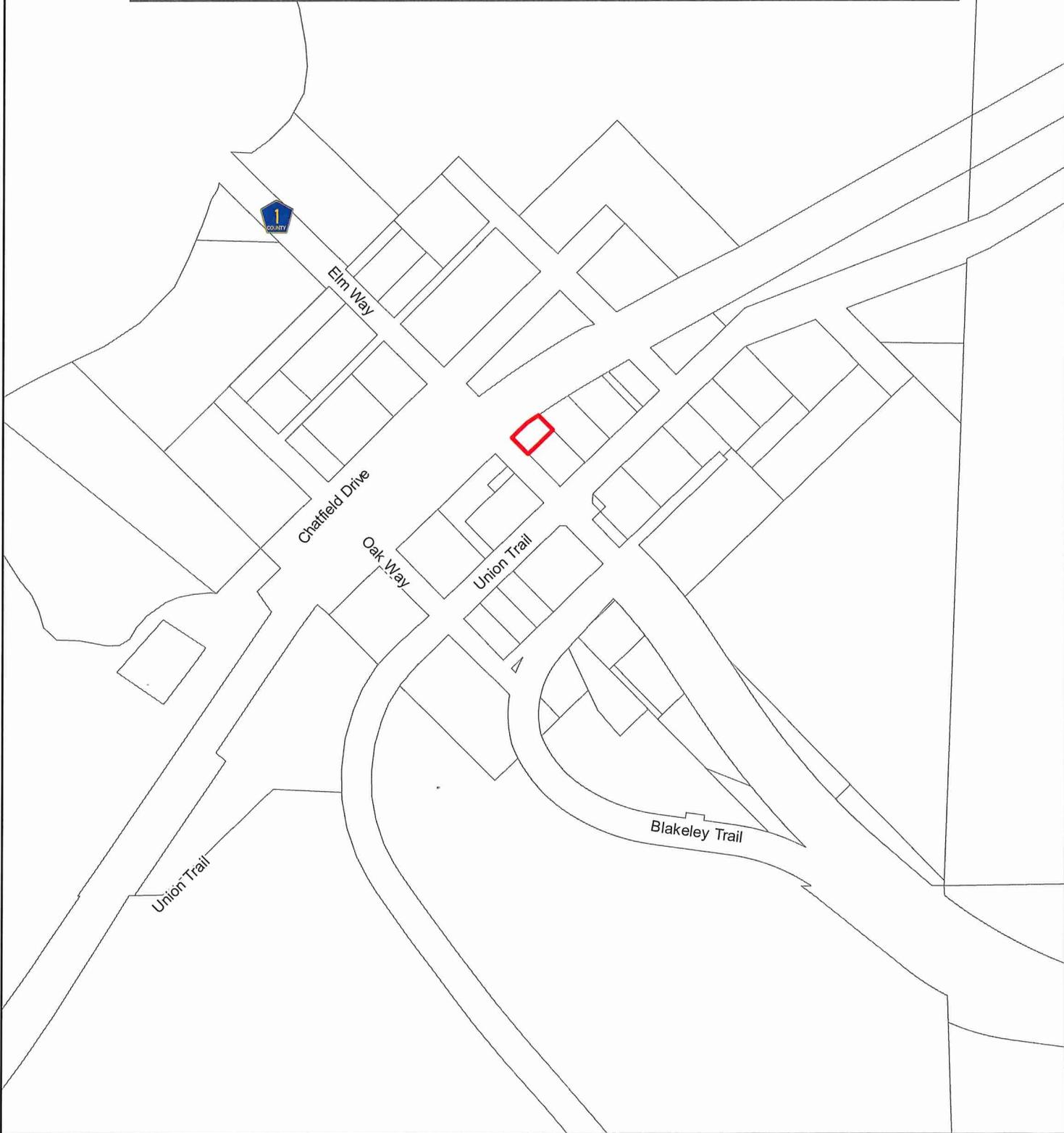
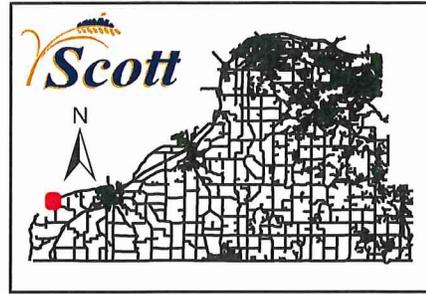
1. Approve the request as recommended by staff based on the criteria for granting a variance as detailed in this report.
2. Approve the request with amendments to the requested variance and to the criteria for granting a variance.
3. Table the request for a specific reason.
4. Deny the request for a specific reason.

**Suggested Motion for Planning Advisory Commission or Township Board:**

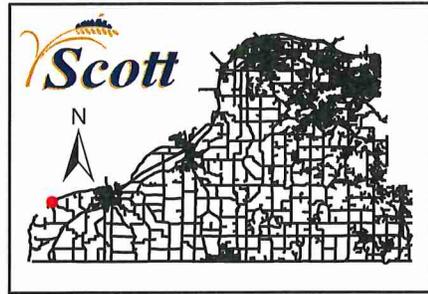
Based on the criteria for granting a variance I recommend approval of the requested variance from the required ten foot property line setback to one (1) foot and from required ten (10) foot structure setback to two (2) feet to install a septic holding tank subject to the following condition:

1. Prior to issuing a permit for the holding tank the applicant shall receive approval from a licensed civil/structural engineer stating that the placement of the holding tank does not pose a threat to the nearby structures.

**BLAKELEY TOWNSHIP  
SECTION 8  
JOSHUA AUSTIN  
REQUEST FOR VARIANCE**



**BLAKELEY TOWNSHIP  
SECTION 8  
JOSHUA AUSTIN  
REQUEST FOR VARIANCE**



January 24<sup>th</sup>, 2020

**Joshua Christopher Austin**  
**16395 Elm Way**  
**Belle Plaine, MN 56011**  
**(Blakeley Township)**

Mailing Address:  
489 East Belvidere St.  
St. Paul, MN 55107

Scott County Planning and Resource Management  
200 Fourth Ave. West, Room 114  
Shakopee, MN 55379

**SUBJECT: VARIANCE REQUEST FOR 16395 Elm Way, Blakeley Township.**

To Whom It May Concern:

I am writing this letter to request, because of limited space on the property:

1. **To install a 3,000 gallon holding tank (6.75 x 17) instead of a septic system.**
2. To have a **variance granted that the holding tank could be less than 10 feet from the house, less than 10 feet from the neighbor's garage and less than 10 feet from the property line. (These variances are further articulated later in this letter.)**

This 4 bedroom house is situated in Blakeley Township, Minnesota, by the bridge crossing the Minnesota River, near the Union Pacific railroad tracks. The back of the property is tilted towards the northeast. The front towards the southwest. (Please see **Survey "Section View AA: Orientation of Property"**)

I, Joshua Austin, bought this property from the previous owner in August of 2018 as a fixer upper. He told me the septic system was all good. It turns out this wasn't true. It is an illegally placed tank in an area that appeared to be my lawn, but in actuality, was not even my property. This septic tank is indicated on the property survey as being 12 feet from the house, on the northwestern side of the house. (See Survey "Section View AA: Orientation of Property")

I was informed by a neighbor of these things a month or two after my purchase of the house. Initially we weren't sure what to do about the septic system, so instead my brother and I began making other improvements to the interior such as cleaning it out, sheetrocking, tiling, painting, laying laminate flooring and putting in better cabinets and appliances. As time went on, we began to realize that before we invested any more improvements to the property, we really would need to first resolve the septic tank problem.

By the time the Spring of 2019 rolled around, I began the process of investigating my options for legal installment. It was frustrating to know what we could do because of the property's limited space. In July of 2019, I contacted Wayne Wachholz Inc. of Waconia, MN, to do an initial estimate and walk around of the property. He said a survey would be required first, which was completed by Sibley Surveyors in September 25<sup>th</sup>, 2019. Then Wayne came back again to do the site evaluation, completed October 30<sup>th</sup>, 2019.

**Wayne recommended that the only viable option for this property would be:**

- 1. A 3,000 gallon holding tank.** There is no space for the septic system and drain field conventionally placed on most rural property.
- 2. That the holding tank would be installed in the back of the property close to the eastern corner, 50 feet beyond our well and 50 feet beyond Arlene Albrecht's well,** which satisfies the requirements of the State of Minnesota. **(See Survey Section View AA: "Orientation of Property")**

We met with our neighbor, Arlene Albrecht, February 3<sup>rd</sup>, 2020:

- 1. She agreed with our request to install the holding tank close to her garage,** the corner of which juts into the eastern corner of our property. **(Please see the Survey Section View AA: "Explanation of Features and Anomalies of Property.")**
- 2. She has given us permission to tear up as much of the concrete block pad as is needed for installment.** The majority of this pad is on our property but we felt it was necessary to come to an agreement about breaking it up anyhow. We are breaking it up entirely at our own expense.
- 3. We are also not requesting her to remove the small corner of her garage which juts into our eastern property corner.**
- 4. She understands that we are dealing with limited space for holding tank installment.**

(See Photocopy titled: "VARIANCE REQUESTS ENLARGEMENT")

We are requesting a variance of:

1. 1 foot from the **northeastern property line.**
2. 3 ½ feet from the **southeastern property line.**
3. 3 ½ feet from **my house on the eastern corner.**
4. 2 feet from **Mrs. Albrecht's garage**
5. 3 feet from **Mrs. Albrecht's garage, close to the northeastern property line.**
6. We also would like to be permitted to downsize to 2,000 gallon tank should that be the last available option given the limited space and proximity to existing structures.

After meeting with Arlene Albrecht on February 3<sup>rd</sup>, we talked to engineers later that week because we know we are not going to meet the 10 foot setbacks conventionally required for installing a holding tank close to an existing structure. They told us **we need to expose any footings for inspection. This will have to wait for the spring of 2020.** Mary Von Eschen at Scott County told us we can proceed with the variance request anyway.

We know that with the limited space on the property, being 10 feet away from existing structures is simply, not possible. **That's why we are contacting engineers to ensure that the tank will not effect the existing structures, nor the structures the situating of the tank.**

**Finally, concerning the old illegal septic tank. Our intention is to abandon it.** The county has a documentation form and procedure for this. It must be drained one final time, the bottom of the tank must be cracked, and then backfilled with dirt.

We would like to do everything above board and legal, which will benefit myself, my brother and any other future homeowners. If there are any penalties associated with owning a faulty septic system, I'd request to please pass those onto the previous owner. I am trying to resolve and rectify a situation which arose through no fault of my own. We hope that you can see the benefit of proceeding with this recommended plan and will do our best to comply with your decisions.

Joshua Christopher Austin

*JCA* 2/11/20

# CERTIFICATE OF SURVEY

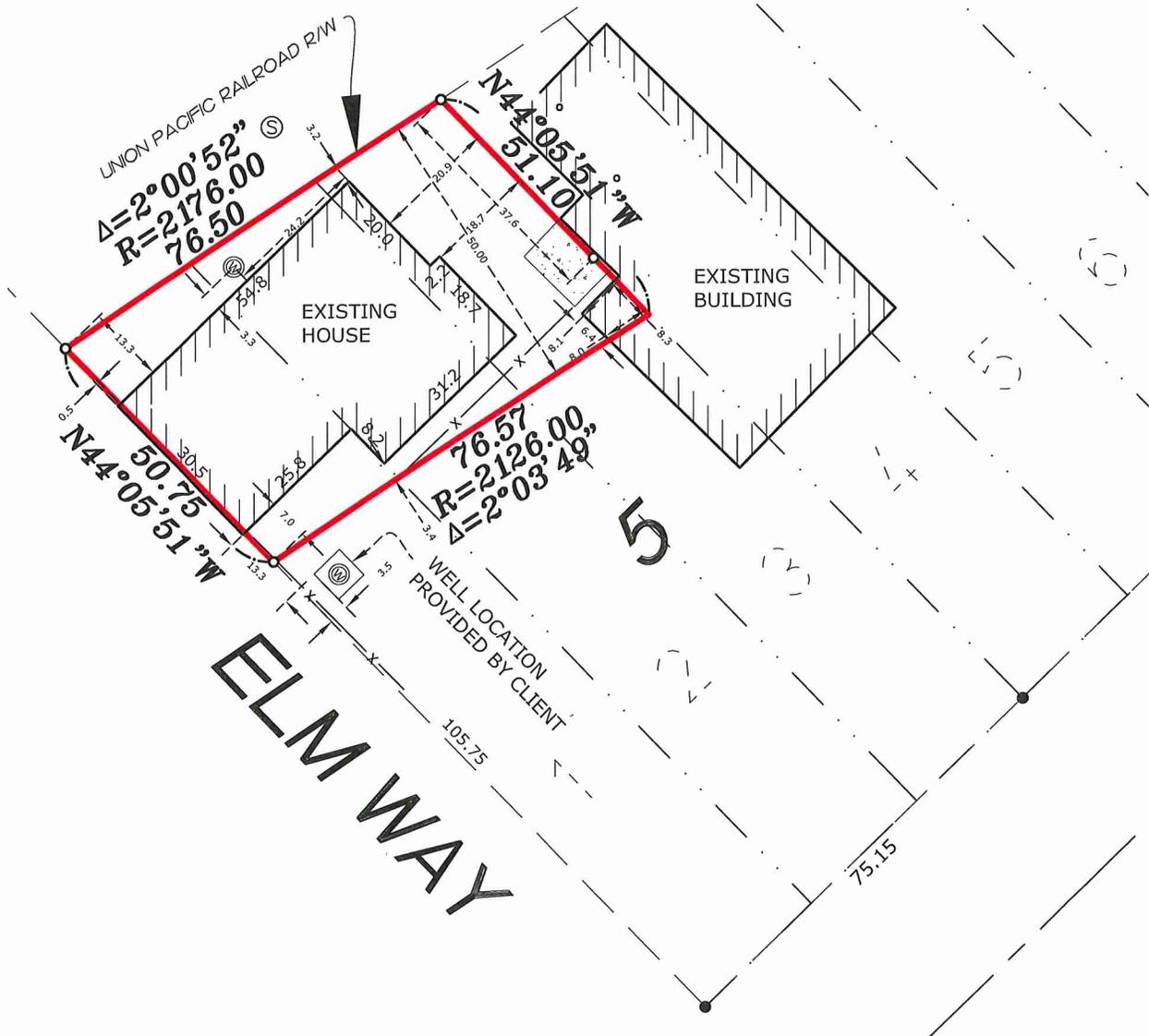
~for~ JOSHUA CHRISTOPHER AUSTIN

## LEGEND

- DENOTES IRON MONUMENT FOUND AS LABELED
- DENOTES IRON MONUMENT SET, MARKED RLS# 15475
- ⊙ DENOTES FOUND SCOTT COUNTY MONUMENT
- Ⓢ DENOTES SANITARY SEWER MANHOLE
- Ⓜ DENOTES WELL



NORTH



North 50ft. of Lots 1-3, Block 5, Sec. 8-113-25, Scott County, Minnesota.

SCALE: 1" = 30' | BEARING DATUM: Assumed | JOB NO. 20.0105LS | DRAWN BY: SW | CREW: JM

I hereby certify that this plan, survey 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.

By: *[Signature]*  
Minnesota License No. 15475

Dated 19 day of February 2019.

DATE: 02-19-20

REVISIONS

#	DATE	DESCRIPTION	BY
1			
2			
3			
4			
#	DATE	DESCRIPTION	BY

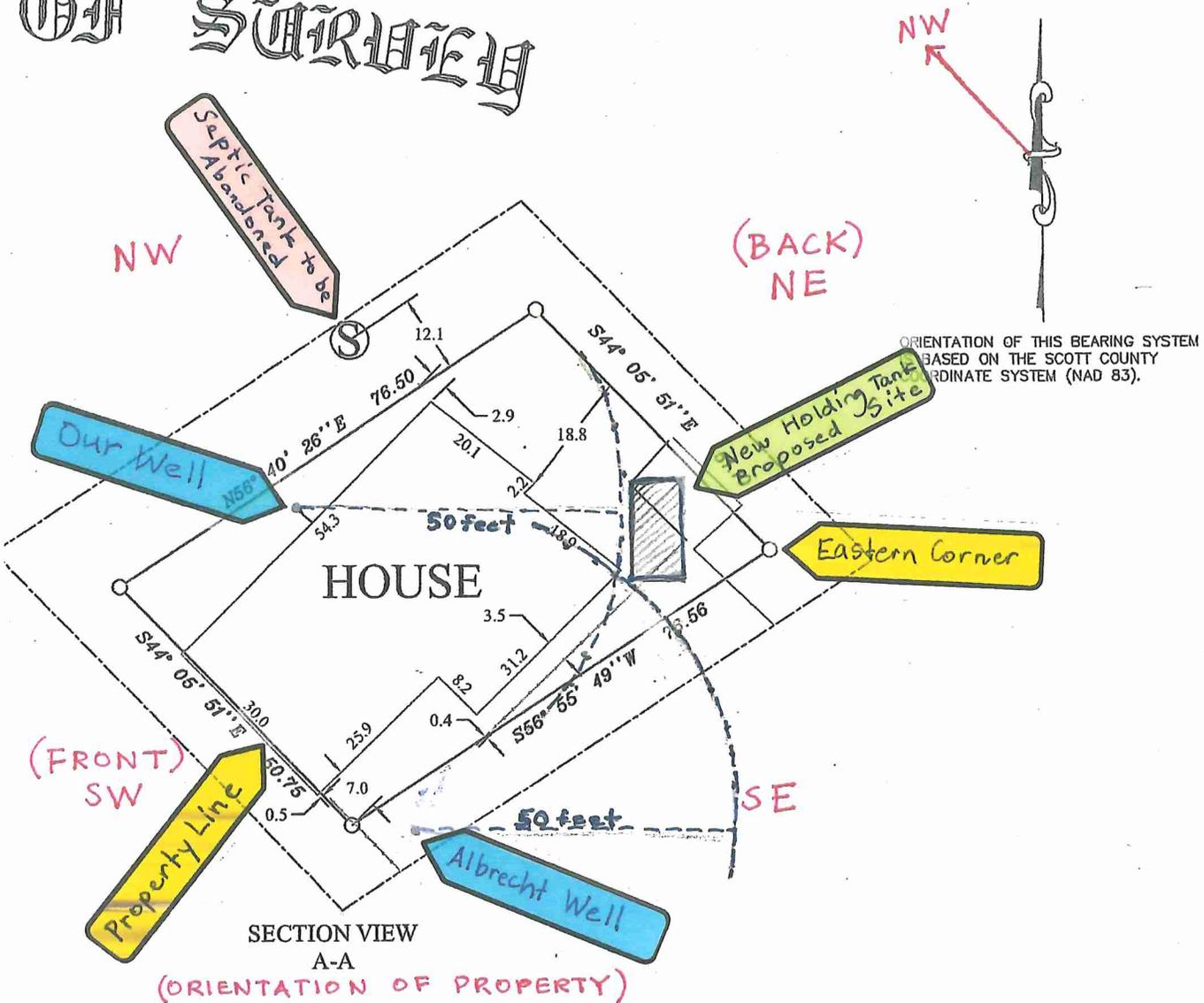


**E. G. RUD & SONS, INC**

PROFESSIONAL LAND SURVEYORS  
335 Main Ave., P.O. Box 988  
Gaylord, MN 55334  
TEL. (507) 237-5212

www.egrud.com

# OFF SURVEY



ORIENTATION OF THIS BEARING SYSTEM  
BASED ON THE SCOTT COUNTY  
COORDINATE SYSTEM (NAD 83).

LAND SURVEY FOR  
**AUSTIN CHRISTOPHER**  
N. 50FT. OF LOT 1-3 BLOCK 5  
BLAKELEY, MINNESOTA

⊙ DENOTES SCOTT CO. MONUMENT  
 ● DENOTES IRON PIPE FOUND  
 ○ DENOTES IRON PIPE SET BY RLS NO. 15475  
 SCALE: 1 INCH = 100 FEET

SEP., 2019 FILE NO. 625

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

*Avery Grochow*

AVERY GROCHOW, LS  
 DATE 9/25/19 REGISTRATION NO. 15475

SIBLEY SURVEYORS, INC.  
GAYLORD, MINNESOTA

(C)





# BLAKELEY TOWNSHIP RECOMMENDATION

(In place of Building Permit Application)

## REQUEST FOR APPROVAL

Applicant: Josh Austin

PID: 20010220

Date: 1-07-2020

Affected Address: 116395 Elm Way (Blakeley), Belle Plaine, MN 56011



Request: Requesting a variance for a septic tank (holding tank) to be less than 10 ft from the house and 10 ft to a property line

After reviewing the request, the Township Board made the following recommendation:

- Recommends approval of the request as presented
- Recommends approval of the request with the following conditions:  
that it meets all applicable Scott City conditions & requirements
- Recommends disapproval of the request for the following reasons:

### Affirmation of Board Action (Supervisors)

	In Favor	Opposed	Abstained	Absent
Chairman Brian Schmidt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Supervisor John Busse	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Supervisor Robert Wagner	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

I hereby contest that the information above is an accurate account of the actions taken by the Blakeley Township Board.

[Signature]  
Clark Brent Koepf

1/7/2020  
Date

[Signature]  
Chairman-Brian Schmidt

1/7/2020  
Date



**SCOTT COUNTY**  
**Environmental Services**

GOVERNMENT CENTER 114 · 200 FOURTH AVENUE WEST · SHAKOPEE, MN 55379-1220  
(952) 496-8177 · Fax (952) 496-8496 · Web [www.scottcountymn.gov](http://www.scottcountymn.gov)

## Memo

**Date:** February 14, 2020  
**To:** Nathan Hall, Zoning Department  
**From:** Mary VonEschen, Environmental Services Department  
**Subject:** PL2020 – 0008 Joshua Austin Variance

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The Scott County Environmental Services Department has reviewed the information submitted by the applicant for the variance at the property located at 16395 Elm Way in Blakeley Township. This variance consists of reducing the required 10 foot setback to the property line and structure from the septic/holding tank.

The Environmental Services Department recommends approval of this variance due to a very limited area for sewage treatment. A holding tank is the only available option due to lot size and two well setbacks occurring on the property. The property owner will also need to obtain a letter of approval from a licensed engineer to install the septic/holding tank closer to any structure(s).

If you have any questions, please contact me at (952) 496-8344.

# **ELECTION OF OFFICERS**

## **Board of Adjustment 2019**

Election of officers will proceed as follows:

### **Gary Hartman – Board of Adjustment Meeting**

- Open nominations for Chair of Board of Adjustment
  - Nominate
  - Ask three (3) times “are there any other nominations”
  - Motion to close nominations
  - Close nominations for Chair of Board of Adjustment
  - Vote on nominations for Chair of Board of Adjustment
  - Announce new Chair and vote count
- 

- Open nominations for Vice-Chair of Board of Adjustment
  - Nominate
  - Ask three (3) times “are there any other nominations”
  - Motion to close nominations
  - Close nominations for Vice-Chair of Board of Adjustment
  - Vote on nominations for Vice-Chair of Board of Adjustment
  - Announce new Vice-Chair and vote count
- 

- Open nominations for Secretary of Board of Adjustment
- Nominate
- Ask three (3) times “are there any other nominations”
- Motion to close nominations
- Close nominations for Secretary of Board of Adjustment
- Vote on nominations for Secretary of Board of Adjustment
- Announce new Secretary and vote count

Planning Advisory Commission meeting follows.

# **ELECTION OF OFFICERS**

## **Planning Advisory Commission 2018**

Election of officers will proceed as follows:

### **Tom Vohnhof – Planning Commission Meeting**

- Open nominations for Chair of Planning Advisory Commission
  - Nominate
  - Ask three (3) times “are there any other nominations”
  - Motion to close nominations
  - Close nominations for Chair of Planning Advisory Commission
  - Vote on nominations for Chair of Planning Advisory Commission
  - Announce new Chair of Planning Advisory Commission and vote count
- 

- Open nominations for Vice-Chair of Planning Advisory Commission
  - Nominate
  - Ask three (3) times “are there any other nominations”
  - Motion to close nominations
  - Close nominations for Vice-Chair of Planning Advisory Commission
  - Vote on nominations for Vice-Chair of Planning Advisory Commission
  - Announce new Vice-Chair of Planning Advisory Commission and vote count
- 

- Open nominations for Secretary of Planning Advisory Commission
- Nominate
- Ask three (3) times “are there any other nominations”
- Motion to close nominations
- Close nominations for Secretary of Planning Advisory Commission
- Vote on nominations for Secretary of Planning Advisory Commission
- Announce new Secretary of Planning Advisory Commission and vote count

Adjournment follows