



SANDQUIST

Law Office, LLC

Christopher Sandquist
Attorney-at-Law

Shelly Henk
Paralegal

September 18, 2024

**VIA CERTIFIED US MAIL
RETURN RECEIPT REQUESTED**

James M. Zarn
Elizabeth A. Zarn
19519 Ivywood Lane
Mankato, MN 56001

**NOTICE OF ZONING VIOLATION
AND ORDER FOR ABATEMENT
OF VIOLATION**

RE: Town of Mankato Land-Use Violation
Our File: 00006-003

Dear James Zarn and Elizabeth Zarn:

I am the attorney for the Town of Mankato (hereafter "*Town*"), located in Blue Earth County, Minnesota. You two are the owners of record of property located in the Town, identified by its Blue Earth County Parcel Identification Number R43.08.35.452.008 (hereafter the "*Property #1*") and R43.08.3545.2008. There are two different matters pertaining to this Property addressed in this Notice and Order.

Unpermitted Bluff Zone Cutting:

The Town was recently provided information from Blue Earth County related to unpermitted work involving a wetland on the Property. The information included photographic evidence and visual confirmation by County staff that you had cut/widened a driveway through a bluff on the Property. The former driveway was approximately 10-12 feet wide, and the widened driveway is now approximately 22 feet wide. A copy of the photograph is enclosed as are historic aerial photographs depicting the size of the driveway in 2016 vs. 2024.

The Town's Land Use Ordinance ("**LUO**") which applies to all property located within the Town's borders, provides at Section 0100.1309, Subp. 2 A (3) that "[f]illing or cutting activity in any bluff zone shall be considered a conditional use." In searching its records, the Town cannot find any application for a conditional use permit for filling or cutting within the bluff zone on the Property. As such, the Town has concluded that the recent expansion of the driveway on the Property, which widened the driveway from approximately 12 feet wide to 22 feet wide, by cutting into the adjacent bluff, was unpermitted.

Construction Permit & Setback Violation

You applied for and received a construction permit in 2021 to construct a temporary residence on the Property ("**Shouse**") which will be deconditioned upon construction of a new residence to being merely an accessory building. As part of that process, you submitted a construction permit application with construction plans to the Town which showed that the southern edge of the Shouse would be at least 50 feet from the Properties southern boundary (52.09 feet as shown) and would be parallel with the southern boundary. A copy of the diagram showing the location of the Shouse is enclosed.

Following construction of the Shouse, you recently submitted a preliminary plat to the Town which depicted that the Shouse, as built, was built askew to the southern boundary, placing its southwestern corner only 42 feet from the southern boundary. The southeastern corner of the Shouse is noted as being 51 feet from the southern boundary.

The Property is located within the Town's C-1 Conservation District. The LUO provisions regarding building setbacks for that district are found at Section 0100.0703 and state in relevant part that:

Subp. 3 Side Yard Regulations. There shall be a side yard of not less than fifty (50) feet on each side of the building.

Subp. 4 Rear Yard Regulations. There shall be a rear yard of not less than fifty (50) feet.

Both the rear of the Shouse and its southern side yard are not fully the required minimum 50 feet from the Property's boundary.

Violations and Required Actions:

Based on the above information, the Town has concluded that violations of the LUO have occurred on the Property. The LUO provides that any violation of the LUO is a

misdeemeanor and that each day a violation occurs is a separate misdemeanor. The LUO further provides that unless the violation is abated, the Town may direct the Town Attorney to initiate a lawsuit to force abatement of any violation of the LUO.

You are hereby Notified of the above violations of the Town's Land Use Ordinance, and you are Ordered to abate the violations. To bring the Property into compliance with the terms of the Town's LUO, you must, within 10 days of receipt of this Notice and Order:

With respect to the unpermitted bluff cutting, either

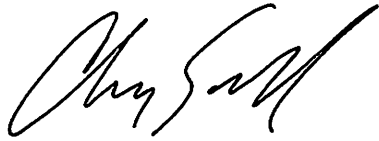
- (1) apply to the Town for an after the fact conditional use permit from the Town for the unpermitted cutting of a bluff within a bluff zone on the Property; or
- (2) contact Molly Westman, a Town planning officer, at 507-387-8571, with a bluff restoration plan prepared by a licensed engineer to restore the bluff to its pre-cut condition on the Property. If you are not able to provide this plan within the 10 days, please contact Ms. Westman immediately. When you contact her, you should have a specific timeframe for when the plan will be available and the name and contact information for the licensed engineer(s) you have engaged to prepare the bluff restoration plan.

With respect to the failure of the Shouse to meet the required rear yard and side yard setback requirements, either:

- (1) apply to the Town for an after the fact variance from the rear yard and side yard setback requirements for the Property; or
- (2) contact Molly Westman, for a new construction permit to relocate the Shouse, pursuant to a written relocation plan, to bring the Shouse into compliance with the rear yard and side yard setback requirements for the Property and the timeline for completion. If you are not able to apply for the permit and have a relocation plan within the 10 days, please contact Ms. Westman immediately. When you contact her, you should have a specific plan for when the plan will be available and the name and contact information for the contractor you have engaged to prepare the building relocation plan and to relocate the Shouse.

Your failure to comply with this Notice of Violations and Order for Abatement will result in the Town taking legal action, civil and criminal, to enforce its Land Use Ordinance's provisions. Please take advantage of the opportunity presented above to bring the Property into compliance.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Sandquist", written in a cursive style.

Christopher Sandquist

Encl.

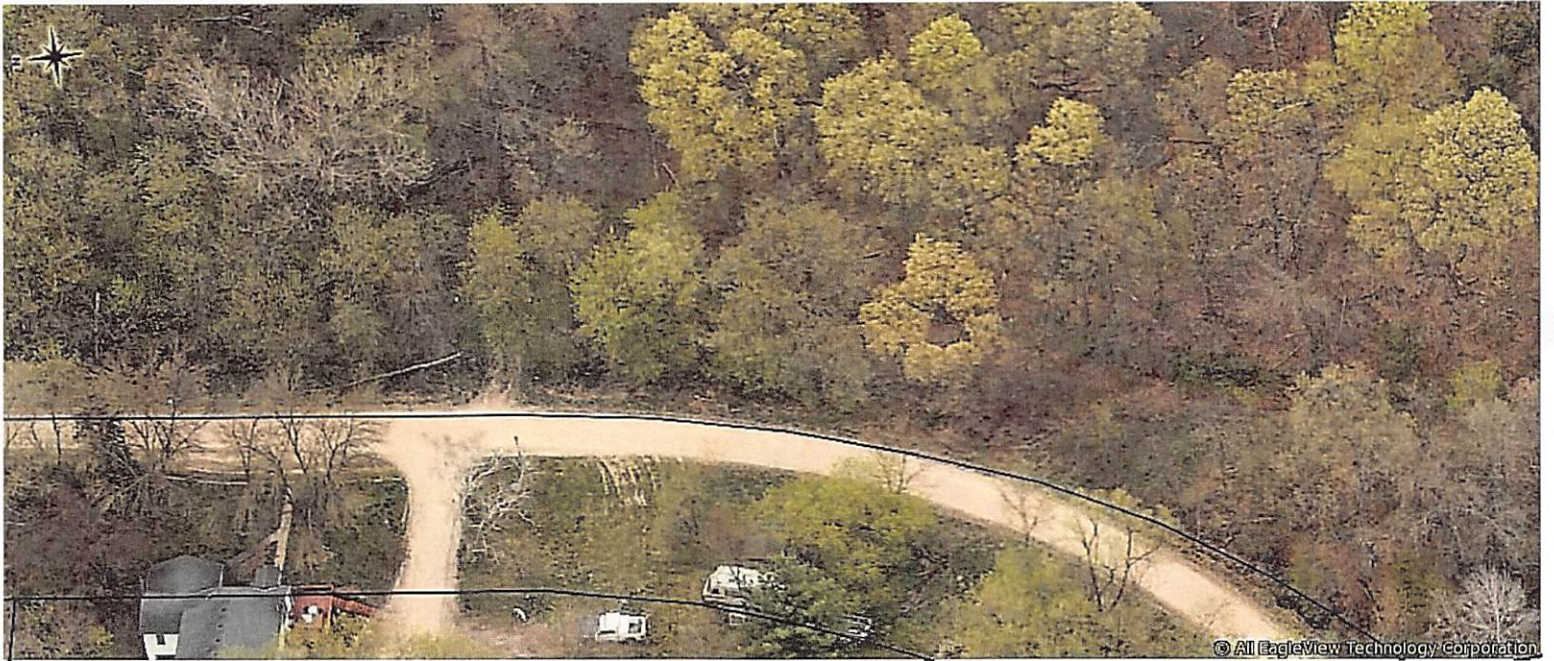
cc: Molly Westman (via email only)
Dan Rotchadl, Town Chair (via email only)

4/10/2022



04/10/2022

4/18/16



04/18/2016



