

**Marshall County Planning & Zoning  
STAFF REPORT  
April 27, 2021**

**Issue #1 Variance for Building Setback**

**OWNER/APPLICANT:** Andrew J. & Meredith G. Feia, JTWROS

**PROPERTY DESCRIPTION:** Lot 12 of Roykota Legacy Estates in the SE1/4SW1/4 and Government Lot 5 of Section 27, T126N, R55W

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

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

**REQUEST:** Andrew and Meredith Feia have requested a variance to build a storage shed 23ft at the NW corner and 26ft at the NE corner from the road right-of-way line instead of the 30ft requirement and 40ft from the normal high-water mark instead of the 50ft requirement. The applicants have also requested to build a deck with stairs. The petitioner is asking to build the deck 25ft from the normal high-water mark and to build the stairs 5ft from the normal high-water mark instead of the 50ft requirements, per the Marshall County Zoning Ordinance.

**HISTORY/ISSUE(S):**

1. There are currently no structures on the property.
2. Let it be noted that we do not permit for stairs leading down to the lake, but in this instance the stairs will be attached to a deck, so they are included in the variance request description. Applicant must contact Game, Fish and Parks on the topic of the stairs.
3. The Lot has an average depth of approximately 257.28ft and a width of approximately 110.44ft.
4. The shed and deck are proposed to be positioned and placed in the desired location so as to make room for a lake cabin in the future.
5. The road to the East is a span of 50'.
6. Marshall County Ordinance requires new structures to be placed a minimum of 30ft from a road right-of-way line and 50' from the normal high-water mark.
7. No written comments or objections were received prior to the hearing.
8. Staff Recommendation – **7' variance at the NW corner and a 4' variance at the NE corner to the right-of-way line setback and a 10' variance to the normal high-water mark setback for the shed. For the deck; a 25' variance to the normal high-water mark setback.**
9. 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 right-of-way line and high-water mark variances to lake lots in the past, when the neighbors had no objections.
    - i. Similar road variances allowed – 4' for J. Teveldal 10/2020 & 10' for M. Holland 4/12.
    - ii. Similar high-water variances allowed – 12' for G. Wickre 8/19 & 31' for D. & K. Docter 10/2020.
  - 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 – 7' variance at the NW corner and a 4' variance at the NE corner to the right-of-way line setback and a 10' variance to the normal high-water mark setback for the shed. For the deck; a 25' 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 April 27, 2021 at 9:10 a.m. at the Marshall County Courthouse Commissioners Chambers, concerning the following application for variance from the Marshall County Zoning Ordinance.

Andrew and Meredith Feia have requested a variance to build a storage shed on the property described as Lot 12 of Roykota Legacy Estates in the SE1/4SW1/4 and Government Lot 5 of Section 27, T126N, R55W. The petitioner is asking to build the storage shed 23ft at the NW corner and 26ft at the NE corner from the road right-of-way line instead of the 30ft requirement and 40ft from the normal high-water mark instead of the 50ft requirement. On the same property, the applicants have also requested to build a deck with stairs. The petitioner is asking to build the deck 25ft from the normal high-water mark and to build the stairs 5ft from the normal high-water mark instead of the 50ft requirements, per the Marshall County Zoning Ordinance.

Erin Collins-Miles  
Planning & Zoning Administrator

Published once at the approximate cost of

*For publication: March 31, 2021*

1T (Mar 31)  
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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

April 22, 2021

Dear Property Owner,

Andrew and Meredith Feia have requested a variance to build a storage shed on the property described as Lot 12 of Roykota Legacy Estates in the SE1/4SW1/4 and Government Lot 5 of Section 27, T126N, R55W. The petitioner is asking to build the storage shed 23ft at the NW corner and 26ft at the NE corner from the road right-of-way line instead of the 30ft requirement and 40ft from the normal high-water mark instead of the 50ft requirement. On the same property, the applicants have also requested to build a deck with stairs. The petitioner is asking to build the deck 25ft from the normal high-water mark and to build the stairs 5ft from the normal high-water mark instead of the 50ft requirements, per the Marshall County Zoning Ordinance.

A hearing will be held at the Marshall County Courthouse, Commissioners Chambers on April 27, 2021 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*

Erin Collins-Miles  
Planning and Zoning Administrator

*The following adjacent landowners were notified on 4/22/2021 via phone and/or email:*

1. Curt & Peggy Braun – East Bay Association
2. Roy View, LLC – Tom Opsahl

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

April 23, 2021

Dear Mr. Braun/East Bay Association,

In regards to the hearing that will be held at the Marshall County Courthouse, Commissioners Chambers on April 27, 2021 at 9:10 a.m., to approve or disapprove the variance application of *Andrew and Meredith Feia*;

**This letter is to serve as proof that you as an adjacent landowner have no issue with the proposed project and do not have any objections. Let it be further noted that a verbal confirmation of this statement was received by the Zoning Administrator via a phone call on April 23, 2021.**

The project description is as follows:

Andrew and Meredith Feia have requested a variance to build a storage shed on the property described as Lot 12 of Roykota Legacy Estates in the SE1/4SW1/4 and Government Lot 5 of Section 27, T126N, R55W. The petitioner is asking to build the storage shed 23ft at the NW corner and 26ft at the NE corner from the road right-of-way line instead of the 30ft requirement and 40ft from the normal high-water mark instead of the 50ft requirement. On the same property, the applicants have also requested to build a deck with stairs. The petitioner is asking to build the deck 25ft from the normal high-water mark and to build the stairs 5ft from the normal high-water mark instead of the 50ft requirements, per the Marshall County Zoning Ordinance.

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*Erin Collins-Miles*

Erin Collins-Miles  
Planning and Zoning Administrator

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

April 23, 2021

Dear Mr. Opsahl/Roy View, LLC,

In regards to the hearing that will be held at the Marshall County Courthouse, Commissioners Chambers on April 27, 2021 at 9:10 a.m., to approve or disapprove the variance application of *Andrew and Meredith Feia*;

**This letter is to serve as proof that you as an adjacent landowner have no issue with the proposed project and do not have any objections. Let it be further noted that a verbal confirmation of this statement was received by the Zoning Administrator via a phone call on April 22, 2021.**

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Sincerely,

*Erin Collins-Miles*

Erin Collins-Miles  
Planning and Zoning Administrator



## MARSHALL COUNTY APPLICATION FOR VARIANCE

DATE: 23 Mar 2021

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) Storage Shed (12' x 20') 40'  
Wood Deck (12' x 24') within 30'  
Wood Stairs (4' x 38') 5'  
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 12 of Roykota Legacy Estates in the SE1/4 SW1/4 and Government Lot 5 of  
Section 27 of T126N R55W of the 5th P.M, Marshall County, South Dakota

Reason: Propose to build a storage shed in southeast portion of the lot located  
approximately 40 ft. from the High Water Mark (HWM). We would also like to  
construct a wood deck to be located in the south central portion of lot,  
approximately 40 ft. from the HWM. Concurrent to the deck build, we need stairs  
to access the water edge due to steeper slope. The edge of the stairs would stop  
about 5 ft. short of HWM.

23' from ROW (Pins), 26' from ROW  
Applicant Name: Andrew and Meredith Feia Phone: 320-232-9983

Address: 1915 42nd St S, Moorhead, MN 56560

Applicant Signature: \_\_\_\_\_

Owner Signature (if different than applicant): \_\_\_\_\_

### For Internal Office Use Only:

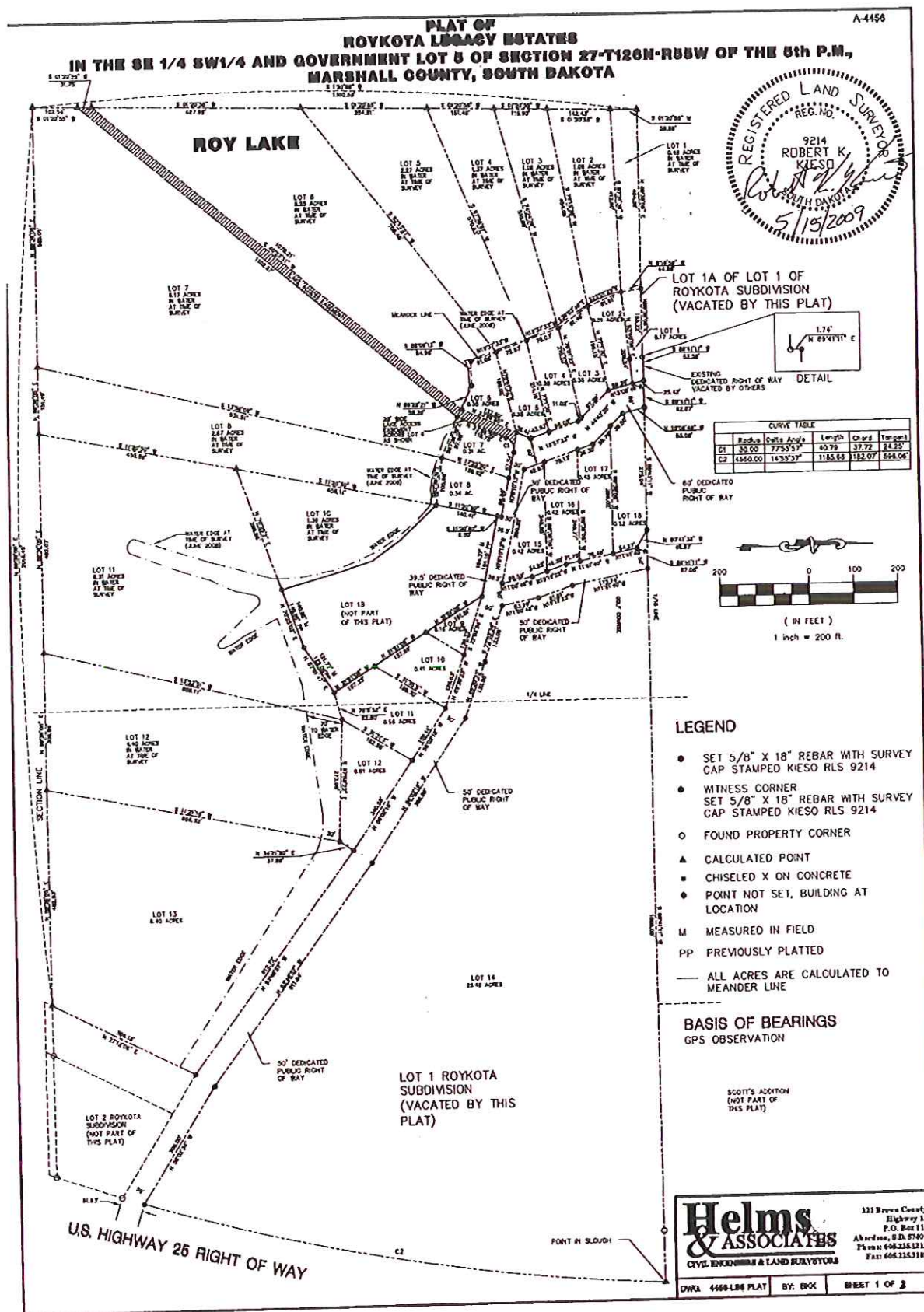
Date Received: 3-25-21 Fees(non-refundable): \$150.00 Paid: YES NO

Inspection Report: See Staff report

Onsite on Monday March 29th, 2021 - Andrew present

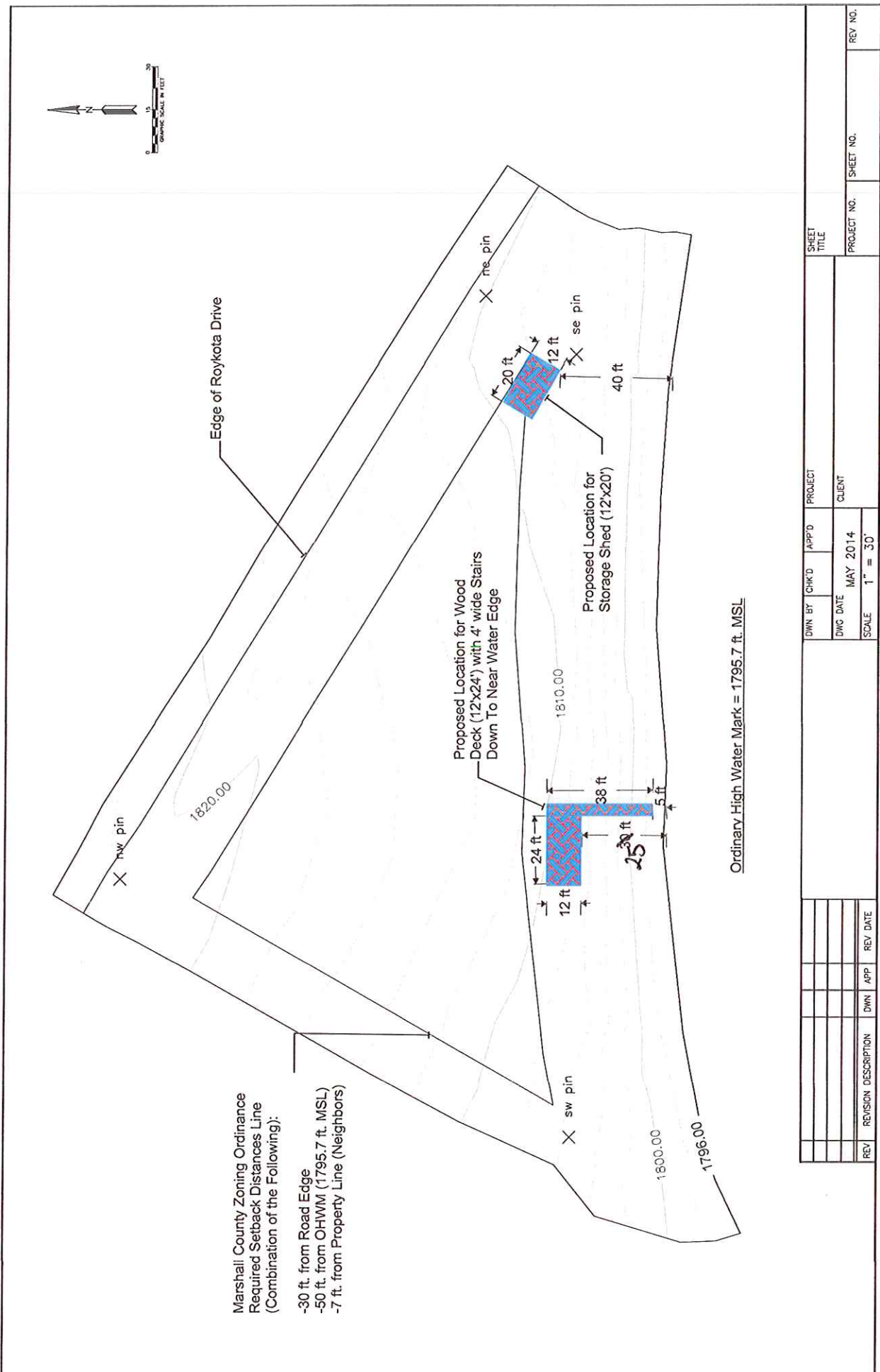
Date of Hearing by Planning and Zoning Commission: April 27th, 2021

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



5-27 Slide 137





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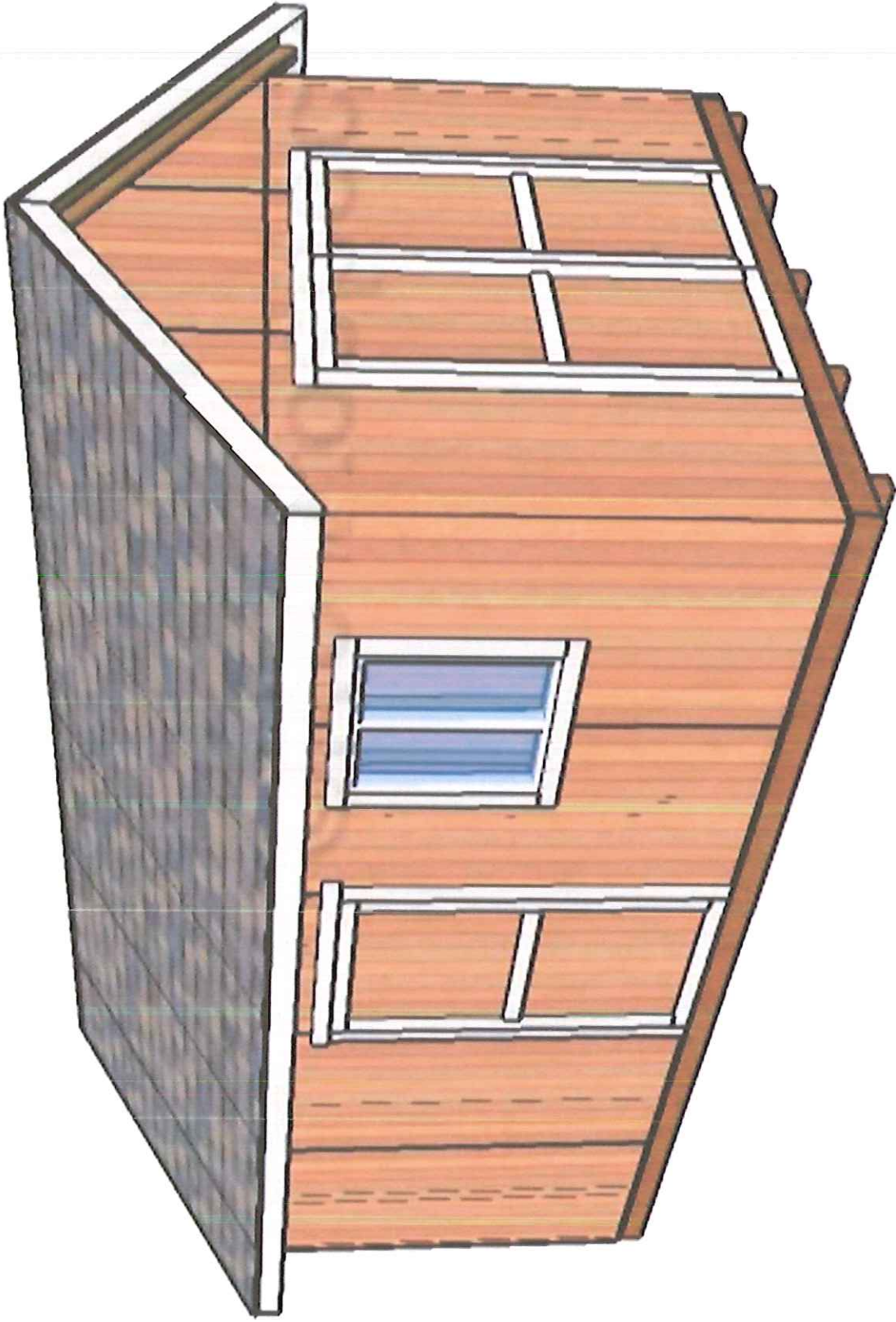
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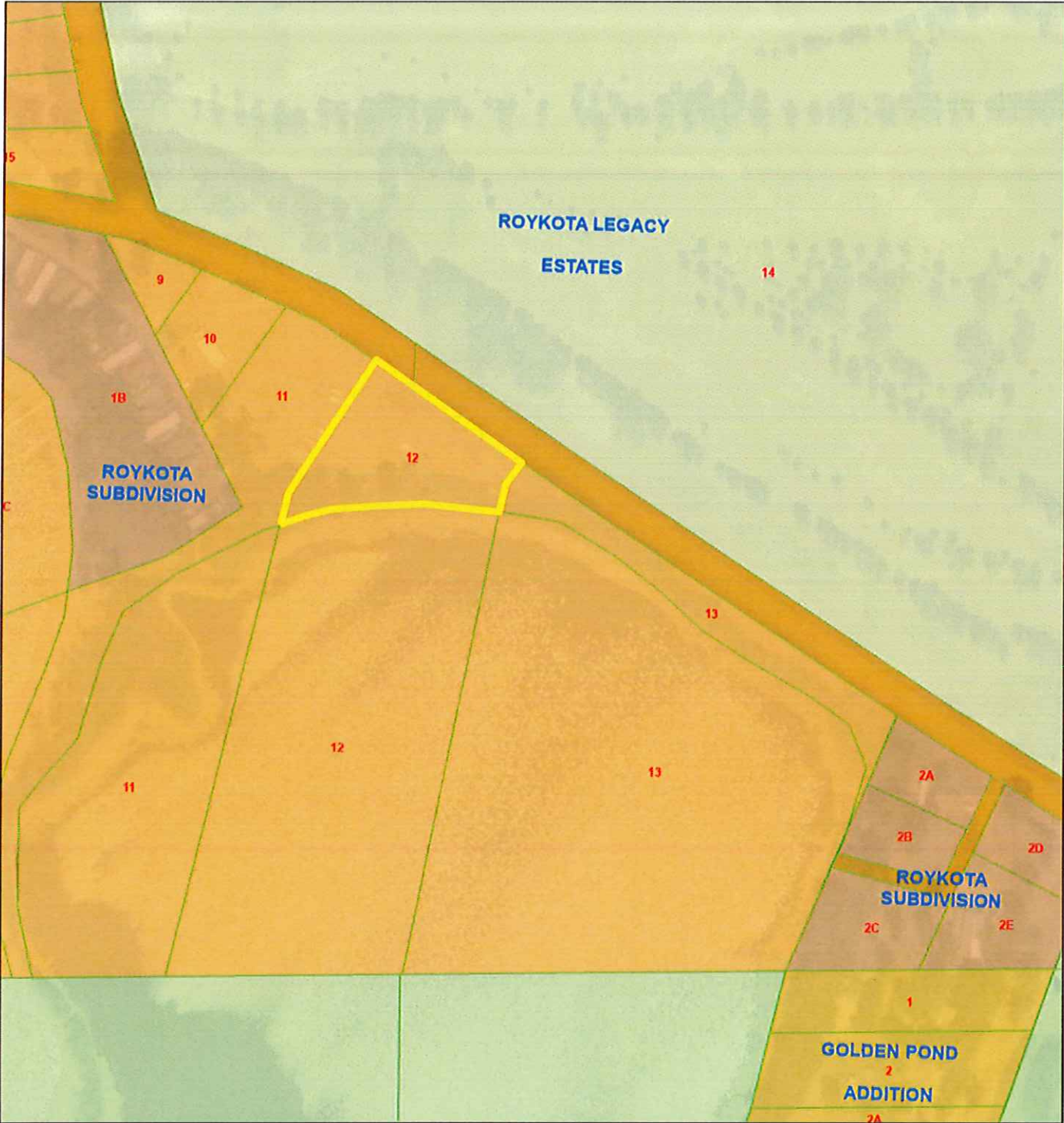




12' x 20' Shed



MARSHALL COUNTY WEB VIEWER



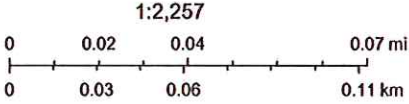
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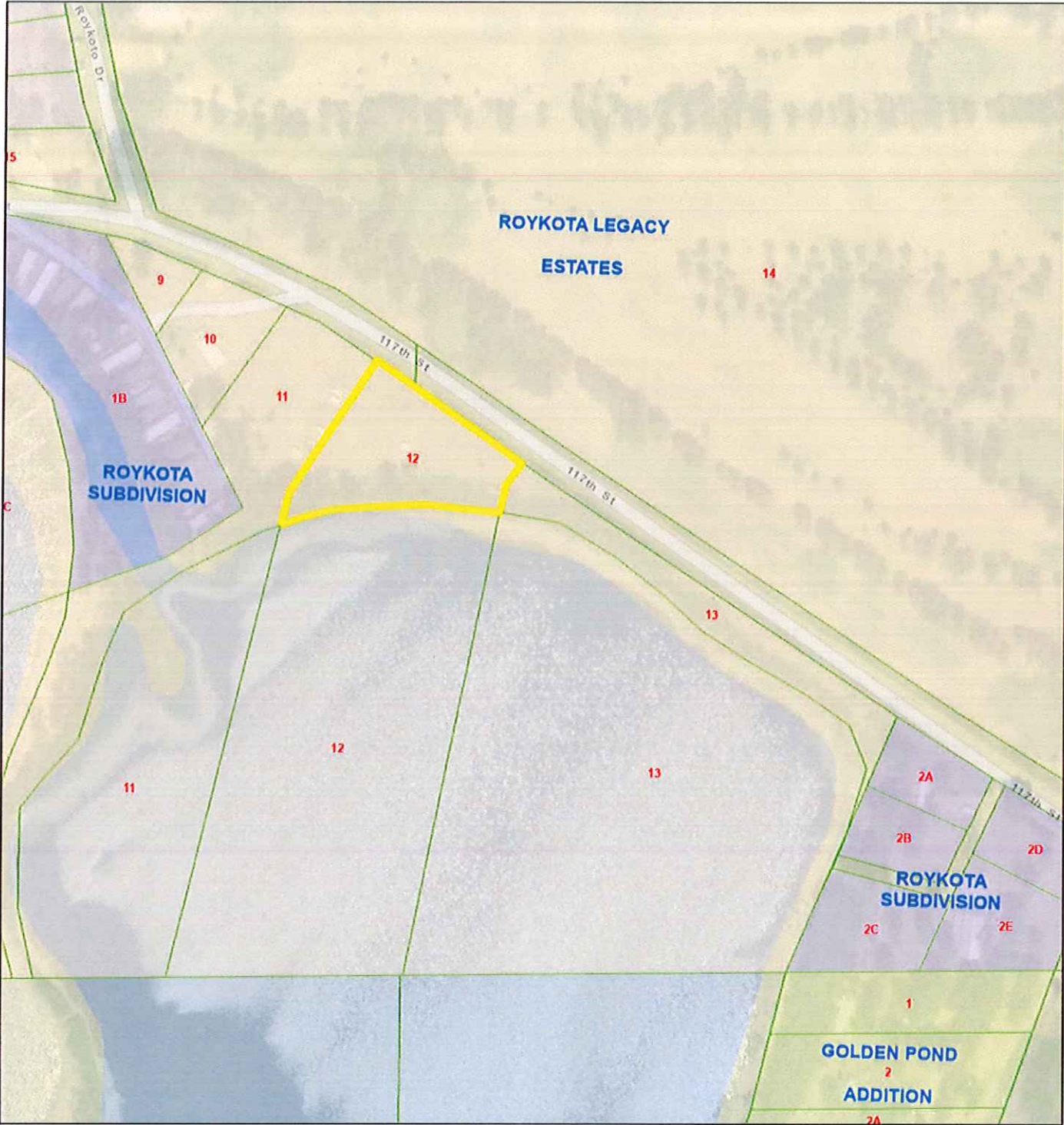
- Agricultural District
- Lake Front Residential District

PLAT

- GOLDEN POND ADDITION
- ROYKOTA LEGACY ESTATES
- ROYKOTA LEGACY ESTATES 1ST SUBDIVISION
- ROYKOTA SUBDIVISION
- TOWNSHIPS
- PARCELS



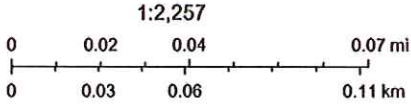
MARSHALL COUNTY WEB VIEWER



4/20/2021, 10:20:07 AM

PLAT

- GOLDEN POND ADDITION
- ROYKOTA LEGACY ESTATES
- ROYKOTA LEGACY ESTATES 1ST SUBDIVISION
- ROYKOTA SUBDIVISION
- TOWNSHIPS
- PARCELS





**Andrew & Meredith Feia – Variance**

**Shed**







Deck





## Stairs

