

**Marshall County Planning & Zoning
STAFF REPORT
October 6, 2020**

Issue #1 Variances for Building Setback

OWNER/APPLICANT: David and Kayleen Doctor

PROPERTY DESCRIPTION: Lot 15 of Isensee's Second Clear Lake Subdivision in S1/2 of Section 12, T126N, R54W

CURRENT ZONING: Lake Front Residential (R-3)

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

REQUEST: David and Kayleen Doctor have requested a variance to build a deck to replace the existing structure 19ft from the normal high-water mark instead of the 50ft requirement, per the Marshall County Zoning Ordinance.

HISTORY/ISSUE(S):

1. The current deck is 10x32 in dimension, and the proposed new deck will be 20x32 in dimension; thus, bringing the deck 10' closer to the highwater mark than the previous structure.
2. Stairs would also be included in the new construction and would be built alongside the deck and would not be any further out toward the lake, per the applicant.
3. There is a 3' ledge at the end of the yard, which drops down to the lake (see pictures).
4. The lot has an average depth of approximately 108.45' and a width (lake frontage) of approximately 99.95'.
5. Marshall County Ordinance requires new structures to be placed 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 – 31' 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.
 - i. Similar high-water mark variances allowed – 17' for L. James 11/12, 25' for K. Freudenthal 4/19, 15' for S. Benidt 6/2020
- 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 – 31' 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 October 6, 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.

David and Kayleen Docter have requested a variance to build a deck to replace the existing structure on the property described as Lot 15 Isensee's Second Clear Lake Subdivision in S1/2 of Section 12, T126N, R54W and NE1/4 of Section 13, T126N, R54W. The petitioners are asking to build the new deck 19ft 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 9, 2020

1T (Sept 9)
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Erin Collins-Miles
Planning & Zoning
Administrator

Published once at the approximate
cost of \$10.62.

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

September 8, 2020

Dear Property Owner,

David and Kayleen Docter have requested a variance to build a deck to replace the existing structure on the property described as Lot 15 Isensee's Second Clear Lake Subdivision in S1/2 of Section 12, T126N, R54W and NE1/4 of Section 13, T126N, R54W. The petitioners are asking to build the new deck 19ft 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 October 6, 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 9/8/2020:

1. **Dana & Julie Stapleton** – 45696 116th Street Sisseton, SD 57262
2. **David & Leanne Manning** – 11391 Burr Ridge Lane Eden Prairie, MN 55347
3. **Dept. of Game, Fish & Parks Habitat Section** – 523 E Capitol Ave. Pierre, SD 57501

MARSHALL COUNTY APPLICATION FOR VARIANCE

DATE: 8/9/20

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 Deck within 10' 780

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 15 DENSES Second
S12 + 126 R54

Reason: Replacing 10'x32' Deck with 22'x32' Deck
putting us 10' closer to the water. High water
mark to be determined & measured to
proposed deck

Applicant Name: David & Kayleen Docter Phone: 605-212-5533

Address: 442553 N Shore Drive Lake City SD 57247

Applicant Signature: Kayleen Docter David Docter

Owner Signature (if different than applicant): _____

For Internal Office Use Only:

Date Received: 9-8-2020 Fees(non-refundable): \$150.00 Paid: YES NO

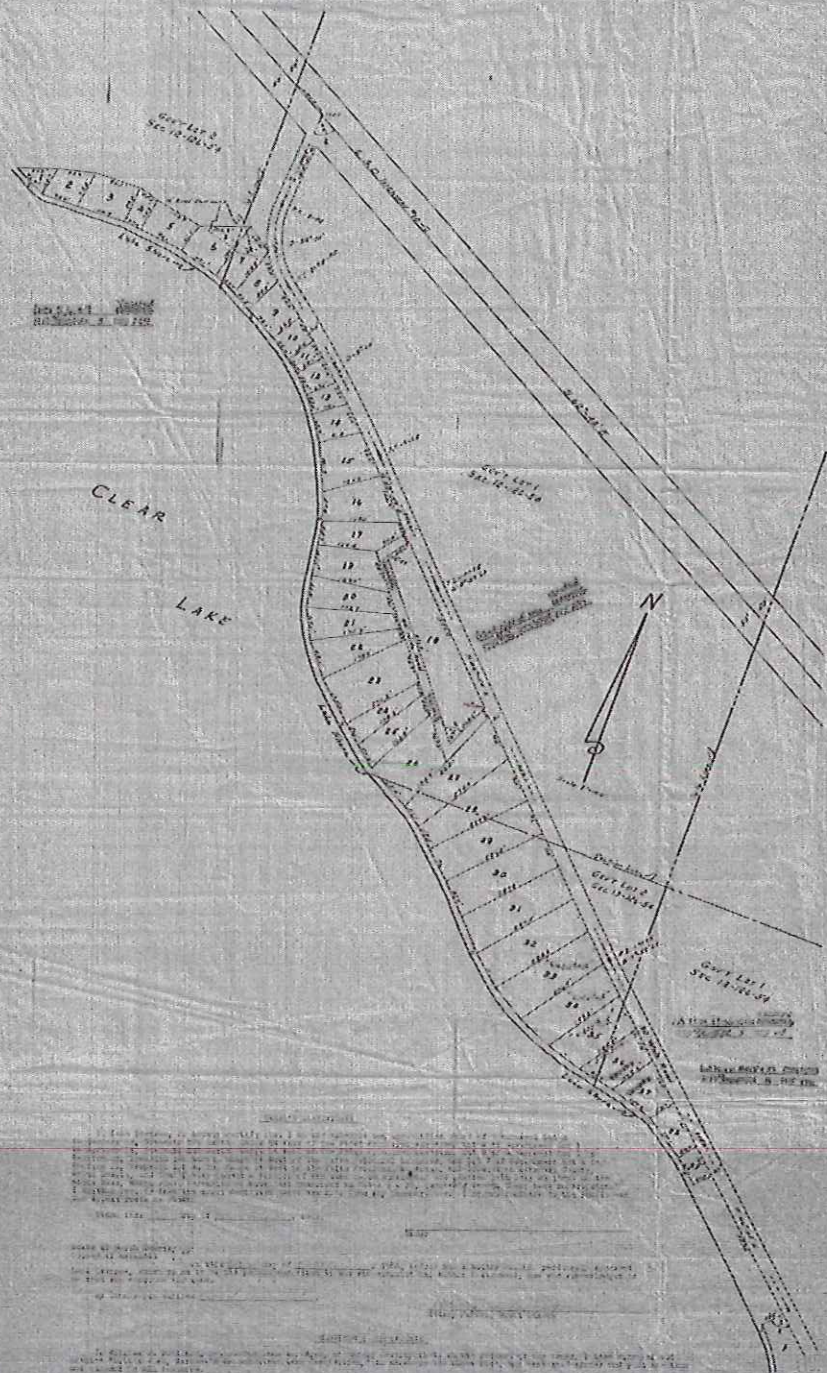
Inspection Report: See Staff Report

Onsite 9/8/2020 - Applicant updated size of deck to 20x32
instead of 22x32. 10' from HW' was determined.

Date of Hearing by Planning and Zoning Commission: October 6, 2020

Action taken by Planning and Zoning Commission: _____

Plot Showing
ISENSEE'S SECOND CLEAR LAKE SUBDIVISION IN S 1/4 OF
SEC. 12 - T. 126 N. - R. 54 W. AND NE 1/4 OF SEC. 13 - T. 126 N. - R. 54 W.
MARSHALL COUNTY, SOUTH DAKOTA



WITNESSETH that the within and foregoing plat of the ISENSEE'S SECOND CLEAR LAKE SUBDIVISION, in S 1/4 of SEC. 12 - T. 126 N. - R. 54 W. AND NE 1/4 OF SEC. 13 - T. 126 N. - R. 54 W., MARSHALL COUNTY, SOUTH DAKOTA, was duly presented to the Board of Commissioners of the County of Marshall, South Dakota, for their approval and filing for record, and that the same was duly approved and filed for record, and that the same is hereby certified to be a true and correct copy of the original plat as the same appears on file in the office of the County Clerk of the County of Marshall, South Dakota.

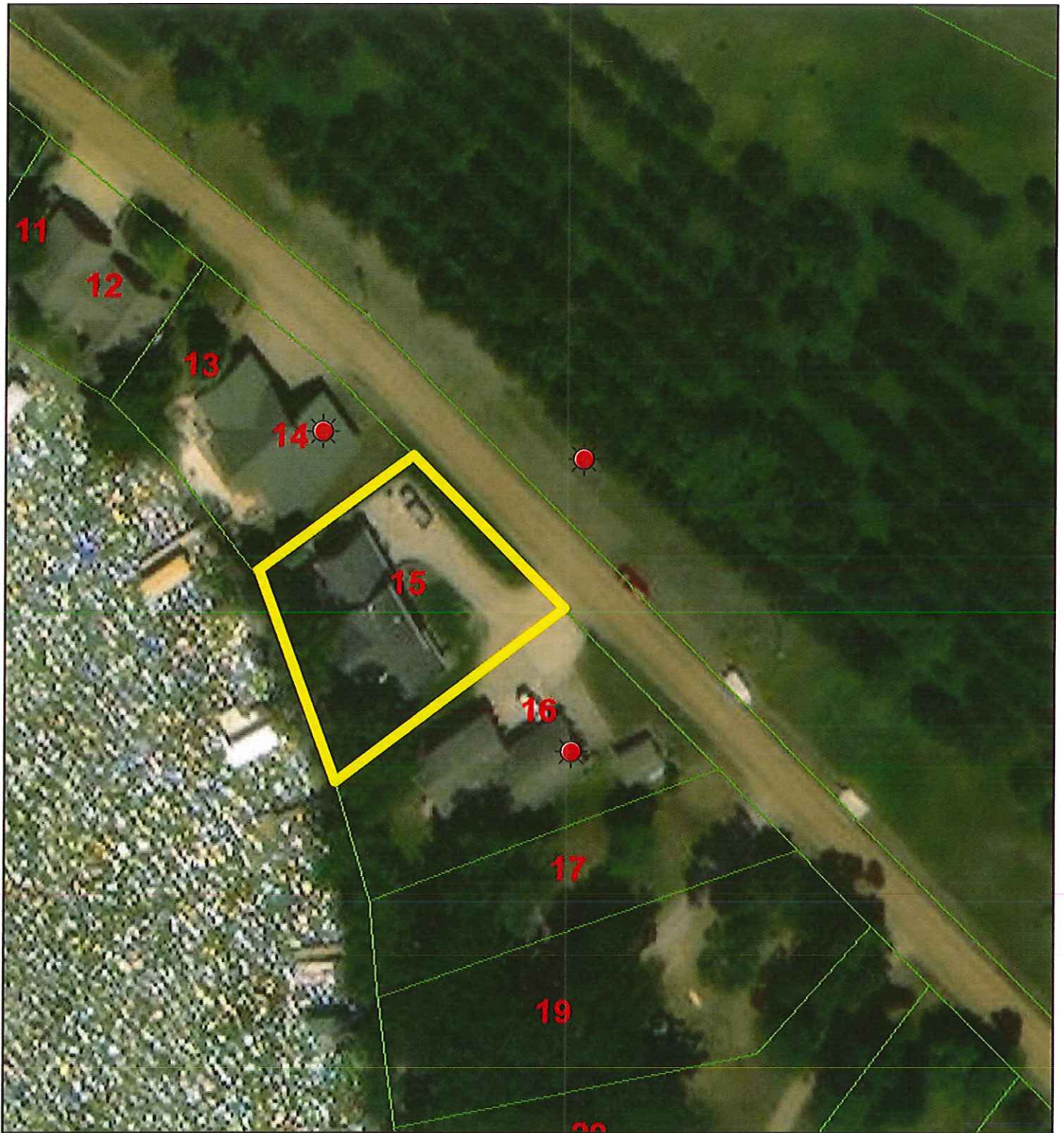
IN WITNESS WHEREOF, I, the County Clerk of the County of Marshall, South Dakota, have hereunto set my hand and the seal of said County, at the City of Pierre, South Dakota, this 1st day of January, 1911.

[Signature]
 County Clerk

APPROVED and filed for record, this 1st day of January, 1911.

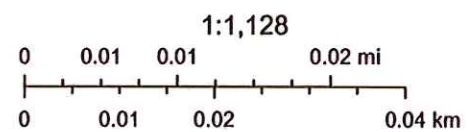
[Signature]
 Board of Commissioners

Web AppBuilder for ArcGIS



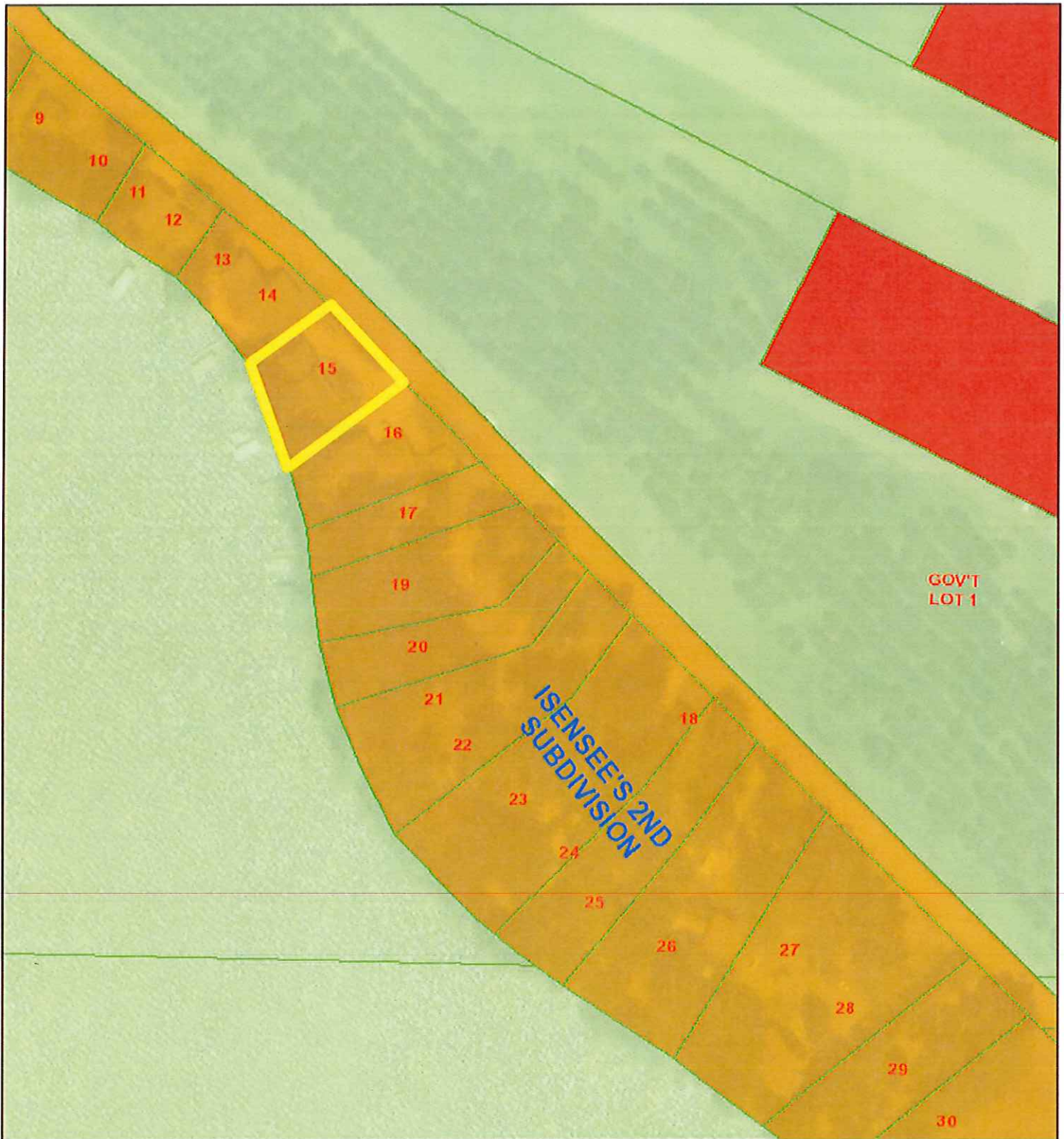
September 8, 2020

- PARCELS
- CITY_LIMIT
- TOWNSHIPS



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

Web AppBuilder for ArcGIS



September 30, 2020

PARCELS

CITY_LIMIT

TOWNSHIPS

ZONING

Agricultural District

Agricultural Fringe Protection District

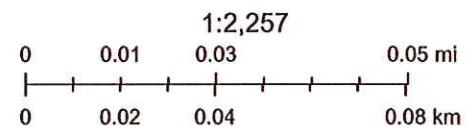
Commercial District

General Industrial District

Highway Commercial District

Lake Front Residential District

Residential District

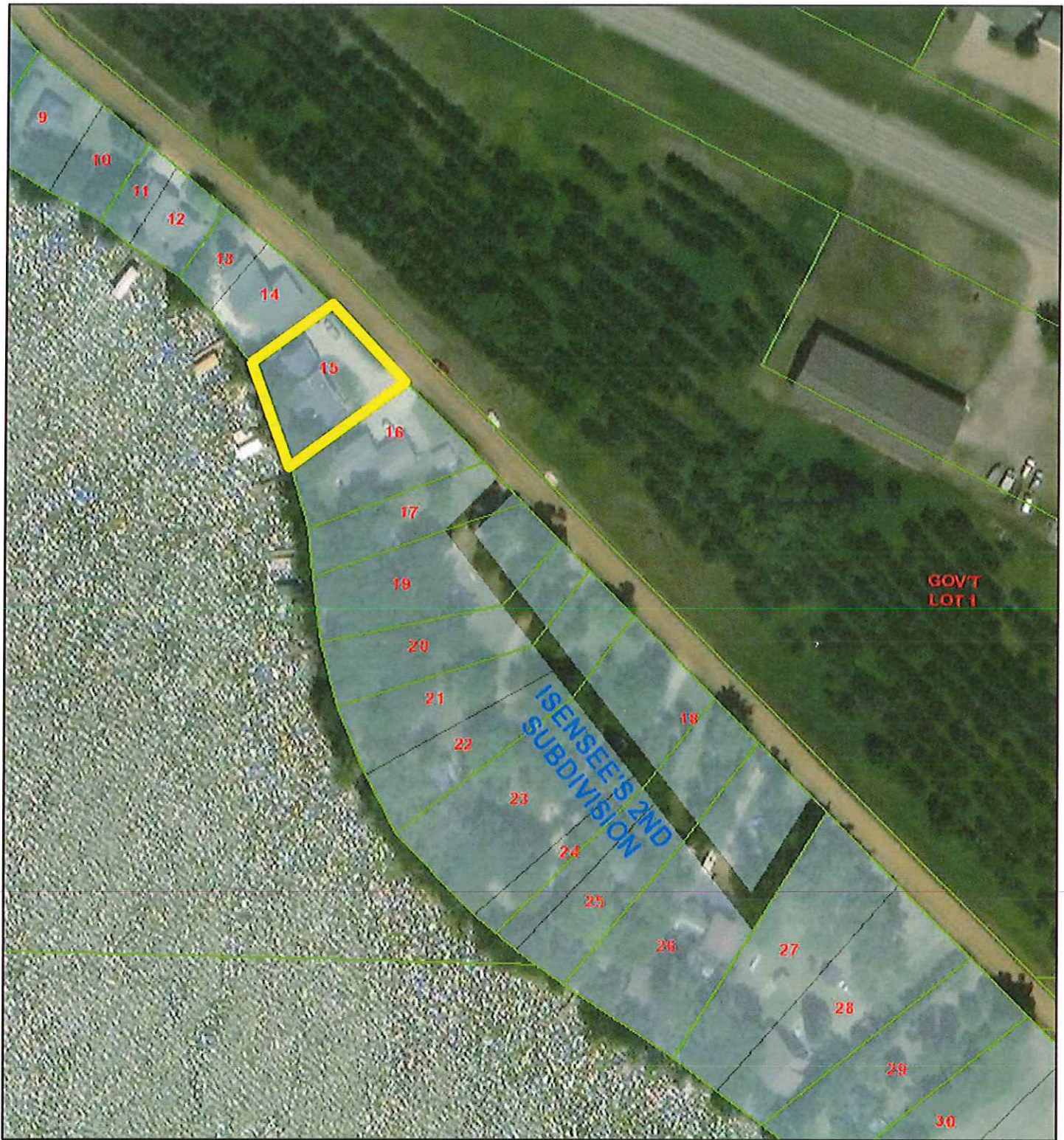


Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Marshall County Web Viewer

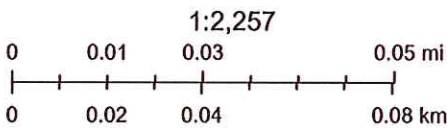
This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. Marshall County is not responsible for any errors in the drawing.

Web AppBuilder for ArcGIS



September 30, 2020

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David and Kayleen Docter – Variance





