



**Olmsted County Planning Department**  
September 12, 2022

**Oronoco Town Board-Board of Adjustment**

Prepared by: Olmsted County Planning Department Staff

Request: Oronoco Township Variance #OR2022-003VAR by Michael Walker. The request is to allow for a detached accessory structure to be built on the property prior to a dwelling and includes a variance to build a dwelling on the property that does not meet required setbacks.

Location: The property is located in the NW ¼ of the NW ¼ of Section 23 in Oronoco Township. The property is on the east side of Tennis Lane near the dead end.

Zoning: R-1 Low Density Residential Zoning District

**ACTION ITEMS**

<p>Three variances are requested:</p> <ol style="list-style-type: none"> <li>1. Allow a variance to build a detached accessory building prior to a primary structure; and</li> <li>2. Allow a variance to build the primary structure 20 feet in lieu of the required 30 feet from the top of the bluff; OR</li> <li>3. Allow a setback variance from the primary structure of 10 feet in lieu of the 20 feet required from an on-site sewage treatment system (septic system).</li> </ol>	<p>Planning staff recommends the following:</p> <ol style="list-style-type: none"> <li>1. Approve the variance to allow a detached accessory building to be built prior to the primary structure with 1 condition.</li> <li>2. Deny the variance to allow the primary structure 20 feet from the top of bluff instead of the required 30 feet setback (variance of 10 feet).</li> <li>3. Approve the variance to build the primary structure 10 feet from the on-site sewage treatment system instead of the required 20 feet with 5 conditions.</li> </ol>
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**BACKGROUND INFORMATION**

**Background:**

The property is located near the dead end of Tennis Lane in Section 23 of Oronoco Township. The property is a lot of record and was buildable as two contiguous parcels. The landowner has combined the parcels into one tax parcel so that he can build on them without the property

line in the middle of the lots (you can see the original lot configuration in the "Walker Setbacks" exhibit). The combined parcels lot is approximately 26,000 square feet (1/2 acre).

Mr. Walker is requesting a variance to allow a detached accessory building to be built prior to the dwelling so that he can store equipment used to maintain the property.

According to Mr. Walker's site plan the proposed house would meet setbacks to the septic system but would be 10' closer to the top of the bluff. The closest portion of the primary structure to the septic system is the front-loaded attached garage (according to the plans). Historically, variances have been granted to allow a garage closer to a septic drainfield due to the type of foundation under the garage. The intent of the ordinance is to protect the health, safety and welfare; this intent would be better served to vary the garage setback to the drainfield instead of the dwelling setback to the bluff. Allowing the variance to the septic drainfield would ensure the bluff impact zone maintains its integrity. The purpose of the bluff setbacks is to protect the integrity of the slope and to preserve aesthetic views from the water to land. All building options must be exhausted by the applicant prior to varying shoreland setbacks.

According to Section 1.26 Subdivision B buildable lots for a dwelling are:

1. A lot that qualifies as a farm.
2. Lots created after the effective date of this ordinance which meet the lot area, lot width, access requirements and either the standards for non-farm lots or dwellings in the zoning district where such lot is located or the standards for farmstead dwellings.
3. Lots of record, providing that such a lot has recorded access to a public road and the proposed building complies with the regulation of Section 1.28 (B).
4. If in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the zoning district lot area, width, or access standards of the zoning district where located, the lots must not be considered as separate parcel of land for purposes of development. The lots must be combined with one or more contiguous lots so they equal one or more parcels of land, each meeting the lot area, width, or access standards to the extent possible.

Section 1.28 Subdivision B:

Lot of Record: A non-conforming lot of record may be used for any principal use permitted in the zoning district in which the lot is located, provided that for any use which is to be served by an individual well and/or septic system, the non-conforming lot shall be of a size and design to meet the minimum requirements of the Board of Health regulations for such wells and septic systems

Mr. Walker has been in contact with a septic designer who has indicated there is sufficient area on the lot for a septic system and well. Mr. Walker has shown the placement of the septic system on the site plan that was provided.

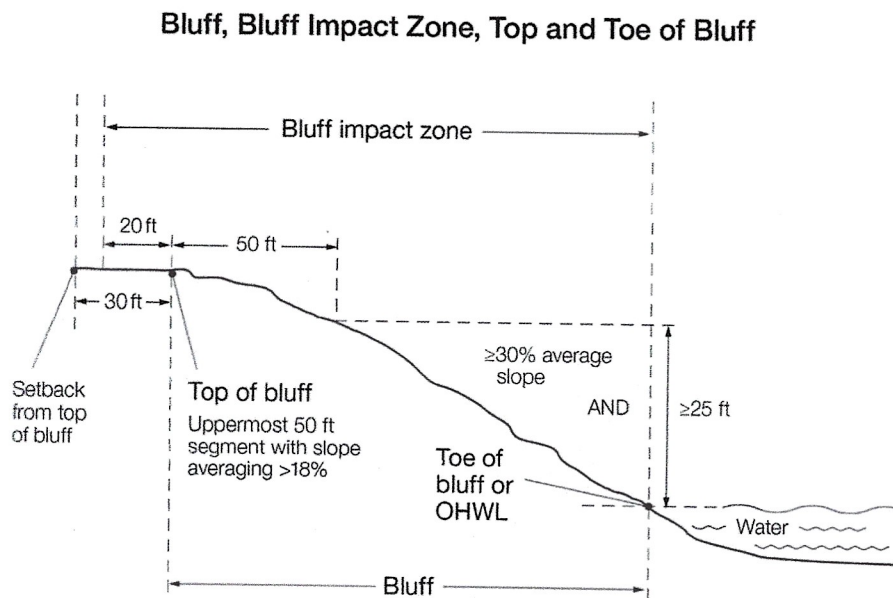
The request is to build the dwelling 20 feet from the bluff impact zone. The following definitions are from Oronoco Township Zoning Ordinance Section 2.02. Figure 1 on the next page illustrates the definitions below.

**Bluff:** A topographic feature such as a hill, cliff, or embankment having the following characteristics (an area with an average slope of less than 18 percent over a distance for 50 feet or more shall not be considered part of the bluff):

- a) Part or all of the feature is located in a shoreland area;
- b) The slope rises at least 25 feet above the ordinary high water level of the waterbody;
- c) The grade or slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30 percent or greater; and
- d) The slope must drain toward the waterbody.

**Bluff Impact Zone:** A bluff and land located within 20 feet from the top of a bluff.

Figure 1-Bluff, Bluff Impact Zone, Top and Toe of Bluff



Allowing the dwelling 20 feet from the top of the ridge would make it at the edge of the bluff impact zone. Any addition such as a deck or patio to the back of the house would then be within the bluff impact zone.

The applicant requests the following:

1. Allow a variance to build a detached accessory building prior to a primary structure; and
2. Allow a variance to build the primary structure less than 30 feet from the top of the bluff; or
3. Allow a variance primary structure with a 10 foot setback to an on-site sewage treatment system (septic system).

## ANALYSIS AND FINDINGS

According to Section 4.08 Subdivision in the Oronoco Township Zoning Ordinance, a variance from a provision of this zoning ordinance may be granted by the Board of Adjustment in those cases where the zoning ordinance is found to impose unnecessary hardship to a property owner. The Board of Adjustment may not permit as a variance any use that is not permitted for the property in the district where the affected person's land is located. **“a” subdivisions below are findings for the accessory building variance “b” subdivisions are findings for the bluff variance and “c” findings are for the septic system variance.**

- A. Criteria for Granting a Variance: A variance may be granted only when the applicant for the variance establishes that there are practical difficulties in complying with the official control. Economic considerations do not constitute practical difficulties. The Oronoco Board of Adjustment must find evidence that all of the following facts and conditions exist:
1. There are extraordinary conditions or circumstances, such as irregularity, narrowness, or shallowness of the lot or exceptional topographical or physical conditions which are peculiar to the property and do not apply to other lands within the neighborhood or the same class of zoning district;
    - a. There is an old accessory building located on the property that is dilapidated and unusable. The new structure will be used to store equipment to maintain the property until the dwelling is built.
    - b. The property is a legal non-conforming property. There is limited area in which a dwelling may be built. Allowing the dwelling 20 feet from the bluff impact zone ensures the dwelling is not located within the bluff impact zone, will be set further from the bluff than the adjacent property owner to the north, and will ensure sufficient area on the property for the on-site sewage treatment system.
    - c. The property is a legal non-conforming property. There is limited area in which a dwelling may be built. The plans show the attached garage would be 20 feet from the drainfield if the dwelling was sited to meet the bluff impact zone setback. The intent of the setback is to ensure there is no seepage into any livable space, the foundation under the garage would not be affected by the 10 foot setback to the on-site sewage treatment system.
  2. The extraordinary conditions or circumstances are due to circumstances unique to the property not created by the landowner;
    - a. The property has been vacant for decades. Allowing the accessory structure will ensure the property is well maintained into the future.
    - b. The placement of the dwelling is created by the landowner. The dwelling could be situated so that the bluff setback is met.
    - c. The on-site sewage treatment system is in the only location that meets all requirements, allowing the variance to the on-site sewage treatment system will ensure that the bluff setback is met. The applicant has proposed two house sizes, either would not impact the setback to the septic system and would have the same depth. The only impact to the septic system is the front-loaded attached garage.

3. The variance is necessary to overcome practical difficulties in complying with the zoning ordinance so that the property can be used in a reasonable manner not permitted by the ordinance;
    - a. There is an accessory building currently located on the property. The request would not add additional storage space to the property but would replace the existing dilapidated building.
    - b. The variance to the bluff impact zone is based on the house design and could be overcome with a different house style or configuration that would not require the garage to stick out in front of the structure.
    - c. The variance to the septic system allow the bluff impact zone requirement to be met therefore maintaining the integrity of the slope.
  4. The variance will not be materially detrimental to the public welfare or materially injurious to other property in the area, and will not alter the essential character of the locality;
    - a. The accessory building would allow the property to be maintained regularly and allow the storage of the necessary materials needed for maintaining the property.
    - b. The variance to the bluff impact zone could be materially detrimental to the public welfare if the slope were to erode away and jeopardize the foundation of the dwelling.
    - c. The variance to the septic system would not be materially detrimental to the public welfare or materially injurious to other property. The proposed setback would not harm the integrity of the on-site sewage treatment system nor the foundation of the proposed garage.
  5. The variance is in harmony with the general purpose and intent of this ordinance; and
    - a. The variance is in harmony with the general purpose and intent of the ordinance, the proposal is to clean up the property and keep it well maintained, it has sat vacant for decades and the keeping maintenance supplies on the property will ensure the property is well maintained.
  6. The terms of the variance are consistent with the comprehensive plan.
    - a-c. The Oronoco Township General Land Use Plan does not go into specifics that addresses the concerns requested in these variances.
- C. When deciding a variance to the Shoreland District or the River Corridor District regulations, the following additional factors shall be considered:
1. No variance to the standards of the shoreland district or river corridor district shall have the effect of allowing in any district uses prohibited in that district.
    - a-c. The requested uses are not prohibited in the district.
  2. No variance in the shoreland district shall permit a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area.

a-c. The request is not to reduce the flood protection of the property.

3. No variance in the shoreland district or river corridor district shall permit standards lower than those required by State law.

a-c. The variance to allow a setback to the bluff impact zone would permit standards lower than those required by state law.

4. In areas where development exists on both sides of a proposed building site, water and road setbacks may be varied to conform to the existing established setbacks.

a-c. The request is not to vary the setback to the ordinary high-water mark.

5. In areas of unusual topography or substantial elevation above the lake level, the water setback may be varied to allow a riparian owner reasonable use and enjoyment of his property.

a-c. The request does not involve unusual topography or substantial elevation change that requires the setback to be varied from the ordinary high-water level.

6. Where homes incorporate a method of sewage disposal other than soil absorption, water setbacks may be reduced by one-third (1/3).

a-c. The home will utilize a standard on-site sewage treatment system.

7. For existing developments, the application for variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, must require reconstruction of a nonconforming sewage treatment system.

a-c. The applicant has consulted a septic designer who has indicated there is sufficient area and soil types on the property to support an on-site sewage treatment system.

8. No variance in the shoreland district shall permit a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area

a-c. The requested variances are no allowing a lower degree of flood protection for the property.

### **Staff Recommendation**

Planning staff findings support the following actions, and the Board must act on each item separately.

1. Approve the variance to build a detached accessory building prior to primary structure with the following condition:
  - a. The structure is to be used for storage for materials and tools related to the maintenance of the property until the primary structure is built, then the storage will be for any personal item associated with the residence.
2. Deny the variance to allow the dwelling to be located 20 feet from the top of the bluff instead of the required 30 foot setback.
3. Approve the variance to allow a structure 10 feet from the on-site sewage treatment system instead of the required 20 foot setback with the following conditions:
  - a. The portion of the structure closer to the on-site sewage treatment system must not include a basement.
  - b. The variance is only for the attached garage as shown on the plans.
  - c. The portion of the structure indicated in this variance must not be converted to habitable space.
  - d. The applicant must submit a site plan certified by a licensed surveyor or other licensed professional indicating the location of the top of the bluff, the setback to the top of the bluff and the ordinary high-water mark.
  - e. The applicant must provide total impervious surface with all building permits for the property indicating the existing and proposed impervious surface for the property. The impervious surface on the property cannot exceed 25% of the lot size.

## ATTACHMENTS

1. Aerial Map
2. Notification Map
3. Applicant Submittals
4. Plans with variances highlighted
5. Walker Setback Exhibit

# Aerial Map of

Oronoco Township Variance OR2022-003VAR by Michael Walker. The request is to allow for a detached accessory structure to be built on the property prior to a dwelling and to vary the bluff impact zone setback by ten feet. The property is located in NW 1/4 of the NW 1/4 of Section 23 in Oronoco Township.



This map prepared by the GIS Division, Olmsted County Planning Department. Olmsted County is not responsible for omissions or errors contained herein. If discrepancies are found within this map, please notify the GIS Division, Olmsted County Planning Department, 2122 Campus Drive SE Rochester MN 55904 (507) 328-7100.

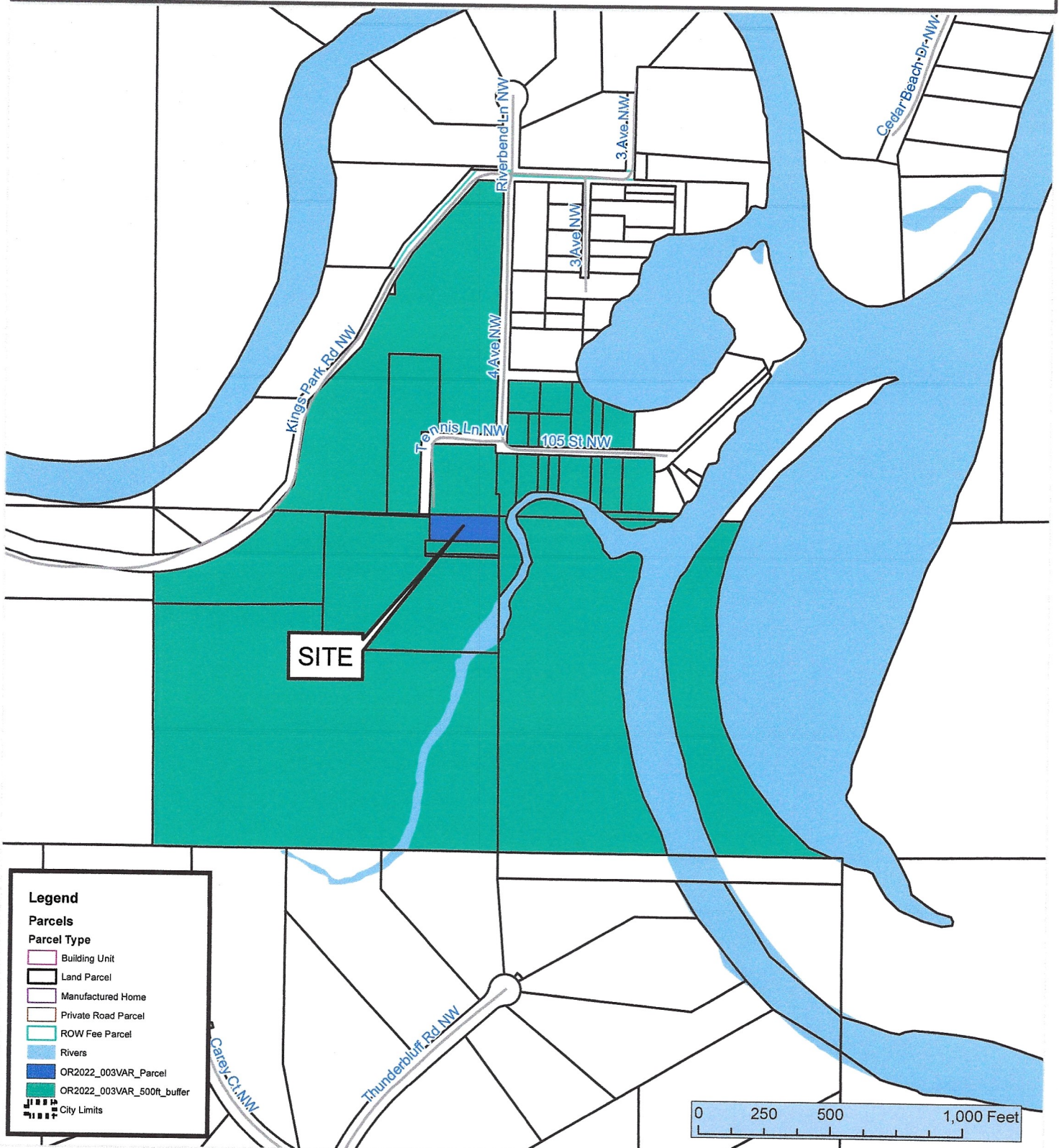
Map Date: 08/23/2022





### 500 ft. Notification Area of

Oronoco Township Variance OR2022-003VAR by Michael Walker. The request is to allow for a detached accessory structure to be built on the property prior to a dwelling and to vary the bluff impact zone setback by ten feet. The property is located in NW 1/4 of the NW 1/4 of Section 23 in Oronoco Township.



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Map Date: 08/23/2022



This proposal is in regards to ridge setback regulations and building regulations on identified property. I am looking to build a 12 x 20ft shed on my property ahead of building my home. My plan is to build a home within the next 2-4 years. In the meantime, I need storage for items that will help me maintain this piece of property but also sizeable for when I make this a permanent residence. This will allow me to store items rather than transporting them every time they are needed.

I have measured out the property and set a plan in place which abides by Oronoco's township rules as well as Olmsted county regulations. The shed will not interfere with placement of septic or a well. I went through GGG Engineering for verification on the lands ability to sustain a septic system to ensure the land was appropriate for a permanent residence. I also had Thein Well come to discuss possible locations for digging a well. I have diligently mapped out this property to formulate a plan that will provide a suitable residency for my family.

As I mentioned earlier, my proposal also includes a request for variance on ridge setback from 30ft to 20ft. When speaking to all the appropriate parties and mapping out the land, this will allow for needed space when building a permanent residence. The septic will have to be placed in the front of the property which pushes the house back significantly. A high percentage of homes are roughly this distance from the ridge if not closer. Both my neighbors' homes, to the left and right sit this close to the ridge.

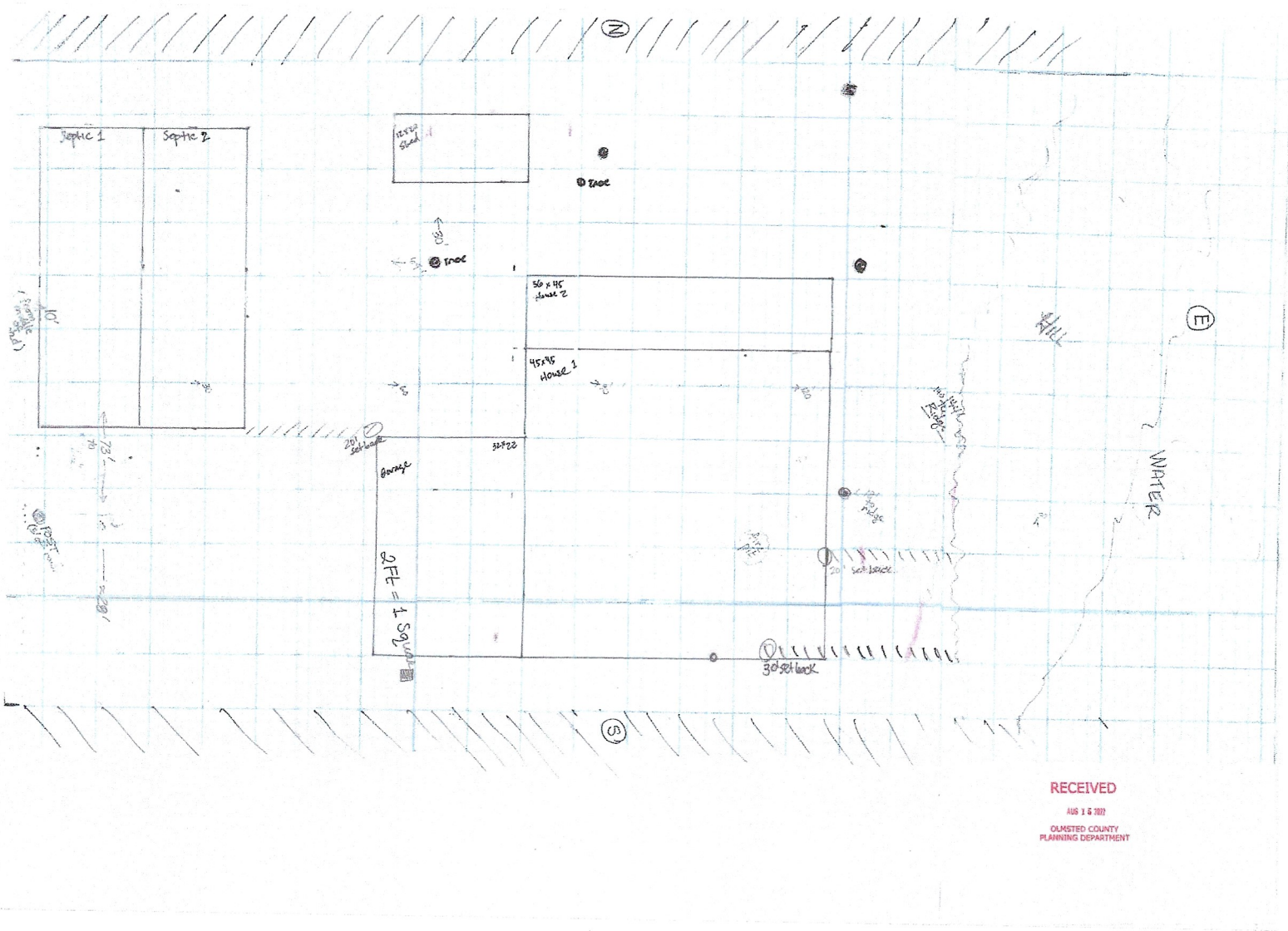
Thank you,

Michael Walker

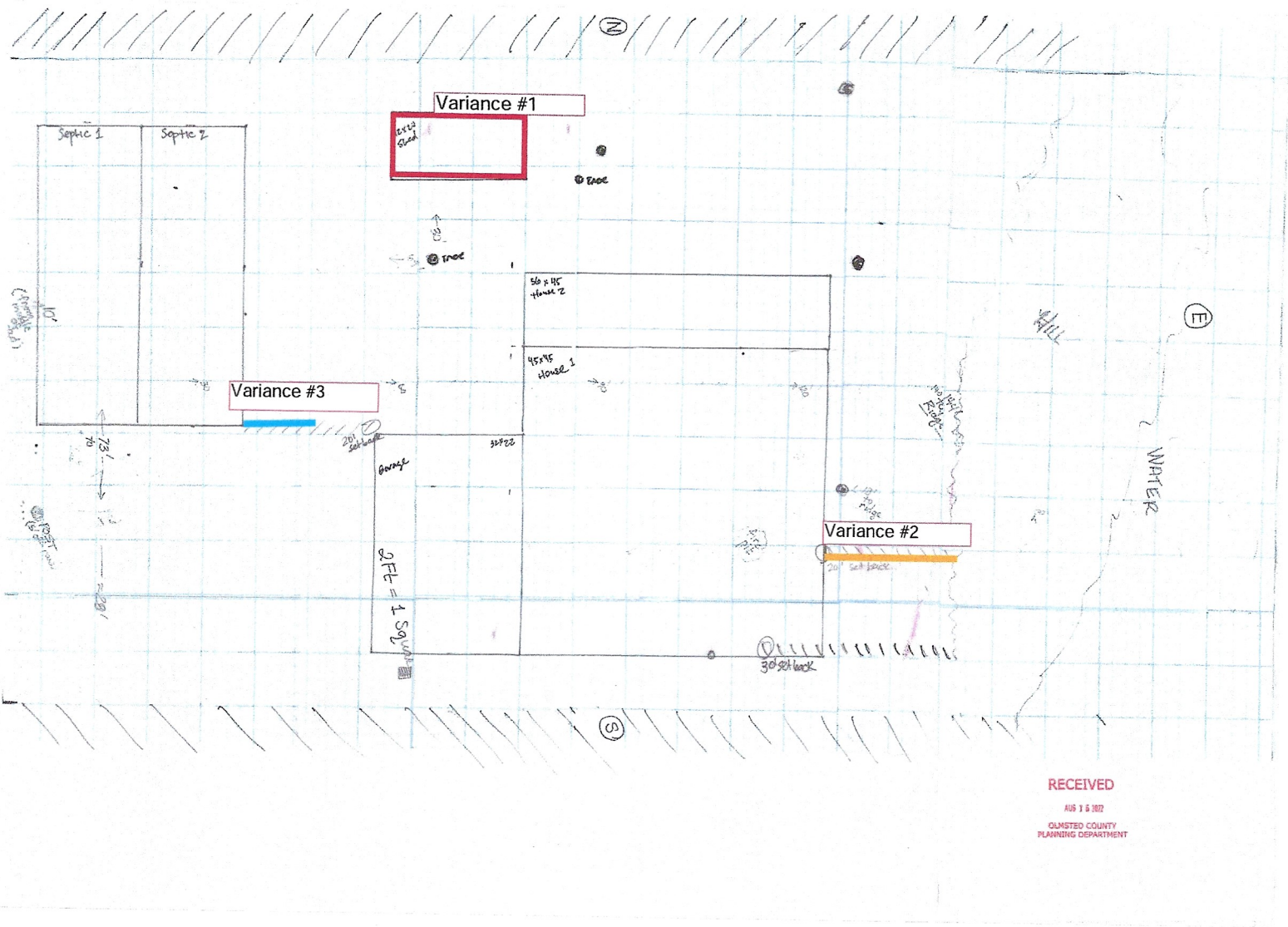
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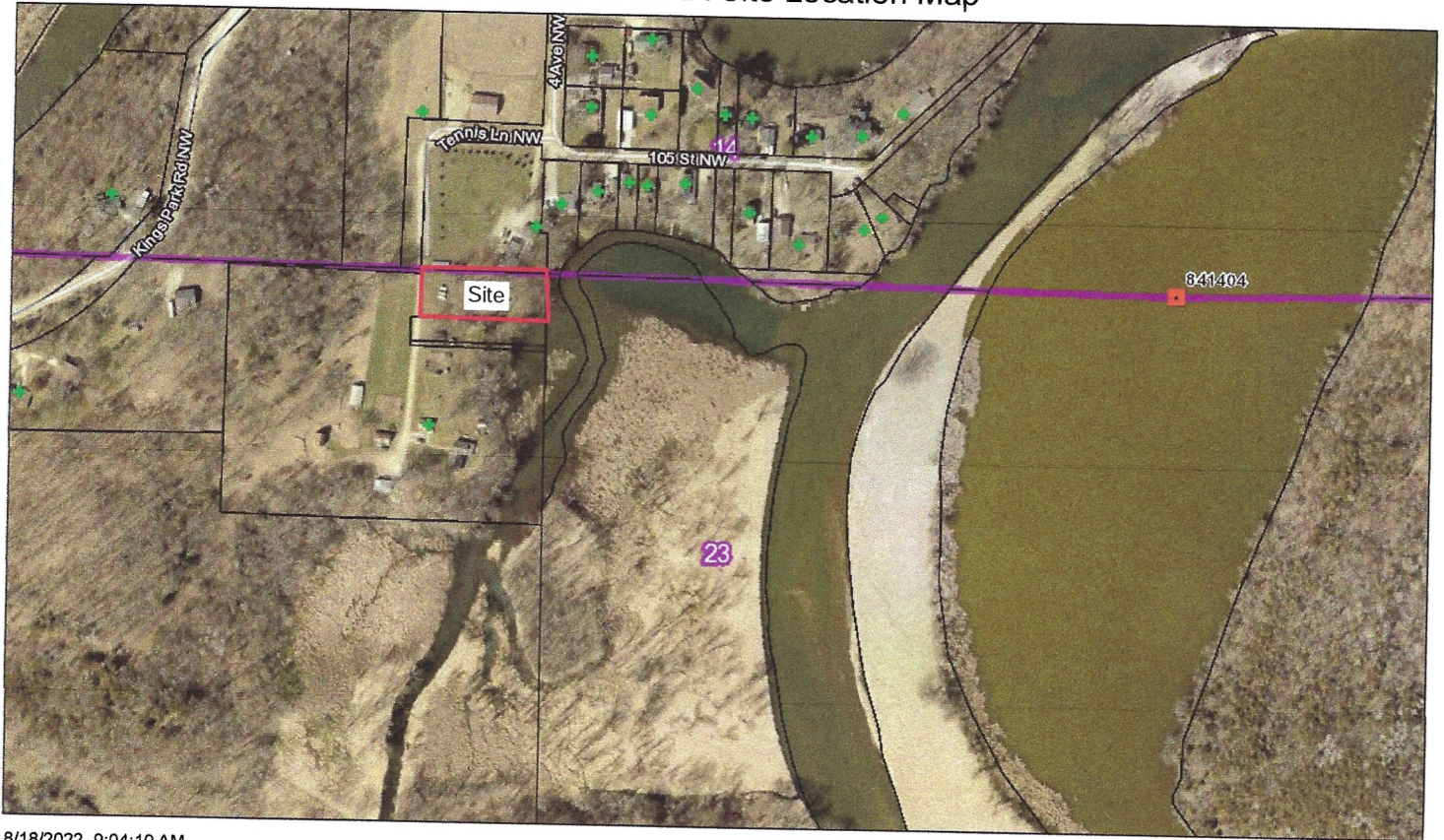


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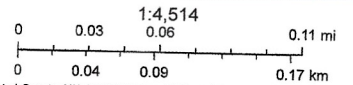
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# OR2022-003VAR Site Location Map



8/18/2022, 9:04:19 AM

- Centerlines
- <all other values>
- City Street
- County Road
- County State Aid Highway
- Driveway With No Public Access
- Interstate



Olmsted County, MN GIS Division and Olmsted County, MN Property Records and Licensing. Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap

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