## ST. LOUIS COUNTY BOARD OF ADJUSTMENT STAFF REPORT Case: 6293

INSPECTION DATE: 12/14/2021

**REPORT DATE: 12/27/2021** 

**MEETING DATE: 1/19/2022** 

## APPLICANT INFORMATION

**APPLICANT NAME:** Michael Bruckelmyer

APPLICANT ADDRESS: 2304 Lismore Rd., Duluth, MN 55804

**OWNER NAME:** Charles Brammeier (IF DIFFERENT THAN ABOVE)

SITE ADDRESS: 6996 Bear Island Rd., Duluth, MN 55436

**LEGAL DESCRIPTION:** SW 1/4 OF NE <sup>1</sup>/<sub>4</sub> LEASE #03-03 MP 365-10-150, S2, T52N, R15W (Fredenberg)

### PARCEL IDENTIFICATION NUMBER (PIN): 365-6000-01910

**VARIANCE REQUEST:** The applicant is requesting relief from St. Louis County Zoning Ordinance 62, Article III, Section 3.8, to allow a principal dwelling at a reduced bluff setback where a minimum of 30 feet is required.

**PROPOSAL DETAILS:** The applicant is proposing to construct a replacement principal dwelling at a reduced bluff setback, 16 feet where 30 feet is required. The proposed location is in a similar footprint as the previous dwelling.

## PARCEL AND SITE INFORMATION

ROAD ACCESS NAME/NUMBER: Bear Island Rd.

LAKE NAME: Island Lake Reservoir

RIVER NAME: N/A

ROAD FUNCTIONAL CLASS: Local

LAKE CLASSIFICATION: RD

**RIVER CLASSIFICATION:** N/A

**DESCRIPTION OF DEVELOPMENT ON PARCEL:** The parcel currently contains multiple accessory structures, septic system, and well.

ZONE DISTRICT: SMU 7

PARCEL ACREAGE: APPROX. 2 ACRES

LOT WIDTH: APPROX. 210 FEET

FEET OF ROAD FRONTAGE: APPROX. 200 FEET

FEET OF SHORELINE FRONTAGE: APPROX. 200 FEET

**VEGETATIVE COVER/SCREENING:** Screening from adjacent properties is good. Screening from lake is adequate.

**TOPOGRAPHY:** The property is flat from the road to the top of the bluff which then extends all the way to the shoreline of Island Lake.

FLOODPLAIN ISSUES: The proposed structure location is located at an elevation above the required RFPE.

WETLAND ISSUES: N/A

ADDITIONAL COMMENTS ON PARCEL: N/A

## FACTS AND FINDINGS

### A. Official Controls:

- 1. St. Louis County Zoning Ordinance 62, Article III, Section 3.8 states that all structures must be set back a minimum distance of 30 feet from the top of a bluff.
  - a. The applicant is proposing a 16 foot setback.
- 2. Goal LU-3 of the St. Louis County Comprehensive Land Use Plan is to improve the integrity of the county's planning-related regulation by minimizing and improving management of nonconformities.
- 3. Objective LU-3.1 of the St. Louis County Comprehensive Land Use Plan is to base variance decisions on uniform approval criterion to ensure all applicants are treated equitably, that community health and safety is protected, and that the overall character of a given area is preserved.
- 4. Objective LU-3.3 of the St. Louis County Comprehensive Land Use Plan is to acknowledge why nonconformities are a concern and that variances should be for exceptional circumstances as noted in Minnesota Statue 394.22 Subd. 10.

## **B.** Practical Difficulty:

- 1. There is room on the subject parcel to meet the required bluff setback as well as all other setback requirements.
  - a. The proposed structure could be relocated to meet all required setbacks without a reduction in size.

## C. Essential Character of the Locality:

- 1. The applicant is not proposing a new use to the area. Area around the subject parcel contains both seasonal and year-round residential use.
- 2. There have been no similar variances within the area.

## D. Other Factor(s):

- 1. The applicant is working with St. Louis County On-Site Wastewater on proper septic permitting.
  - a. The existing septic is undersized. A septic application for a new system has been submitted to St. Louis County On-Site Wastewater.
- 2. The subject parcel is a MN Power lease lot.
  - a. MN Power has provided preliminary approval of the proposal.

- 3. A walkout basement may not be an allowable foundation if excavation within the bluff is required. Excavation within a bluff is not allowed. The associated land use permit application provided states the proposed foundation is a basement.
- 4. Ordinance 62 states that it shall be the burden of the applicant to demonstrate sufficient practical difficulty to sustain the need for a variance. Absent a showing of practical difficulty as provided in Minnesota Statutes and this ordinance, the Board of Adjustment shall not approve any variance.

## See attachments: 1. Zoning/location map 2. Air photo 3. Site sketch 4. Project picture (if applicable) 5. Other pertinent pictures or maps

## **BOARD OF ADJUSTMENT CRITERIA FOR APPROVAL OF A VARIANCE**

- **1.** Is the variance request in harmony with the general purpose and intent of official controls?
- 2. Has a practical difficulty been demonstrated in complying with the official controls?
- 3. Will the variance alter the essential character of the locality?
- 4. What, if any, other factors should be taken into consideration on this case?

## CONDITIONS

Conditions that may mitigate the variance for a reduced bluff setback as proposed, include but are not limited to:

- 1. St. Louis County On-Site Wastewater SSTS standards shall be followed.
- 2. Shoreline vegetation and land alteration standards shall be met.
- 3. An erosion control plan shall be submitted, approved, and implemented throughout the duration of the project until new vegetation is established.
- 4. All other county, local, state, and federal regulations shall be met.

### ST. LOUIS COUNTY, MN PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT

#### Duluth

Government Services Center

320 West 2nd Street, Suite 301 Duluth, MN 55802 (218) 725-5000 Virginia Government Services Center 201 South 3rd Avenue West Virginia, MN 55792 (218) 749-7103

## VARIANCE REQUEST PERMIT APPLICATION

**General** - This application is used to apply for a Land Use Permit. Applicants will need to attach the appropriate worksheet(s) in order to process. Incomplete applications will be returned. Note that the 'clock' does not begin until after payment has been processed for the application. For more information, see our website at: <a href="http://www.stlouiscountymn.gov/BuildingStructures">www.stlouiscountymn.gov/BuildingStructures</a>

Enter the Primary PIN and Associated PIN (if applicable) of the property to be reviewed.PIN is found on your Property Tax Statement. For example, 123-1234-12345. Primary PIN: Parcel where Structure/SSTS arelocated. Associated PIN: Additional and/or adjacent property that you own or that is related to the project.County Land Explorer: <a href="https://www.stlouiscountymn.gov/explorer">https://www.stlouiscountymn.gov/explorer</a>Property Lookup: <a href="https://apps.stlouiscountymn.gov/auditor/parcelInfo2005Iframe">https://apps.stlouiscountymn.gov/auditor/parcelInfo2005Iframe</a>Primary PIN365-6000-01910

Associated PINs

#### Is this application being submitted for a Rehearing?

If this application is being submitted because a previous Variance Permit application was denied or disapproved, please select Yes.

No

Enter Applicant Information		
I am a:	Contractor	
Applicant Name:	Michael Bruckelmyer	
Address Line 1:	2304 Lismore Rd.	
Address Line 2:		
City:	Duluth	
State:	MN	
Zip:	55804	
Primary Phone:	(218)525-2344	
Cell Phone:		
Fax:		
Email:	mikeb@bruckelmyerbrothers.com	
Contact Person Name:	Michael Bruckelmyer	
Contact Person Phone:	(218)525-2344	

Mailing Address Information.

This address can default from the address you selected. If the values defaulted are not correct, please enter the correct information.

Same as Applicant address?	No
Name:	Michael Bruckelmyer
Address:	2304 Lismore Rd.

12/2/21, 10:00 AM

City:	Duluth
State/Province:	MN
Zip:	55804
Primary Phone:	(218)525-2344
Cell Phone:	
Fax:	
Email:	mikeb@bruckelmyerbrothers.com

Site Information

If there is no site address Is there a site address for this property?	<i>, the applicati</i> <b>Yes</b>	ion will be forwarded to 911/Communications to assign one.
Site Address:	6996 Bear I	Island Rd. Duluth, MN 55803
Is this leased property?	Yes	
Leased From?	<b>MN Power</b>	
US Forest Service		US Forest Service Superior National Forest 8901 Grand Avenue Place Duluth, MN 55808
MN Power		MN Power Shore Land Traditions 30 West Superior Street Duluth, MN 55802
MN DNR, Area Hydrolo	gist	MN DNR, Area Hydrologist 7979 Highway 37 Eveleth, MN 55734
MN DNR Land and Min	erals	MN DNR Land and Minerals 1201 East Highway 2 Grand Rapids, MN 55744
St. Louis County - Dulu	ıth	St. Louis County - Duluth Government Services Center 320 West 2nd Street, Suite 301 Duluth, MN 55802 (218) 725-5000
St. Louis County - Virg	inia	St. Louis County - Virginia Land and Minerals 7820 Highway 135 Virginia, MN 55792 (218) 749-7103

## **Do you have written authorization from the leased property owner?** *If Yes, you must attach written authorization form.*

Yes

## How is the property accessed? **Public Road** No No

No

No

Enter Project Information.

If you answered 'Yes' to any of the questions below, it is required that you submit a copy of a septic permit to construct or certificate of compliance approval or municipal/sanitary district approval when applying for a land use permit.

Is this project on a parcel less than 2.5 acres? Yes Is this project within 300 feet of a stream/river or 1,000 feet of a lake? Yes Is this project adding a bedroom? Include home, garage, and accessory dwelling. No Total # of bedrooms on property after project completion. 3 Does this project include plumbing or pressurized water in proposed structure? Yes If Yes, please explain: There will be a total of 3 bathrooms. New septic system. Is this project connected to a municipal or sanitary district system? No

#### **VARIANCE REQUEST WORKSHEET**

A variance allows the use of property in a manner otherwise forbidden by a zoning ordinance by varying one or more of the performance standards such as lot size, setbacks, etc. Variances from official zoning controls are defined under Minnesota Statutes 394.27 and require the landowner to prove that the property could not otherwise be used or enjoyed in the proposed way by complying with ordinance requirements and that there will be no negative impact on surrounding properties.

It is advisable that you discuss your request with Planning and Community Development staff prior to submitting the application. Approval or denial of your request is dependent on the justification you provide in answering the questions on this application. For more information, please check our website at: <a href="http://www.stlouiscountymn.gov/VarianceRequired">www.stlouiscountymn.gov/VarianceRequired</a>

#### VARIANCE REQUEST INFORMATION

Complete this form along with the Land Use Permit Application

#### What kind of variance request is this?

If this is a Variance After the Fact, you must answer additional questions below.

#### Variance Request

Describe what you are varying from and the situation that makes it difficult to comply with county ordinances. If your proposal includes a structure, please also list the length, width and height of the structure.

The existing home on the property is nonconforming to the bluff setback requirements. The hope is to

build the new home in roughly the same location as the existing. It will be moved back roughly 15 feet. There are a few things that make it difficult to comply with the 30 ft setback: 1. We would lose the walkout basement and bedrooms with egress windows in the basement. 2. If moved back to 30 ft, the bluff would block the view of the lake from inside the home. 3. We would need to clear more trees which would cause a loss of privacy from neighbors.

Describe the intended/planned use of the

property.

The plan is to build a new home with 3 bedrooms and a walkout basement.

Describe the current use of your property.

There is a 3-4 bedroom on the home currently that sits right at the edge of the bluff. Current home is on a crawl space which is not structurally sound.

Describe other alternatives, if any.

The only alternative would be to move the home back to the 30 ft setback requirement.

If approved, how will the proposed use, with the variance, fit into the character of the neighborhood/area?

If approved, the new home could sit in the same location as the existing home which would mean less tree clearing and the privacy from the neighboring homes would remain.

Describe how neighboring properties and the use of those properties will be impacted by the proposed use with the variance.

The neighboring properties will not be impacted by the variance.

Describe how negative impact to the local environment and landscape will be avoided.

We will avoid negative impact to the lot by clearing a minimal amount of trees and excavate only in the location of the existing home. Landscaping will be brought back to original after construction is complete. Silt fence will be installed during construction to keep construction runoff/debris from going into lake.

Describe the expected benefits of a variance to use of this property.

The benefits of the variance are less tree removal, less excavation, which in turn will lead to less impact to the land. The walkout basement will be achieved.

Include additional comments that will clarify your request for the Planning and Community Development staff members and the Board of Adjustment.

New home has a smaller footprint than the existing.

### IF YOU ARE RESPONDING TO A PERMIT VIOLATION, PLEASE ANSWER THESE ADDITIONAL QUESTIONS

Describe your reasons county zoning ordinance requirements were not followed.

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Describe your effort to comply with the ordinance and to obtain a land use permit and/or other required permits.

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Describe any substantial investments, construction and/or repairs made to the property before you discovered you needed a variance.

--

If there was construction or repair, on what date did it begin? What date did it end? Start Date --

End Date

Who performed the construction or repair work?

--

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Was a survey of your property boundaries obtained?

Prior to the construction or repair work, did you speak with anyone from the Planning and Community Development Department?

By submitting this application, I certify and agree that I am the owner or the authorized agent of the owner of the above property, and that all uses will conform to the provisions of St. Louis County. I further certify and agree that I will comply with all conditions imposed in connection with the approval of the application. Applicants may be required to submit additional property descriptions, property surveys, site plans, building plans, and other information before the application is accepted or approved. *Intentional or unintentional falsification of this application or any attachments thereto will make the application, any approval of the application and any result invalid.* I authorize St. Louis County staff to inspect the property to review the application and for compliance inspections. Furthermore, by submitting this application, I release St. Louis County and its employees from any and all liability and claims for damages to person or property in any manner or form that may arise from the approval of the application or any related plans, the issuance of any resulting permit or the subsequent location, construction, alteration, repair, extension, operation or maintenance of the subject matter of the application.

If your name, contact information or email address have changed, you should update your contact information in the portal by selecting 'Maintain Contact Information' at the top of this page.

Submitted By:	
Address:	
City:	
State:	
Postal Code:	
Email Address:	
I have read and agree to above.	the statement

Land Use Permit	Permit #		
APPLICATION St. Louis County, Minnes	sota Permit #		
<b>About:</b> This application is used to apply for a Land Use Permit. Applicants will need process. For more information, see our website at: www.stlouiscountymn.gov/land-u	to attach the appropriate worksheet(s) in order to		
PROPERTY IDENTIFICATION NUMBER (PIN) PIN is found on your Prope			
*Primary PIN 365-6000-01910 Associated PIN			
Associated Associated			
PIN PIN PIN PIN PIN: Parcel where Structure/SSTS are located. Associated PIN: Additional and County Land Explorer: https://gis.stlouiscountymn.gov/landexplorer/ Property Lookup: http://apps.stlouiscountymn.gov/landexplorer/ Propertymn.gov/landexplorer/ Proper			
APPLICANT	Surry miniger ( additor) pareet meetoosin ame		
*Applicant Name I am a Contractor Homeowner Other	*Daytime # <u>218-525-2344</u> *City *State *ZIP		
*Applicant Address Where to send permit.	*City *State *ZIP		
2304 Lismore rd Applicant Email	Onluth MN 55804		
Contact Person If applicable. Michael Bruckelmyer brothers.com Contact Person If applicable. Michael Bruckelmyer	#		
Michael Bruckel myer Mailing Address If different than above.	2-18 - 525 - 2344           City         State         ZIP		
Hannig Address in onerent than above.			
Email Address Where to email permit. Providing an email address will expedite the time in which a permit	nit is received by an applicant.		
mikeb@bruckelmyerbrothers.com SITE INFORMATION			
Yes No *Is there a site address for this property? (If no, the application wi	II be forwarded to 911/Communications to assign one.)		
If yes above, please list site address: 6996 Bear island rd			
Yes No *Is this leased property? If yes, leased from: MN Power MN DNR US Forest Service St Louis County Other			
Yes No *Do you have written authorization from the leased property ow	ner? If yes, you must attach written authorization form.		
*How is the property accessed? Public Road Private Road Easement Water	Other		
PROJECT INFORMATION			
Yes No *Is this project on a parcel less than 2.5 acres?			
Yes No *Is this project within 300 feet of a stream/river or 1,000 feet of	f a lake?		
Yes No *Is this project adding a bedroom? Include home, garage, & accessed	ory dwelling.		
# 3 *Total # of bedrooms on property after project completion. Inclu	3 *Total # of bedrooms on property after project completion. Include home, garage, & accessory dwelling.		
Yes No *Does this project include plumbing or pressurized water in proposed structure? If yes, please explain: There will be a total of 3 bathrooms. New septic system			
Yes No *Is the property connected to a municipal or sanitary district system?			
If you answered "Yes" to any of the project information questions above, it is required that you submit a copy of a septic permit to construct or certificate of compliance approval or municipal/sanitary district approval when applying for a land use permit.			
AGREEMENT By submitting this application, I certify and agree that I am the owner or the authorized agent of the owner of the above property, and that all uses will conform to the provisions of St. Louis County. I further certify and agree that I will comply with all conditions imposed in connection with the approval of the application. Applicants may be required to submit additional property descriptions, property surveys, site plans,			
building plans and other information before the application is accepted or approved. Intentional or unintentional falsification of this application or any attachments thereto will make the application, any approval of the application and any resulting permit invalid. I authorize St. Louis County staff to inspect the property to review the application and for compliance inspections. Furthermore, by submitting this application, I release St. Louis County and its employees from any and all liability and claims for damages to person or property in any manner or form the approval of the application or any related plans, the issuance of any resulting permit or the subsequent location, construction, alteration, repair, extension, operation or maintenance of the subject matter of the application.			
*Indicates required field. Incomplete applications will be returned.			



## Land Use Permit

WORKSHEET St. Louis County, Minnesota

About: Land Use Permits are required for most building construction activities. They are also required for a variety of other uses. For more information, check out our website at: <a href="http://www.stlouiscountymn.gov/land-use">www.stlouiscountymn.gov/land-use</a>

WHAT ARE YOU APPLYING FOR Check all that apply to the project. PLEASE MAKE CHECKS TO: ST. LOUIS COUNTY AUDITOR			
<ul> <li>#1 New Buildings Less than/equal to 1,200 square feet-\$160 Greater than 1,200 square feet-\$315</li> <li>Dwelling-Home, Mobile Home, Hunting Shack, or Cabin. (Includes attached deck, if applicable.)</li> <li>Replacement of Existing Dwelling-Home, Mobile Home, Hunting Shack, or Cabin.</li> <li>Will the old dwelling be removed from the property? Yes No</li> <li>If yes, an affidavit must be filled out stating when the old dwelling will be removed.</li> <li>If this dwelling is a mobile home, there is a special mobile home affidavit to be filled out.</li> <li>Accessory Dwelling-Guest cottage or bunkhouse. Must follow administrative standards.</li> <li>Accessory Structure- Garage, Pole Building, shed, sauna, screenhouse or gazebo that either</li> </ul>	<pre>#2 Other Construction/Change in Use-\$80</pre>	<pre>#4 Performance Standard-\$370 Additional Worksheets Required Borrow/Gravel Pit Home Business Land Alteration Nonconforming Structure Replacement Addition to a structure that does not meet shoreline setback Other #5 Site Evaluation Site Visit/Evaluation-\$160 #6 Wetland Reviews Additional Worksheets Required No Loss/Exemption/Replacement Plan- \$160 Wetland Delineation Review-\$370 Wetland Banking Plan Review-\$1,100</pre>	
<ul> <li>meets lake or river setback or not located in a shoreland area.</li> <li>Water-oriented Accessory Structure- Boathouse, Sauna, Screenhouse/gazebo on a lake or river located at reduced shoreline setback. Must follow administrative standards.</li> <li>Commercial Structure</li> <li>Other Principal Structure</li> </ul>	#3 Subdivisions/Parcel Reviews <u>Additional Worksheets Required</u> Plat-Minor Subdivision-\$630         Conventional Plat-Less than or equal to 3 lots-\$630         Conventional Plat-Greater than 3 Lots-\$1,260         Conservation Plat-\$1,260         Lot Line Adjustment-\$80         Parcel Review-\$80         Performance Standard Subdivision-\$370	#7 Public Hearings <u>Additional Worksheets Required</u> Administrative Appeal-\$1,100 Environmental Assessment-\$1,100 Conditional Use Permit-\$630 Conditional Use Permit Rehearing-\$200 Interim Use Permit Rehearing-\$200 General Purpose Borrow Pit-\$630 Variance-\$630 Variance Rehearing-\$200 Multiple Hearing (Variance/conditional use)-\$950	

#### TYPE OF PROPOSED STRUCTURES Check all that apply to the project. New Structure(s) \*Structure \*Foundation \*Maximum \*Maximum \*Maximum \*Maximum Type Length Width Height Type Sq. ft (Ground Level to (Basement, Slab, (Exterior (Exterior (Same as box #1 or (Exterior footprint only) Footprint Only) Roof Peak) Pier, etc) Footprint Only) 2 above) 2145 50 62 Feet Feet Sq. ft. 21 Feet Develling Busement Feet Feet Sq. ft. Feet Feet Feet Feet Sq. ft. \*Structure \*Foundation \*Maximum \*Maximum \*Maximum \*Maximum □ Structure Additions Width Height Type Length Type Sq. ft (Ground Level to (Basement, Slab, (Exterior (Exterior (Same as box #2 (Exterior footprint only) Footprint Only) Roof Peak) Footprint Only) Pier, etc) above) Feet Feet Feet Sq. ft. Feet Feet Sq. ft. Feet Feet Feet Sq. ft. Feet \*Indicates required field. Incomplete applications will be returned.

#### **CONTACT:** Planning and Community Development Department

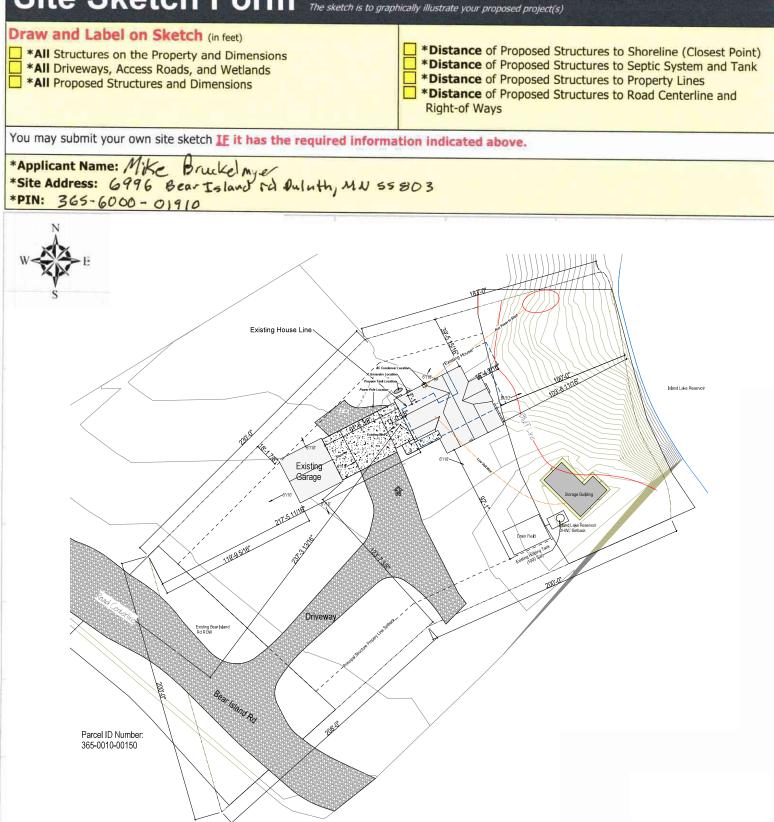
Technical Assistance Toll Free: 1-800-450-9777 Land Use Information www.stlouiscountymn.gov/land-use Duluth Government Services Center 320 West 2<sup>nd</sup> Street, Suite 301 Duluth, MN 55802 (218) 725-5000 Virginia Government Servic

#### Government Services Center 201 South 3<sup>rd</sup> Avenue West Virginia, MN 55792 (218) 749-7103

### Office Use Only

Receipt #	
Receipt Date	
Payment Amount	
Paid By	

# Site Sketch Form The sketch is to graphically illustrate your proposed project(s)



	***Sanitary Authority Use Only***	
Sanitary Review: (To be dete	rmined by appropriate sanitary authority.)	
Will the proposal, as shown abo Sign off:	ve, negatively impact the SSTS/sanitary line or replacement area?	s 🗆 No
Signature		
Louis County, Minnesota	INCOMPLETE APPLICATIONS WILL BE RETURNED	General Application Rev. 09-201

