

**Marshall County Planning & Zoning  
STAFF REPORT  
September 22, 2020**

**Issue #1 Variance for Building Setback**

**OWNER/APPLICANT:** Scott Phillips

**PROPERTY DESCRIPTION:** Lots 8 & 9 Sckerl's Roy Lake Subdivision in the NE1/4 of the SW1/4 of Section 27, T126N, R55W

**CURRENT ZONING:** Lake Front Residential (R-3)

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

**REQUEST:** Scott Phillips has requested a variance to place some fencing on Lot 8 which would be 4ft from the road right-of-way line instead of the 30ft requirement, to place a section of fence on Lot 9 which would be 2ft from the road right-of-way line instead of the 30ft requirement and to place a shed on Lot 9 which would be 16ft from the normal high-water mark instead of the 50ft requirement, per the Marshall County Zoning Ordinance.

**HISTORY/ISSUE(S):**

1. The fences would be used to ensure the safety of young children and pets from running onto the road when on the property.
2. The shed would be placed in the SW corner of Lot 9 and used for storage purposes. There are steps and a 3ft tall concrete wall leading down to the lake. The shed would sit on top of the wall which continues in the backyard of the cabin (see pictures).
3. Lot 8 has an average depth of approximately 134.9ft and a width of approximately 35.15ft and Lot 9 has an average depth of approximately 159.05ft and a width of approximately 62.5ft.
4. According to site plans, the fencing on Lot 8 would be 24ft long and Lot 9's would be 40ft long.
5. Marshall County Ordinance requires new structures to be placed a minimum of 30ft from a road right-of-way line and a minimum of 50ft from the normal high-water mark.
6. No written comments or objections were received prior to the hearing.
7. Staff Recommendation – 26' variance to the road right-of-way line setback on Lot 8, a 28' variance to road right-of-way line setback on Lot 9 and a 34' 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 lot line and right-of-way line variances to lake lots in the past, when the neighbors had no objections.
    - i. Similar road variances allowed – 10' for M. Holland 4/12
    - ii. Similar high-water mark variances allowed – 12' for G/ Wickre 8/19,
  - 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 – 26' variance to the road right-of-way line setback on Lot 8, a 28' variance to road right-of-way line setback on Lot 9 and a 34' 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 September 22, 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.

Scott Phillips has requested a variance to place some fencing and a shed on the properties described as Lots 8 & 9 Sckerl's Roy Lake Subdivision in the NE1/4 of the SW1/4 of Section 27, T126N, R55W. The petitioner is asking to place a section of fence on Lot 8 which would be 4ft from the road right-of-way line instead of the 30ft requirement, to place a section of fence on Lot 9 which would be 2ft from the road right-of-way line instead of the 30ft requirement and to place a shed on Lot 9 which would be 16ft 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: September 2, 2020*

1T (Sept 2)  
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Erin Collins-Miles  
Planning & Zoning  
Administrator

Published once at the approximate cost of \$12.61.



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

September 1, 2020

Dear Property Owner,

Scott Phillips has requested a variance to place some fencing and a shed on the properties described as Lots 8 & 9 Sckerl's Roy Lake Subdivision in the NE1/4 of the SW1/4 of Section 27, T126N, R55W. The petitioner is asking to place a section of fence on Lot 8 which would be 4ft from the road right-of-way line instead of the 30ft requirement, to place a section of fence on Lot 9 which would be 2ft from the road right-of-way line instead of the 30ft requirement and to place a shed on Lot 9 which would be 16ft 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 September 22, 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 9/1/2020:**

1. C & D Falk Rev. Living Trust – 640 Westview Ln. E West Fargo, ND 58078
2. Jeffrey Goreham – 215 14<sup>th</sup> Ave. SW Aberdeen, SD 57401

30  
√60  
f 15  
60  
4  
20  
1/4

# MARSHALL COUNTY APPLICATION FOR VARIANCE

DATE: 8/20/2020

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) Fewer shed 8'x10' within 1/2 Lot line Less than  
of a (circle applicable): Twp Rd, County Rd, Federal or State Hwy, Other Rd, Lot Line or 50' from  
High Water Mark High Water  
Line

Structure would be located on (legal description): Lots 8+9 Sec 1  
Sub Division

Reason: Safety for Kids + Pets running onto  
Road for Front fence and privacy  
on side fence

Applicant Name: Scott Phillips Phone: 701 261 2595  
Address: PO Box 1166 11661 Roykota Dr  
Applicant Signature: Scott Phillips  
Owner Signature (if different than applicant): \_\_\_\_\_

**For Internal Office Use Only:**

Date Received: 8-27-2020 Fees (non-refundable): \$150.00 Paid: (YES) NO

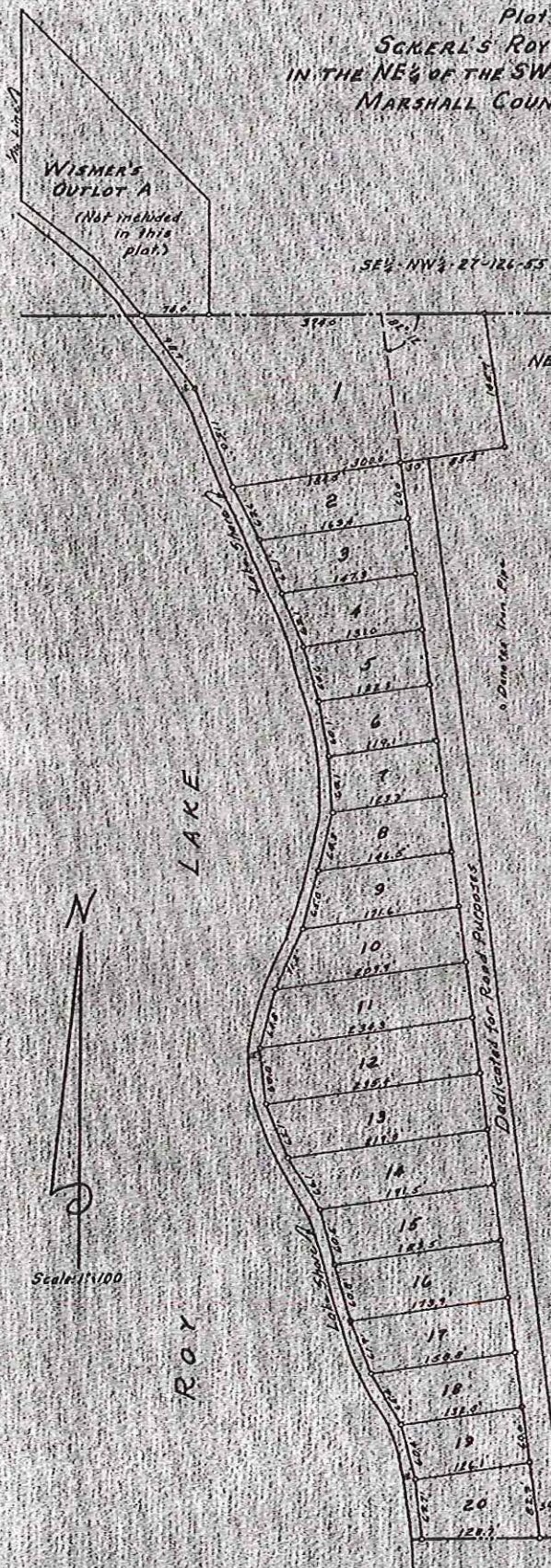
Inspection Report: See Staff report

Date of Hearing by Planning and Zoning Commission: September 22, 2020

Action taken by Planning and Zoning Commission: \_\_\_\_\_



**Plot Showing  
SEKRI'S ROY LAKE SUBDIVISION  
IN THE NE $\frac{1}{4}$  OF THE SW $\frac{1}{4}$  OF SEC. 27, T. 126 N., R. 55 W.  
MARSHALL COUNTY, SOUTH DAKOTA**



Lot 182  
(Platted)  
Filed in Book 2, Page 182

**OWNER'S CERTIFICATE**

I, Max M. Sekri, do hereby certify that I am the absolute and unqualified owner of the Northeast Quarter of the Southwest Quarter of Section 27, Township 126 North, Range 55 West of the Fifth Principal Meridian, in Marshall County, South Dakota, and that I have caused a portion of the same to be surveyed and platted into lots as shown on this plat, which shall hereafter be known and described as "Sekri's Roy Lake Subdivision in the NE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of Sec. 27, T. 126 N., R. 55 W." I further certify that the above described land is free from any incumbrances.

Signed this 16 day of April, 1968.

Max M. Sekri  
Owner

State of Arkansas

County of Washington

On this 16 day of April, 1968, before me, a Notary Public, personally appeared Max M. Sekri, known to me to be the person described in and who executed the within instrument, and who acknowledged to me that he executed the same.

My commission expires:

Arthur J. Simpson  
Notary Public  
My Commission Expires July 31, 1971

**SURVEYOR'S CERTIFICATE**

I, William D. Stallner, Registered Land Surveyor, do hereby certify that I have surveyed and platted "Sekri's Roy Lake Subdivision in the NE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of Sec. 27, T. 126 N., R. 55 W." as shown on this plat, that I have set iron pipe as shown, and that said survey and plat are true and correct.

Signed this 6th day of December, 1967.

William D. Stallner  
Registered Land Surveyor 1960

State of South Dakota  
County of Brown

On this 6th day of December, 1967, before me, a Notary Public, personally appeared William D. Stallner, known to me to be the person described in and who executed the within instrument, and who acknowledged to me that he executed the same.

My commission expires:

Notary Public, Brown County, South Dakota

**APPROVAL BY COMITY**

I hereby certify that the following is a correct copy of the resolution duly passed by the Board of County Commissioners of Marshall County, South Dakota at a meeting held on the 16th day of May, 1968.

Morton C. Cramer



1" = 20'  
Approx

\* 2' behind line  
28' variance  
60'

ROAD

East

2' behind?

46' Privacy  
\$ 800.00  
Total

\* BP  
Needed

Existing  
Shed  
12' Behind  
Property line

173' 3"  
Property line

6x8 Privacy  
fence  
12' Long

BP

Existing block wall  
beyond  
property line

6' tall x 8' long

\* all on prop. line, just need BP's

Lot 8

Lot 9

Property line  
Privacy  
Pond

24' long  
4' high fence  
2x8 Rails  
12" apart

6x8  
Privacy fence  
16' Total

40' long  
4' high  
2-2x8 rails  
12" apart  
64' \$500.00

Existing  
Flower  
Garden

Existing  
Block wall  
12' back  
of property

6x8  
Privacy  
Fence  
8' total

Property  
line

Existing  
Block wall  
12' off property line

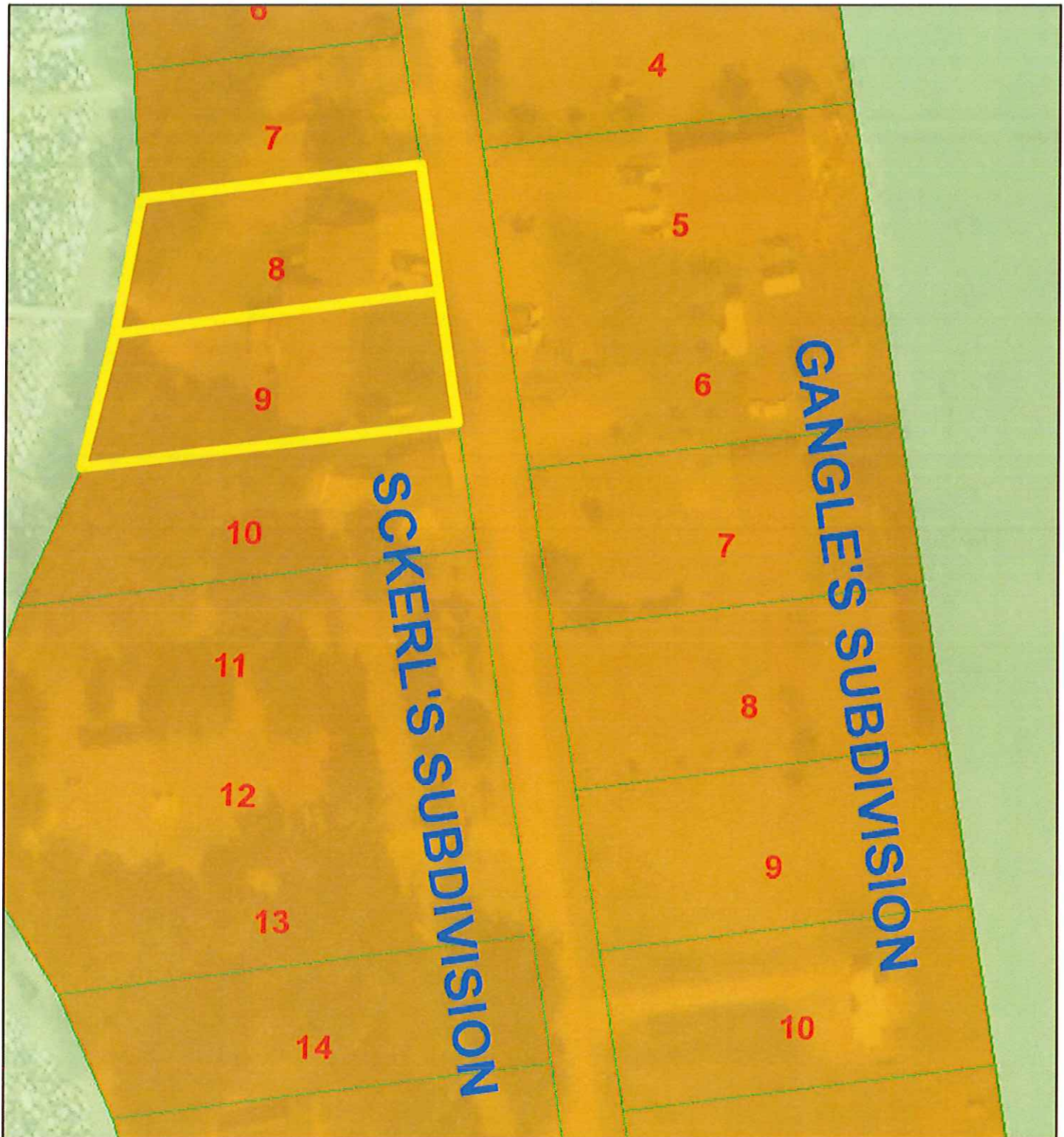
6x8  
Privacy  
Fence  
20' total

Shed  
to be moved  
to post

from  
Prop. line

Existing  
Shed & Privacy  
Fence 6' Behind property

# Web AppBuilder for ArcGIS



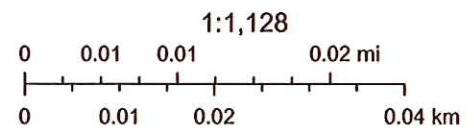
September 17, 2020

- PARCELS
- CITY\_LIMIT
- TOWNSHIPS

## ZONING

- Agricultural District
- Agricultural Fringe Protection District

- Commercial District
- General Industrial District
- Highway Commercial District
- Lake Front Residential District
- Residential District



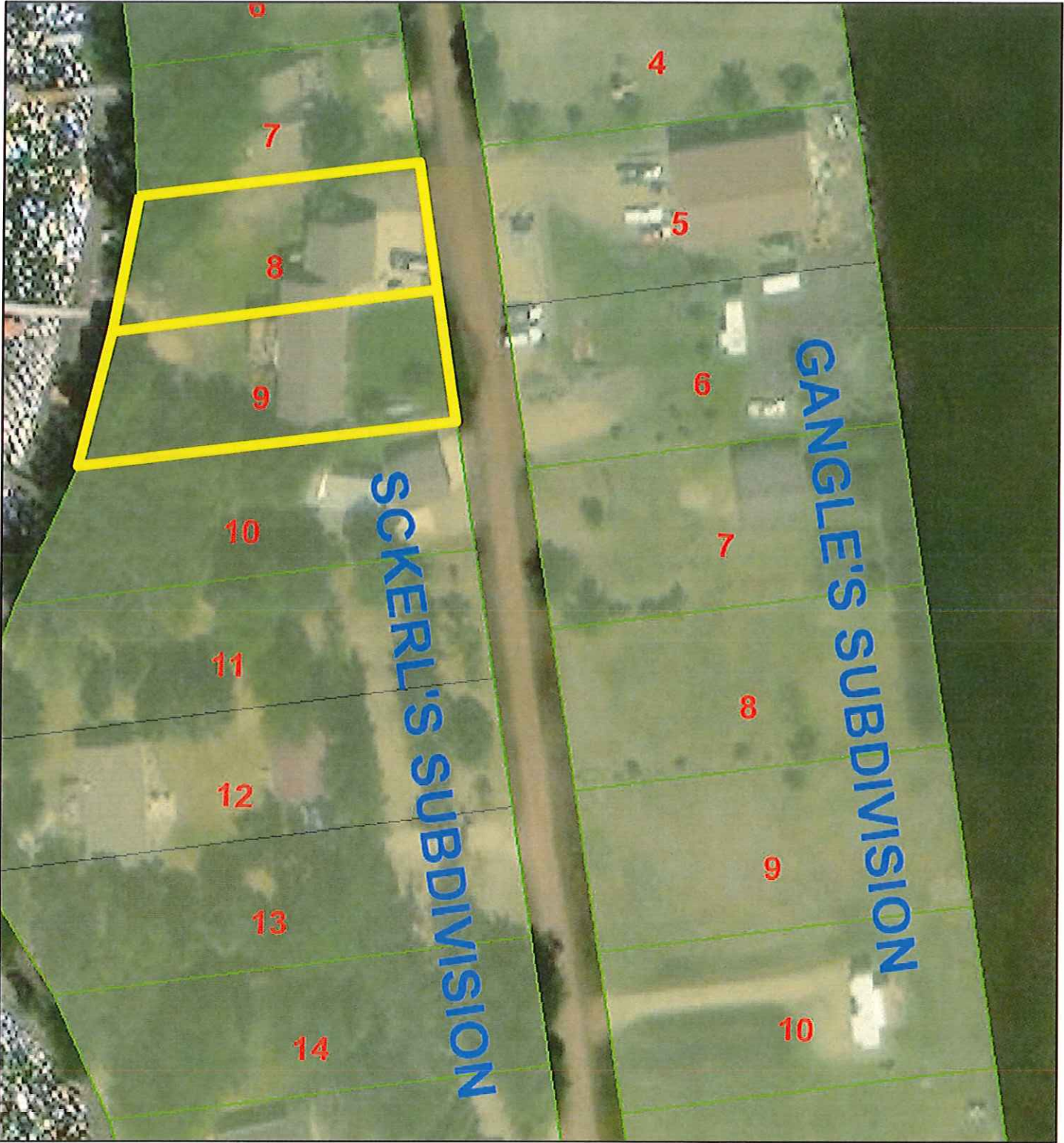
Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

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.

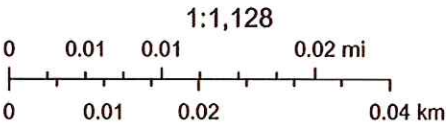


Web AppBuilder for ArcGIS



September 17, 2020

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



**Scott Phillips – Variance**

























