

**Marshall County Planning & Zoning
STAFF REPORT
October 20, 2020**

Issue #1 Variance for Building Setback

OWNER/APPLICANT: Justin Monson

PROPERTY DESCRIPTION: as Lot 5 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: Justin Monson has requested a variance to place a house with a second story deck and a garage. The petitioner is asking to place the house 5ft from the North property line instead of the 7ft requirement, to place the garage 6½ft from the South property line instead of the 7ft requirement and to construct the second story deck 43ft from the normal high-water mark instead of the 50ft requirement, per the Marshall County Zoning Ordinance.

SECOND NOTICE PUBLISHED ON 10/14/2020: Justin Monson has requested a variance to place a house with a deck above the walkout basement and a garage on the property described as Lot 5 Sckerl's Roy Lake Subdivision in the NE1/4 of the SW1/4 of Section 27, T126N, R55W. The petitioner is asking to place the house 5ft from the North property line instead of the 7ft requirement, to place the garage 5ft from the South property line instead of the 7ft requirement and to construct the deck above the walkout basement 43ft from the normal high-water mark instead of the 50ft requirement, per the Marshall County Zoning Ordinance.

HISTORY/ISSUE(S):

1. One of the applicants called on Wednesday October 7, 2020 to make corrections to the original notice which was published on September 30, 2020.
2. The variance was noticed in the paper and to adjacent landowners for a second time on October 14, 2020; with corrections made by the applicant.
3. Original measurements taken by the Zoning administrator prior to the first notice were taken according to the placement of the stakes set by the applicants under the supervision of the applicants. The measurements stated on the variance request were measured from the eve of the structure to the property lines and to the normal high-water mark.
4. According to property cards, the property has been in the possession of the applicant's family since 5/28/1999 (filing date).
5. Existing on the property, there is a mobile home with an addition that was permitted in 2002 (78-2002) and a shed which was permitted and placed in 2001 (96-2001).
6. The Lot has an average depth of approximately 126.65ft and a width of approximately 60.3ft.
7. According to the site plan on the building permit, the proposed new home would be 42x24 in dimension and would include a single stall garage. The structure according to the variance would be 50.3' from the eaves to the North and South property lines.
8. The proposed deck will be built above the walkout basement and extend 12' toward the high-water mark.
9. Marshall County Ordinance requires new structures to be placed a minimum of 7ft from a property line and a minimum of 50ft from the normal high-water mark.
10. No written comments or objections were received prior to the hearing.
11. Staff Recommendation – **2' variance to the North property line setback, 2' variance to the South property line setback and 7' variance to the normal high-water mark setback.**

12. 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 high-water mark variances to lake lots in the past, when the neighbors had no objections.
 - i. Similar lot line variances allowed – 3' for D. Erickson 8/11, 3' for P. Nelson 10/12, 2' for P. Hanson 2/13, 5' for D. Rinas 4/15, 2' for K. Freudenthal 3/18, and 3' for D. Weber 10/19.
 - ii. Similar high-water mark variances allowed – 4' for M. Hill 7/14, 6' for R & K Moeckly 6/19 and 11' for K. Freudenthal 3/18.
- 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 – 2' variance to the North property line setback, 2' variance to the South property line setback and 7' 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 20, 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.

Justin Monson has requested a variance to place a house with a second story deck and a garage on the property described as Lot 5 Sckerl's Roy Lake Subdivision in the NE1/4 of the SW1/4 of Section 27, T126N, R55W. The petitioner is asking to place the house 5ft from the North property line instead of the 7ft requirement, to place the garage 6½ft from the South property line instead of the 7ft requirement and to construct the second story deck 43ft 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 30, 2020

1T(Sept 30)
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- APPLICATION FOR
VARIANCE**

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Published once at the approximate cost of \$11.95.

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Erin Collins-Miles
Planning & Zoning Administrator

Published once at the approximate cost of

For publication: October 14, 2020

1T (Oct 14)
**NOTICE OF HEARING
- APPLICATION FOR
VARIANCE**

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Erin Collins-Miles
Planning & Zoning
Administrator
Published once at the approximate cost of \$13.28.

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

September 29, 2020

Dear Property Owner,

Justin Monson has requested a variance to place a house with a second story deck and a garage on the property described as Lot 5 Sckerl's Roy Lake Subdivision in the NE1/4 of the SW1/4 of Section 27, T126N, R55W. The petitioner is asking to place the house 5ft from the North property line instead of the 7ft requirement, to place the garage 6½ft from the South property line instead of the 7ft requirement and to construct the second story deck 43ft 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 20, 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 9/29/2020:

1. Louan Overbust – 1516 Royal Rd Aberdeen, SD 57401
2. Dennis & Brenda Joy – 610 17th Ave NE Aberdeen, SD 57401
3. C & D Falk Rev. Living Trust – 640 Westview LN E West Fargo, ND 58078

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

October 8, 2020

Dear Property Owner,

Justin Monson has requested a variance to place a house with a deck above the walkout basement and a garage on the property described as Lot 5 Sckerl's Roy Lake Subdivision in the NE1/4 of the SW1/4 of Section 27, T126N, R55W. The petitioner is asking to place the house 5ft from the North property line instead of the 7ft requirement, to place the garage 5ft from the South property line instead of the 7ft requirement and to construct the deck above the walkout basement 43ft 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 20, 2020 at 9:10 a.m., to approve or disapprove the variance application.

As an adjacent landowner, you are being notified of the hearing. Please note that corrections have been made, per the applicant. 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 10/8/2020:

1. Louan Overbust – 1516 Royal Rd Aberdeen, SD 57401
2. Dennis & Brenda Joy – 610 17th Ave NE Aberdeen, SD 57401
3. C & D Falk Rev. Living Trust – 640 Westview LN E West Fargo, ND 58078

MARSHALL COUNTY APPLICATION FOR VARIANCE

DATE: 9-23-2020

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) House/Garage within 7' 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): 116561 Roykota Drive

Reason: North property line / South Property line
possibly closer than 7' eave to property line -
prefer 7' From house/garage to property
Line.

Applicant Name: Ron / Coleen / Justin Monson Phone: 605-470-0117
Address: 602 Market Street Langford SD 57454
Applicant Signature: Justin Monson
Owner Signature (if different than applicant): Coleen Monson

For Internal Office Use Only:

Date Received: 9-24-2020 Fees(non-refundable): \$150.00 Paid: ☒ YES ☐ NO

Inspection Report: See Staff report

on-site: 9-28-2020

Bon present with daughter

Date of Hearing by Planning and Zoning Commission: 10-20-2020

Action taken by Planning and Zoning Commission: _____

**Plot Showing
SCHERER'S ROY LAKE SUBDIVISION
IN THE NE 1/4 OF THE SW 1/4 OF SEC. 27, T. 126 N., R. 55 W.
MARSHALL COUNTY, SOUTH DAKOTA**



Lot 113
(Bounded)
FILED IN BOOK 5, PAGE 135

OWNER'S CERTIFICATE

I, Max M. Scherel, do hereby certify that I am the sole, true 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 designated as "Scherer's Roy Lake Subdivision in the NE 1/4 of the SW 1/4 of Sec. 27, T. 126 N., R. 55 W." I further certify that the above described land is free from any encumbrances.

Signed this 16 day of April, 1962.

Max M. Scherel
Owner

State of Arkansas
County of Washington

On this 16 day of April, 1962, before me, a Notary Public, personally appeared Max M. Scherel, 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. Langer
Notary Public
My Commission Expires July 31, 1971

SURVEYOR'S CERTIFICATE

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

Signed this 6th day of December, 1961.

William D. Stollner
Registered Land Surveyor 1960

State of South Dakota
County of Brown

On this 6th day of December, 1961, before me, a Notary Public, personally appeared William D. Stollner, 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:

William D. Stollner
Notary Public, Brown County
South Dakota

APPROVAL BY COUNTY

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, 1962.

Web AppBuilder for ArcGIS



October 9, 2020

PARCELS

CITY_LIMIT

TOWNSHIPS

ZONING

Agricultural District

Agricultural Fringe Protection District

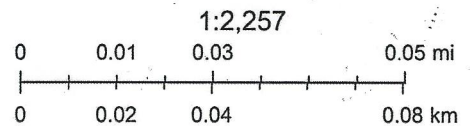
Commercial District

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

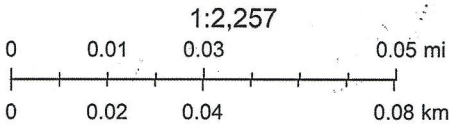
This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. Marshall County is not responsible for any errors in the drawing.

Web AppBuilder for ArcGIS



October 8, 2020

- PARCELS
- CITY_LIMIT
- TOWNSHIPS



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

Justin Monson – Variance





















