

**Marshall County Planning & Zoning
STAFF REPORT
August 11, 2020**

Issue #1 Variance for Building Setback

OWNER/APPLICANT: Kari Nielsen

PROPERTY DESCRIPTION: Lot 43 in Roy Lake Northside Addition in the SE1/4 of Section 21 & the SW1/4 of Section 22, T126N, R55W

CURRENT ZONING: Lake Front Residential (R-3)

SURROUNDING ZONING: Lake Front Residential (R-3) and Agricultural (Ag)

REQUEST: Kari Nielsen has requested a variance to build a house 32ft from the normal high-water mark instead of the 50ft requirement, per the Marshall County Zoning Ordinance.

HISTORY/ISSUE(S):

1. According to records, the property has been in possession of the current owner since December 26, 2006.
2. The home that is currently on the lot was constructed prior to the current ownership. Holton Engineering made note that the current cabin was closer than 7ft to the property line; this new construction will correct the Lot line distance, thus allowing the Lot line setback to be in conformance with Marshall County Ordinances.
3. According to site plans, the proposed home would be 30x56 and the deck would be 12x30 in dimension. There are stairs that lead down to the water.
4. Marshall County Ordinance requires new structures to be placed a minimum of 50ft from the normal high-water mark.
5. No written comments or objections were received prior to the hearing.
6. Staff Recommendation – 18' variance to the normal high-water mark setback. The Board could table, deny or approve the request. If the Board chooses to approve the variance, it could use the following findings, similar to those used in previous approvals of setback requirements in R-3 District.
 - a. The Board has granted similar high-water mark variances to lake lots in the past, when the neighbors had no objections. Similar high-water mark variances allowed – 20' for W. Brooks 4/17, 16' for D. Weber 10/19 and 17' for L. James 11/12.
 - b. The Board would consider approving other similar requests meeting the unique circumstances.

If the Board chooses to deny the variance, it could use the following findings, similar to those used in previous denials of setback variances.

- a. The lot and situation are not so unique to necessitate the relaxation for the setback requirement.
- b. The granting of this variance would confer upon the applicant special privilege denied to others in the R-3 District.

Action Item – 18' variance to the normal high-water mark setback.

NOTICE OF HEARING - APPLICATION FOR VARIANCE

Notice is hereby given that the Marshall County Planning & Zoning Board will meet on August 11, 2020 at 9:10 a.m. at the Marshall County Courthouse Commissioners Chambers, concerning the following application for variance from the Marshall County Zoning Ordinance.

Kari Nielsen has requested a variance to place a house and a deck on the property described as Lot 43 in Roy Lake Northside Addition in the SE1/4 of Section 21 & the SW1/4 of Section 22, T126N, R55W. The petitioner is asking to place the new structures 32ft from the normal high-water mark instead of the 50ft requirement, per the Marshall County Zoning Ordinance.

Erin Collins-Miles
Planning & Zoning Administrator

Published once at the approximate cost of

For publication: July 22, 2020

1T (July 22)
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Erin Collins-Miles
Planning & Zoning Administrator
Published once at the approximate cost of \$9.96.

MARSHALL COUNTY PLANNING & ZONING BOARD
P.O.BOX 9
BRITTON, SOUTH DAKOTA 57430
Office | 605.448.7540
Cell | 605.824.8014

July 21, 2020

Dear Property Owner,

Kari Nielsen has requested a variance to build a house and a deck on the property described as Lot 43 in Roy Lake Northside Addition in the SE1/4 of Section 21 & the SW1/4 of Section 22, T126N, R55W. The petitioner is asking to build the new structures 32ft from the normal high-water mark instead of the 50ft requirement, per the Marshall County Zoning Ordinance.

A hearing will be held at the Marshall County Courthouse, Commissioners Chambers on August 11, 2020 at 9:10 a.m., to approve or disapprove the variance application.

As an adjacent landowner, you are being notified of the hearing. If you have any questions, please contact my office. Any comments or concerns should be stated in writing and forwarded to my office or expressed at the scheduled hearing.

Sincerely,

Erin Collins-Miles
Planning and Zoning Administrator

Sent to the following adjacent landowners on 7/21/2020:

1. Ronald Mahoney – 2601 Fairfield Dr. Edmond, OK 73012
2. Scott and Jean Phillips – PO Box 116 Lake City, SD 57247
3. Ann Erickson – 515 4th Ave. E Sisseton, SD 57262

MARSHALL COUNTY APPLICATION FOR VARIANCE

DATE: 7/20/2020

To: Marshall County Planning and Zoning Commission
PO Box 9
Britton, SD 57430

The undersigned do hereby request a variance from the Marshall County Zoning Ordinance to build (or set) NEW HOUSE AND DECK within 32' OF HIGH WATER MARK of a (circle applicable): Twp Rd, County Rd, Federal or State Hwy, Other Rd, Lot Line or High Water Mark.

Structure would be located on (legal description): LOT 43, NORTHSIDE ADDITION, ROY LAKE
Section 21, T126N, R55W - Lake Township (3/273)

Reason: Structure will line in with adjacent building on both sides.
See Sketch for more details.

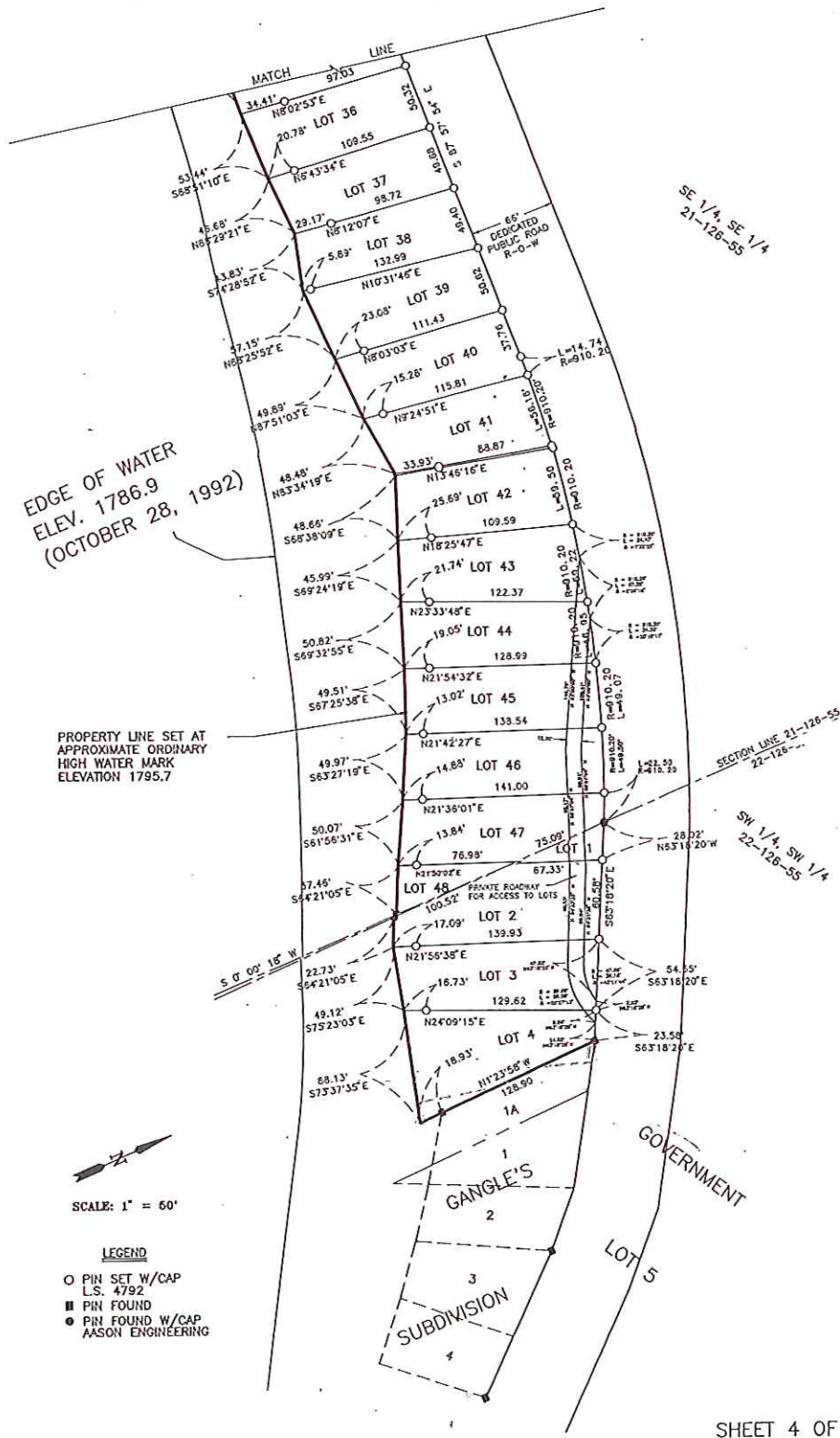
Applicant Name: Kari Nielsen Phone: 605-698-3003
Address: PO Box 202 Sisseton, SD 57262
Applicant Signature: Kari Nielsen
Owner Signature (if different than applicant): _____

For Internal Office Use Only:

Date Received: 7-20-2020 Fees(non-refundable): \$150.00 Paid: YES NO
Inspection Report: See Staff report
on site on 7-20-2020

Date of Hearing by Planning and Zoning Commission: August 11, 2020
Action taken by Planning and Zoning Commission: _____

PLAT SHOWING
ROY LAKE NORTHSIDE ADDITION
IN THE SE 1/4 OF SEC. 21 & THE SW 1/4 SEC. 22
T126N-R55W OF THE 5th P.M.
MARSHALL COUNTY, SOUTH DAKOTA



PLAT SHOWING
ROY LAKE NORTHSIDE ADDITION
IN THE SE 1/4 OF SEC. 21 & THE SW 1/4 SEC. 22
T126N-R55W OF THE 5th P.M.
MARSHALL COUNTY, SOUTH DAKOTA

OWNERS' CERTIFICATE

We, Northside Roy Lake, Inc., do hereby certify that we are the owners of Lot 8 of Sigaty's Second Subdivision, except the Lake View Addition to Roy Lake, located in Gov't Lot 2 in the SE 1/4 of Sec. 21, T126N, R55W of the 5th P.M., Marshall County, South Dakota; Lot C of Sigaty's Second Subdivision located in Gov't Lot 1 and the NE 1/4 of the SE 1/4 of Sec. 21, T126N, R55W of the 5th P.M., Marshall County, South Dakota, and also the unplatted portion of Section 22, T126N, R55W lying between the west section line of Sec. 22 and east of the west property line of Lot 1A of Gangle's Subdivision and south of the dedicated public road right-of-way in Gov't Lot 5 of Sec. 22, T126N, R55W of the 5th P.M., Marshall County, South Dakota, and that we have caused the same to be surveyed and platted as shown on the attached plat which shall hereinafter be known and described as "Roy Lake Northside Addition in the SE 1/4 of Sec. 21 & the SW 1/4 of Sec. 22, T126N, R55W of the 5th P.M., Marshall County, SD and that development of this land shall conform to all of the existing applicable zoning, subdivision and sediment control regulations.

We, Northside Roy Lake, Inc., hereby designate the private lake access easement located on Lot 1 of the Roy Lake Northside Addition Plat as a perpetual roadway access easement for Roy Lake Northside Addition lot owners and/or guests.

We, Northside Roy Lake, Inc., hereby designate the private roadway for access to Lots 23 - 30 as a perpetual roadway access easement for the owners and/or guests of the referenced lots.

We, Northside Roy Lake, Inc., hereby designate the private roadway for access to Lots 43 - 48 located in Sec. 21, T126N, R55W and Lots 1 - 4 located in Sec. 22, T126N, R55W as a perpetual roadway access easement for the owners and/or guests of the referenced lots.

We, Northside Roy Lake, Inc., hereby designate the water system located on Lots 3 - 7 with the water system well located on Lot 6 as a perpetual common water system easement for the referenced lot owners and all have the right to operate and maintain that system.

We, Northside Roy Lake, Inc., hereby designate the water system located on Lots 8 - 17 with the water system well located on Lot 11 as a perpetual common water system easement for the referenced lot owners and all have the right to operate and maintain that system.

We, Northside Roy Lake, Inc., hereby designate the water system located on Lots 18 - 27 with the water system well located on Lot 27 as a perpetual common water system easement for the referenced lot owners and all have the right to operate and maintain that system.

We, Northside Roy Lake, Inc., hereby designate the water system located on Lots 28 - 34 with the water system well located on Lot 28 as a perpetual common water system easement for the referenced lot owners and all have the right to operate and maintain that system.

We, Northside Roy Lake, Inc., hereby designate the water system located on Lots 35 - 39 with the well located north of the dedicated public road right-of-way across from Lot 36 as a perpetual common water system easement for the referenced lot owners and all have the right to operate and maintain that system.

We, Northside Roy Lake, Inc., hereby designate the water system located on Lots 40 - 48 with the water system well located on Lot 45 as a perpetual common water system easement for the referenced lot owners and all have the right to operate and maintain that system.

We, Northside Roy Lake, Inc., hereby designate the sewer system located on Lots 4 - 7 with the septic tank located on Lot 5 as a perpetual common sewer system easement for the referenced lot owners and all have the right to operate and maintain that system.

We, Northside Roy Lake, Inc., hereby designate the sewer system located on Lots 9 & 10 with the septic tank located on Lot 10 as a perpetual common sewer system easement for the referenced lot owners and all have the right to operate and maintain that system.

We, Northside Roy Lake, Inc., hereby designate the sewer system located on Lots 15 & 16 with the septic tank located on Lot 16 as a perpetual common sewer system easement for the referenced lot owners and all have the right to operate and maintain that system.

We, Northside Roy Lake, Inc., hereby designate the sewer system located on Lots 29 & 30 with the septic tank located between Lots 29 and 30 as a perpetual common sewer system easement for the referenced lot owners and all have the right to operate and maintain that system.

We, Northside Roy Lake, Inc., hereby designate the sewer system located on Lots 40 - 42 with the septic tank located on Lot 41 as a perpetual common sewer system easement for the referenced lot owners and all have the right to operate and maintain that system.

We, Northside Roy Lake, Inc., hereby designate the sewer system located on Lots 43 & 44 with the septic tank located on Lot 44 as a perpetual common sewer system easement for the referenced lot owners and all have the right to operate and maintain that system.

We, Northside Roy Lake, Inc., hereby designate the sewer system located on Lots 46 & 47 with the septic tank located on Lot 46 as a perpetual common sewer system easement for the referenced lot owners and all have the right to operate and maintain that system.

Signed this 6 day of Nov, 1993

Northside Roy Lake, Inc.
Bryce Theolke
 Bryce Theolke, President
Donald J. Jondahl
 Don E. Jondahl, Secretary

STATE OF SOUTH DAKOTA)
) ss
 COUNTY OF MARSHALL)

On this 6 day of Nov, 1993, before me, a Notary Public, personally appeared Bryce Theolke and Don E. Jondahl, President and Secretary of Northside Roy Lake, Inc., known to me to be the persons in and who executed the within instrument, and who acknowledged to me that she executed the same.

My commission expires: March 24 1994

James B. Cunningham
 Notary Public, Marshall County, South Dakota

I, Louis P. O'Donnell, Registered Land Surveyor, do hereby certify that, at the request of the Owners, I have surveyed and platted "Roy Lake Northside Addition in the SE 1/4 of Sec. 21 & the SW 1/4 of Sec. 22, T126N, R55W of the 5th P.M., Marshall County, South Dakota", as shown on the attached plat, that I have found and/or set iron pins as indicated thereon, and that said survey and plat are true and correct.

Signed this 4th day of November, 19 93

Louis P. O'Donnell
 Louis P. O'Donnell, Registered Land Surveyor #4732

COUNTY ZONING BOARD APPROVAL

I hereby certify that the following is a correct copy of the resolution duly passed by the Marshall County Zoning Board, Marshall County, South Dakota at a meeting held on the 9th day of November, 19 93.

Rosa M. Mittle
 Secretary of County Zoning Board
 Marshall County, South Dakota

"Be it resolved by the Marshall County Zoning Board, Marshall County, South Dakota, that the plat showing "Roy Lake Northside Addition in the SE 1/4 of Sec. 21 & the SW 1/4 of Sec. 22, T126N, R55W of the 5th P.M., Marshall County, South Dakota," having been examined, is hereby approved in accordance with the provisions of SDC of 1967, Chapter 11-6, and any amendments thereof."

APPROVAL BY THE COUNTY

I hereby certify that the following is a correct copy of the resolution duly passed by the County Commissioners of Marshall County, South Dakota, at a meeting held on the 9th day of November, 19 93.

Caroline Christensen
 County Auditor, Marshall County, South Dakota

"Be it resolved by the County Commission of Marshall County, South Dakota, that the plat showing "Roy Lake Northside Addition in the SE 1/4 of Sec. 21 & the SW 1/4 of Sec. 22, T126N, R55W of the 5th P.M., Marshall County, South Dakota," having been examined, is hereby approved in accordance with the provisions of SDC of 1967, Chapter 11-3, and any amendments thereof."

TREASURER'S APPROVAL

I hereby certify that all taxes which are liens upon any of the lands included in the attached plat are shown by the records of my office to be fully paid.

Signed this 8th day of November, 19 93

Delva R. Hoff
 County Treasurer, Marshall County, South Dakota

DIRECTOR OF EQUALIZATION'S APPROVAL

I hereby certify that I have received a copy of this plat this 9th day of November, 19 93.

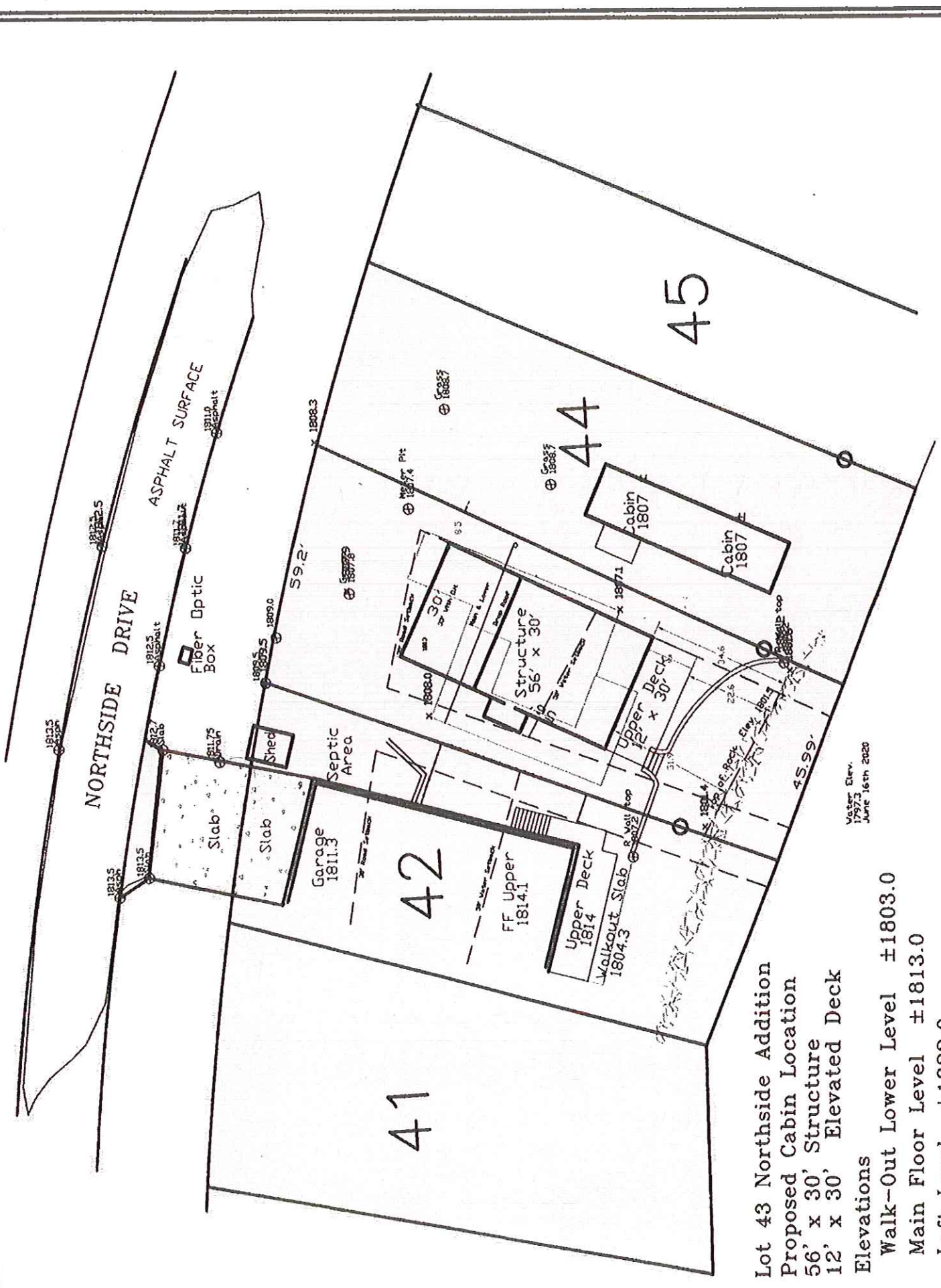
Rosa M. Mittle
 Director of Equalization, Marshall Co., South Dakota

REGISTER OF DEEDS' APPROVAL

Filed for record this 9 day of November, 1993, at 6:10 o'clock P.M., and duly recorded in Book of Plats No. 35685, on page 269-273 therein.

Candice Whitman
 Register of Deeds, Marshall County, South Dakota

Plot 3-269-273 Slide # 99



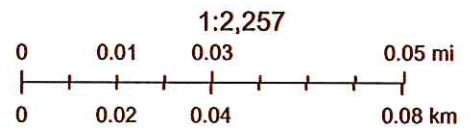
Lot 43 Northside Addition
 Proposed Cabin Location
 56' x 30' Structure
 12' x 30' Elevated Deck
 Elevations
 Walk-Out Lower Level ± 1803.0
 Main Floor Level ± 1813.0
 Loft Level ± 1822.0
 Roof Peak 6/12 ± 1835.5

Web AppBuilder for ArcGIS



August 6, 2020

- | | |
|---|---|
| PARCELS | Commercial District |
| CITY_LIMIT | General Industrial District |
| TOWNSHIPS | Highway Commercial District |
| ZONING | Lake Front Residential District |
| Agricultural District | Residential District |
| Agricultural Fringe Protection District | |

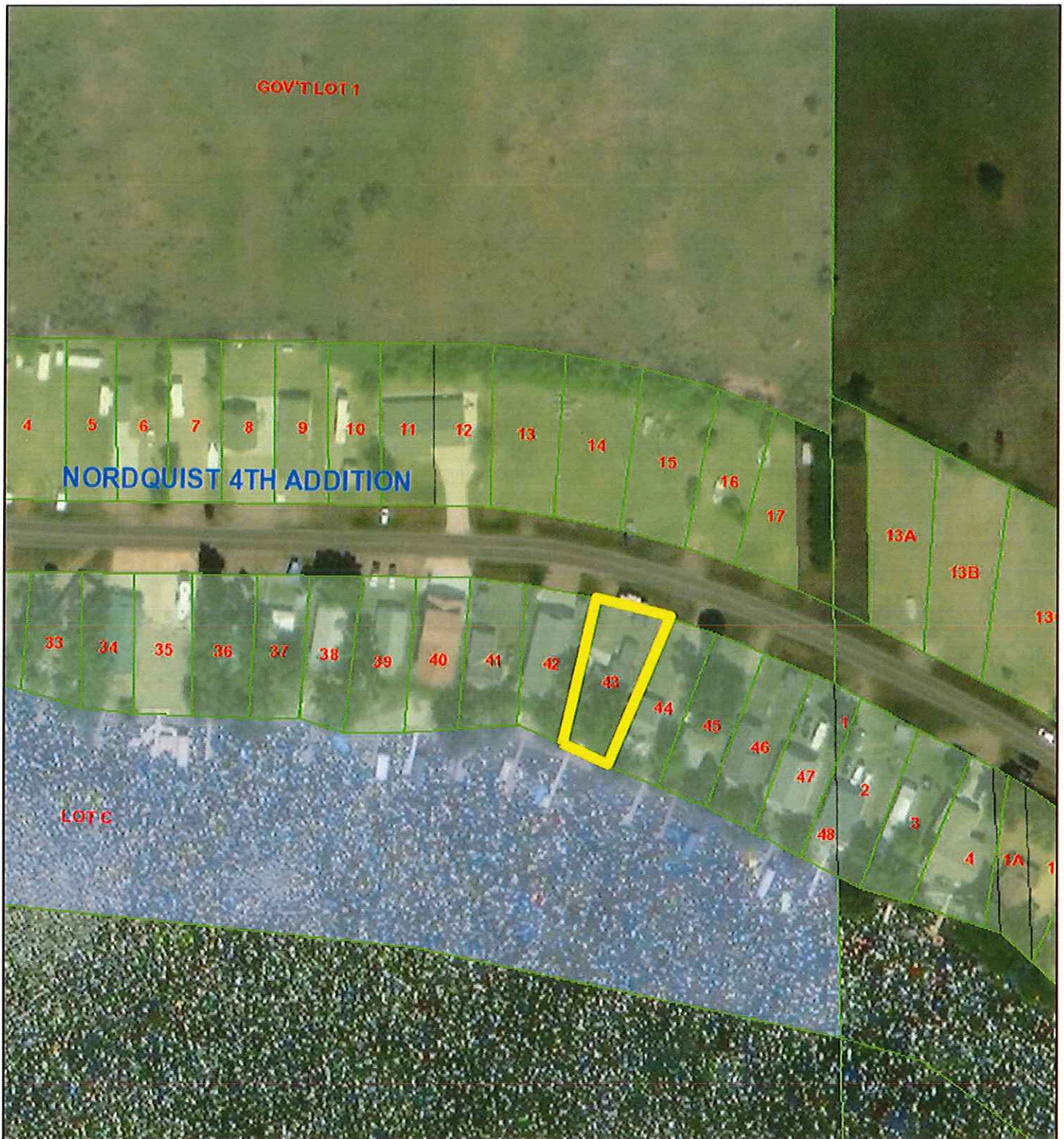


Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Marshall County Web Viewer

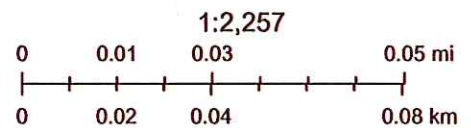
This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. Marshall County is not responsible for any errors in the drawing.

Web AppBuilder for ArcGIS



August 6, 2020

- PARCELS
- CITY_LIMIT
- TOWNSHIPS



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Kari Nielsen – Variance

