

Marshall County Planning & Zoning
STAFF REPORT
June 8, 2021

Issue #1 Variance for Building Setback

OWNER/APPLICANT: Scott Thayer

PROPERTY DESCRIPTION: Lot 18 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 Thayer has requested a variance to build a house and an attached garage. The petitioner is asking to build the house 2ft from the South property line and 1ft from the North property line instead of the 7ft requirement; and to build the attached garage 22ft from the road right-of-way line instead of the 30ft requirement, per the Marshall County Zoning Ordinance.

HISTORY/ISSUE(S):

1. There are currently no structures on the property. There was a cabin and an 8x10 shed present previously.
2. The eaves of the proposed structure are 2'.
3. According to property cards, the property has been in ownership of the Thayer's since 1/4/07.
4. The Lot has an average depth of approximately 145.8ft and a width of approximately 62.7ft.
5. The road to the East is a span of 30'.
6. Marshall County Ordinance requires new structures to be placed a minimum of 7ft from a property line and 30ft from a road right-of-way line.
7. I have received two letters of objection prior to the hearing. Please see file.
8. Staff Recommendation – **5' variance from the South property line, 6' variance from the North property line and an 8' variance to the right-of-way line 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 lot line and right-of-way line variances to lake lots in the past, when the neighbors had no objections.
 - i. Similar property line variances allowed – 2' for K. Freudenthal 3/18, 2' for P. Hanson 2/13 & 2.5' for K. Freudenthal 5/19
 - ii. Similar road variances allowed – 4' for J. Teveldal 10/2020, 7' for W. Buss 9/13 & 8' for M. Hill 7/14
 - 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 – 5' variance from the South property line, 6' variance from the North property line and an 8' variance to the right-of-way line setback.

NOTICE OF HEARING - APPLICATION FOR VARIANCE

Notice is hereby given that the Marshall County Planning & Zoning Board will meet on June 8, 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.

Scott Thayer has requested a variance to build a house and an attached garage on the property described as Lot 18 Sckerl's Roy Lake Subdivision in the NE1/4 of the SW1/4 of Section 27, T126N, R55W. The petitioner is asking to build the house 2ft from the South property line and 1ft from the North property line instead of the 7ft requirement; and to build the attached garage 22ft from the road right-of-way line instead of the 30ft requirement, per the Marshall County Zoning Ordinance.

Erin Collins-Miles
Planning & Zoning Administrator

Published once at the approximate cost of

For publication: May 12, 2021

1T (May 12)
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- APPLICATION FOR
VARIANCE**

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Erin Collins-Miles
Planning & Zoning Administrator
Published once at the approximate
cost of \$9.63.

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

May 11, 2021

Dear Property Owner,

Scott Thayer has requested a variance to build a house and an attached garage on the property described as Lot 18 Sckerl's Roy Lake Subdivision in the NE1/4 of the SW1/4 of Section 27, T126N, R55W. The petitioner is asking to build the house 2ft from the South property line and 1ft from the North property line instead of the 7ft requirement; and to build the attached garage 22ft from the road right-of-way line instead of the 30ft requirement, per the Marshall County Zoning Ordinance.

A hearing will be held at the Marshall County Courthouse, Commissioners Chambers on June 8, 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 5/11/21:

1. Steve Thayer – 406 Interstate Blvd. Hardwood, ND 58042
2. Hope Erickson – 916 11th Ave West Spencer, IA 51301
3. Lawrence Sullivan – 116726 Roykota Drive Lake City, SD 57247

May 14, 2021

Marshall County Planning & Zoning Board
PO Box 9
Britton, SD 57430

Attn: Erin Collins-Miles

In regards to the variance request on your letter dated 5/11/2021 for the Thayer property, Lot 18 Sckerl's Roy Lake Subdivision in the NE ¼ SW ¼ of Sec. 27-26-55 (see enclosed copy of notice), please be advised that we reject the petitioner's request.

Our improvements on Lot 19 of said subdivision appear to be constructed approximately 7 foot from the northerly lot line as per county zoning requirements. If the adjacent property owner builds their proposed improvements within 2 feet of the side lot line as indicated in their request, we feel this would infringe on the privacy of our property. We request that both the proposed dwelling and garage (on Lot 18) should be, at a minimum, 7 foot from the side lot line as is legally permissible in Marshall County, South Dakota, setback regulations.

Please advise if it would be recommended that a property owner (and/or family member) is present at the hearing scheduled for 6/8/2021 at 9:10 a.m. I can make arrangements to attend the meeting via zoom if available and/or necessary.

Thank you,



Hope Erickson
916 11th Ave W
Spencer, IA 51301
(712) 262-1212

LAW OFFICE OF DANNY R. SMEINS, P.C.

P.O. BOX A - 755 7TH ST., SUITE 106

BRITTON, SOUTH DAKOTA

57430-0318

WEBSTER OFFICE

506 MAIN ST.

WEBSTER, SD 57274-1719

PHONE (605) 345-4875

FAX (605) 345-4250

drslaw@itctel.com

PHONE (605) 448-5964

FAX (605) 448-5251

drslawb@venturecomm.net

May 18, 2021

Erin Collins-Miles
Planning and Zoning Administrator
P.O. Box 9
Britton, South Dakota 57430

Re: Variance - Steve Thayer

Dear Erin:

This letter comes to you at the request of Steve Thayer, the owner of the property that adjoins the property owned by Scott Thayer. He received your letter dated May 11, 2021, requiring the application for variance to build a house and garage within one foot of his property line instead of the required seven feet. This is to let you know that on behalf of Steve Thayer, he objects to the granting of a variance to that extent. The seven foot requirement is an important requirement to create separation between the properties. Going to one foot ends up essentially compromising Steve Thayer's options with respect to building on this own lot without that setback. In addition, we are not aware of any reasons why Scott Thayer cannot build his house and garage without complying with the setback requirements established by the County ordinance. Please communicate the objection of Steve Thayer to this variance request to the Marshall County Commissioners at or before the hearing on June 8, 2021.

Most Sincerely,



Danny R. Smeins

DRS/cv

P.S. Steve might agree to a variance less than the seven foot requirement but clearly objects to the one foot setback.

MARSHALL COUNTY APPLICATION FOR VARIANCE

DATE: 5-6-2021

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) Home within 1' of North 2' of South 22' ROW End Side 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 18, School's Ry
Lake sub.

Reason: New year Round home trying to fit on property

Applicant Name: Scott Thayer Phone: _____

Address: 5402 Courtney Ave. Tuscaloosa AL 35406

Applicant Signature: [Signature] on Behalf Scott Thayer

Owner Signature (if different than applicant): _____

For Internal Office Use Only:

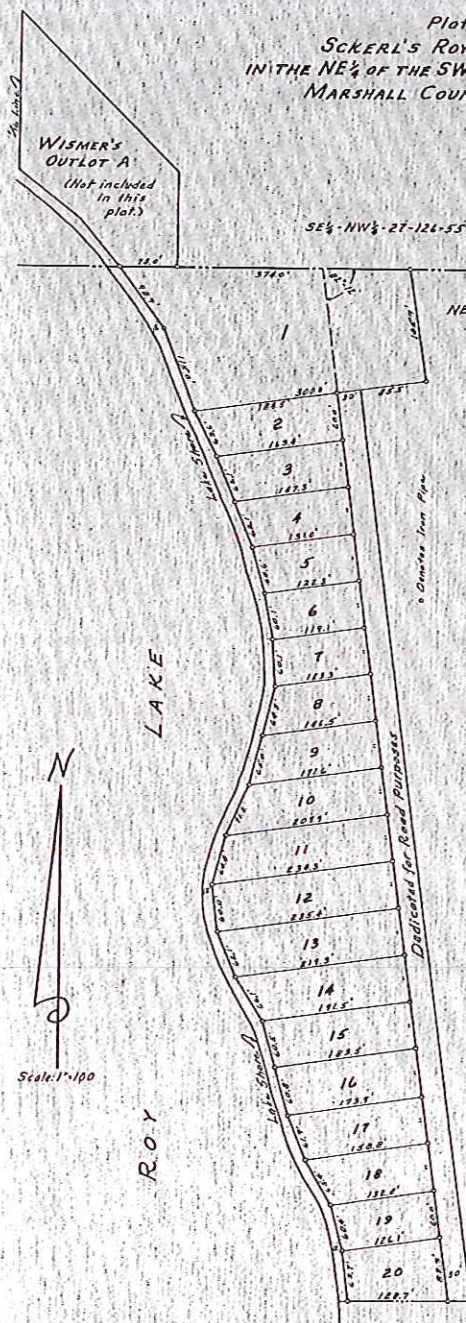
Date Received: 5/6/21 Fees(non-refundable): \$150.00 Paid: YES NO

Inspection Report: See staff report

Date of Hearing by Planning and Zoning Commission: June 8th, 2021

Action taken by Planning and Zoning Commission: _____

**Plot Showing
SEKERI'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**



Lots 1-20
(Re-platted)
FILED IN BOOK 3 PAGE 182

OWNER'S CERTIFICATE

I, Max M. Sekeri, 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 "Sekeri'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. Sekeri
Owner

State of (Undersigned) ss
County of (Undersigned) ss
On this 16 day of April, 1968, before me, a Notary Public, personally appeared Max M. Sekeri, 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
My Commission Expires: July 31, 1971

SURVEYOR'S CERTIFICATE

I, William D. Stillner, Registered Land Surveyor, do hereby certify that I have surveyed and platted "Sekeri'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. Stillner
Registered Land Surveyor #550

State of South Dakota) ss
County of Brown) ss
On this 6th day of December, 1967, before me, a Notary Public, personally appeared William D. Stillner, 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

AFFIRMATION 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, 1968.

Marvin Cusick
County Auditor, Marshall County, S. Dak.

"Be it resolved by the Board of County Commissioners of Marshall County, South Dakota, that the plat showing "Sekeri'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.," having been examined, is hereby approved in accordance with the provisions of Section 15.2806, Chapter 15.28 of the South Dakota Code of 1939, and amendments thereof."

TREASURER'S CERTIFICATE

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

Paul W. Selner
County Treasurer, Marshall County, S. D.

DIRECTOR OF EQUALIZATION'S CERTIFICATE

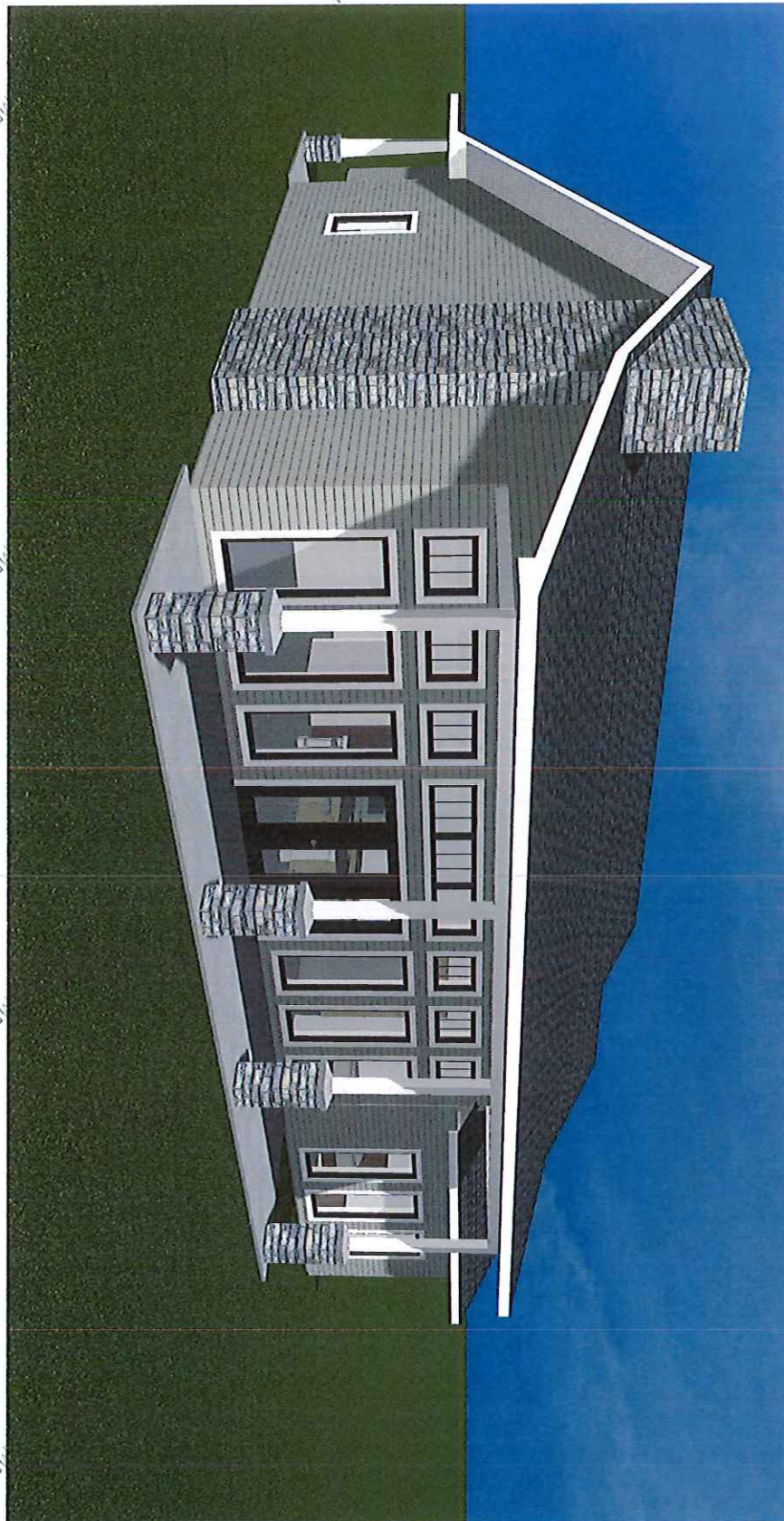
I hereby certify that I have received a copy of this plat this 2 day of April, 1968.

Director of Equalization, Marshall County
South Dakota

Filed for record this 16th day of May, 1968, at 4:00 o'clock P. M., and duly recorded in Book 3,

Page 177.

Local South Dakota
Register of Deeds, Marshall County, S. D.



These drawings have been prepared using information provided to us by the customer who is hereby releasing us for the accuracy of the information provided. These drawings are not a part of any contract and are not to be used for any other purpose. They are for informational purposes only and are not to be used for any other purpose. The customer is responsible for obtaining all necessary permits and for obtaining all necessary information from the local building official for the required building permit. We assume no responsibility for errors or omissions in these drawings or for any other information or for the accuracy of any drawings.

PROPERTY OF SCOTT'S LUMBER
NO COPIES CAN BE MADE WITHOUT PERMISSION
NOTE THAT THE CUSTOMER IS RESPONSIBLE FOR THE PROTECTION OF ALL MEASUREMENTS



**Scott's
Lumber**

767 Vander Horck, Britton, SD

PHONE:
(605) 448-5282
FAX:
(605) 448-5278

www.scottslumber.com

DRAWN BY: orlin.punt@scottslumber.com

PLOT DATE: Thursday, April 15, 2021

JOB: Thayer, Scott Lake Home #3

SALESMAN:

Josh.kraft@scottslumber.com

PAGE:

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LIVING SCOTT 1.0 sign		
Registration	Date	Done By
0	01/05/2021	CP
1	03/04/2021	CP
2	04/06/2021	CP

FRONT ELEVATION

Architectural drawing of a building elevation. The drawing shows a large multi-paned door on the left and a smaller door on the right. Dimensions are provided for various parts of the structure:

- Overall width: 11'-6"
- Width of the large door: 4'-0"
- Width of the smaller door: 2'-4 1/8"
- Width of the space between the doors: 9'-1 1/8"
- Labels for the top of the structure: TOP OF SUPR. LOOR, TOP OF FOUNDATION, TOP OF PLATE, TOP OF FOOTING.

These or other have been prepared using information provided to us by the customer who is solely responsible for the accuracy of the information provided. These drawings are not a permit drawing prepared by or for a local authority and may not meet applicable state and local building codes when they are used. The customer should consult their contractor and/or local building inspector to determine any changes to meet the state and local building code requirements. Customer is responsible for obtaining local building permits for the required building permits. We assume no responsibility for claims or damages caused by any errors, omissions, deficiencies or defects of any drawings.



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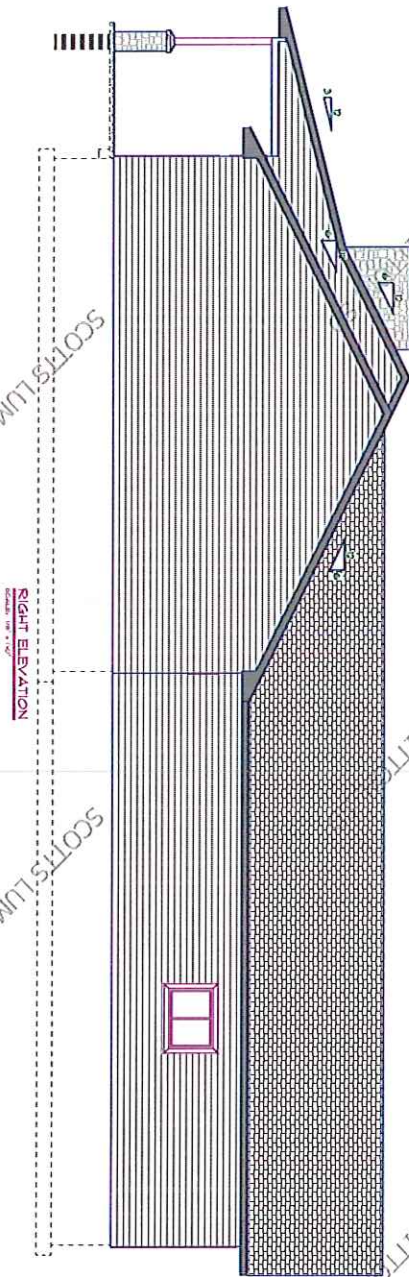
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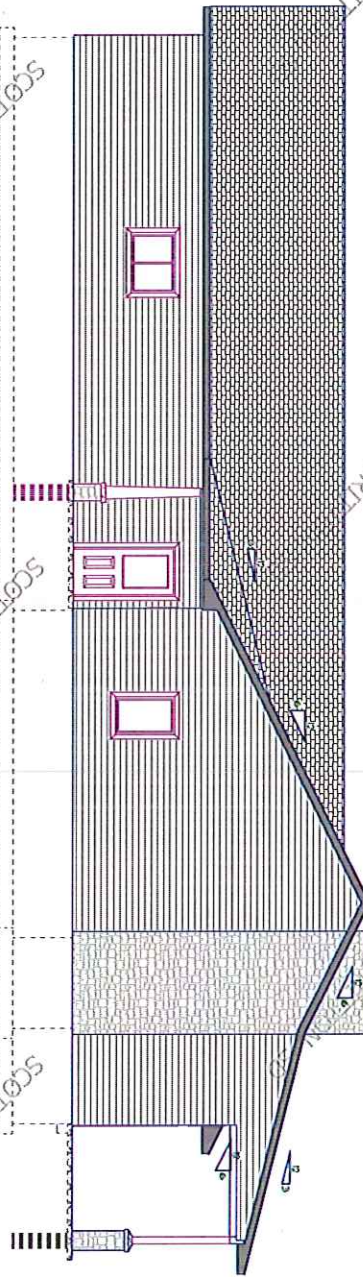
SALESMAN:
josh.kraft@scottslumber.com

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RIGHT ELEVATION



LEFT ELEVATION

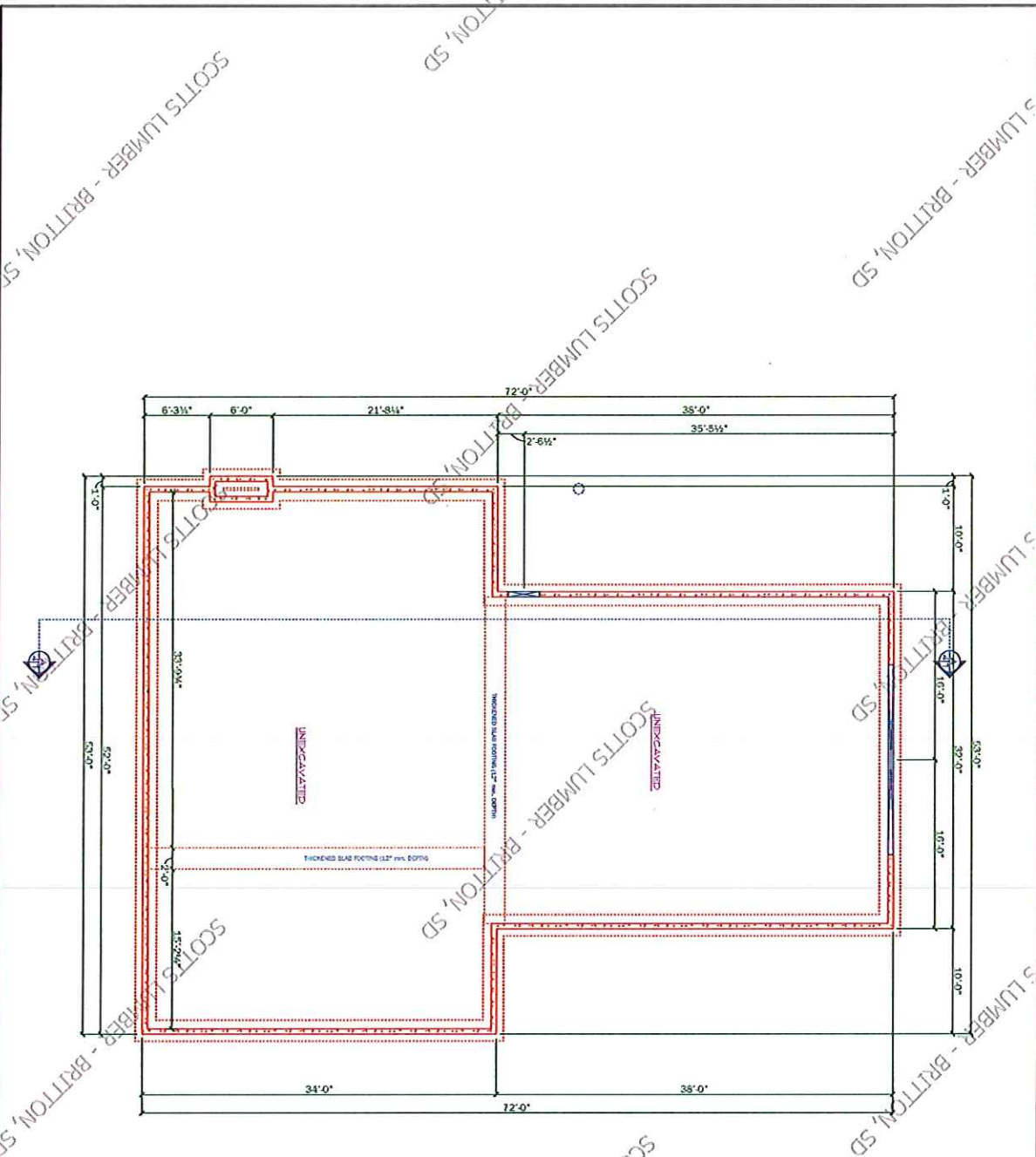
ELEVATIONS			
Revision	Date	Drawn By	Checked By
0	05/05/2021	OP	OP
1	05/05/2021	OP	OP

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DRAWN BY: orlin.punt@scottslumber.com
PLOT DATE: Thursday, April 15, 2021
JOB: Thayer, Scott Lake Home #3
SALESMAN: Josh.kraft@scottslumber.com



FOUNDATION PLAN			
NO. 1	DATE	BY	CHK
1	04/15/2021	ORLIN PUNTE	JP

These drawings have been prepared using information provided by the client and are not to be used for any other purpose without the written consent of Scott's Lumber. The drawings are not to be used for any other purpose without the written consent of Scott's Lumber. The drawings are not to be used for any other purpose without the written consent of Scott's Lumber.



Scott's Lumber

161 Vander Horck, Britton, SD

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(605) 448-5283
FAX:
(605) 448-8218

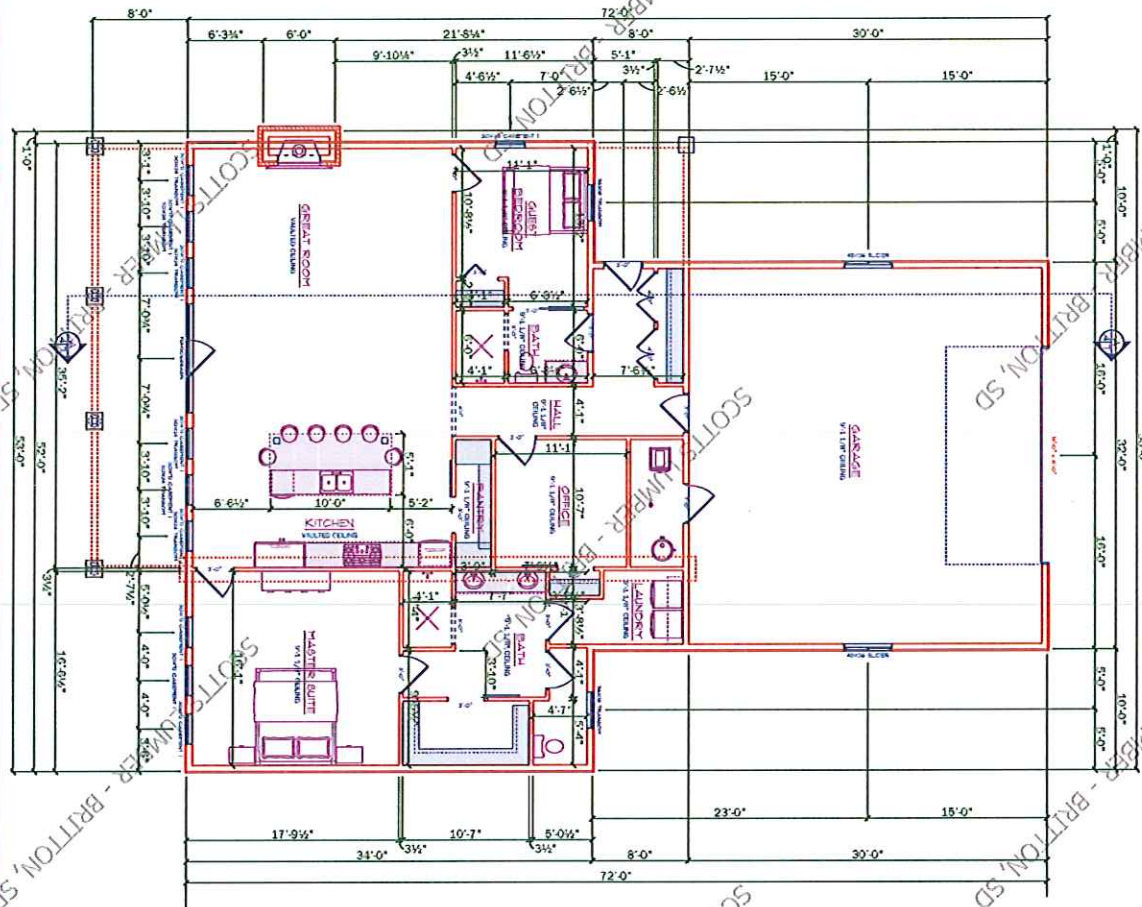
www.scottslumber.com

DRAWN BY: orlin.punte@scottslumber.com
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SALESMAN:
josh.kraft@scottslumber.com

PAGE:

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MAIN FLOOR PLAN			
Room	Area	Perimeter	Notes
LIVING ROOM	10.0'	10.0'	
DINING ROOM	10.0'	10.0'	
KITCHEN	10.0'	10.0'	
MASTER SUITE	10.0'	10.0'	
BATH	10.0'	10.0'	
LAUNDRY	10.0'	10.0'	
GARAGE	10.0'	10.0'	

NOTE: All dimensions are approximate and may vary due to field conditions. Please verify all dimensions before construction.

AREA SCHEDULE	
NAME	AREA
LIVING ROOM	10.0'
DINING ROOM	10.0'
KITCHEN	10.0'
MASTER SUITE	10.0'
BATH	10.0'
LAUNDRY	10.0'
GARAGE	10.0'



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PLOT DATE: Thursday, April 15, 2021

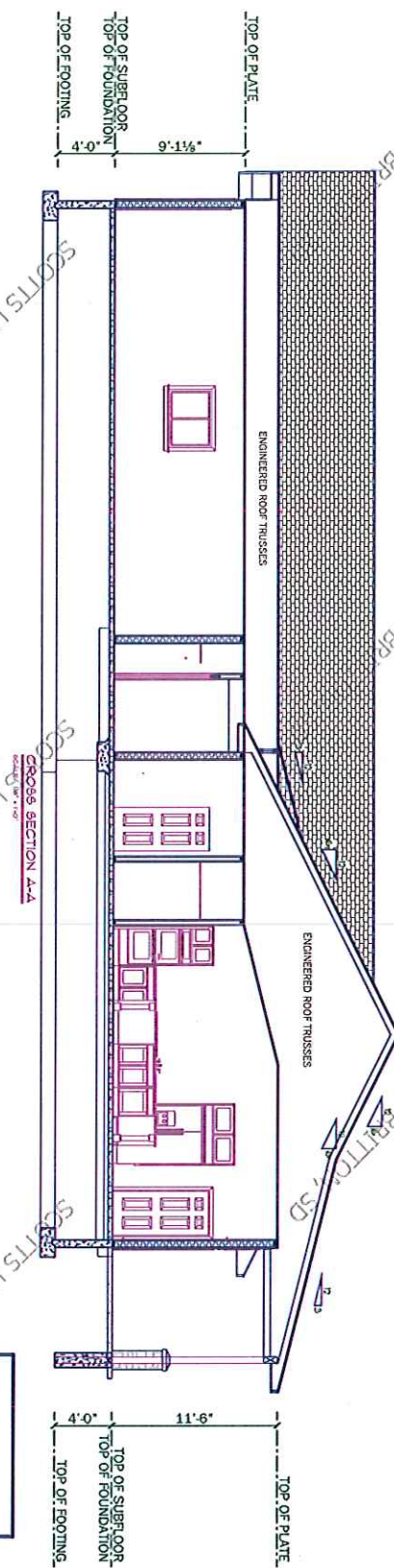
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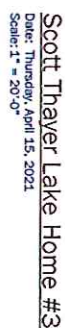
CROSS SECTIONS			
Section	Date	Drawn By	Checked By
1	01/17/2020	OP	OP
2	04/01/2021	OP	OP

These drawings have been prepared using information provided by the client. The client is responsible for the accuracy of the information provided. These drawings are not a part of any contract and are not to be used for any other purpose. The client is responsible for obtaining all necessary permits and for complying with all applicable building codes and regulations. The client is responsible for the accuracy of the information provided and for the results of the construction. The client is responsible for the accuracy of the information provided and for the results of the construction.

Scott's Lumber
161 Vander Horck, Britton, SD

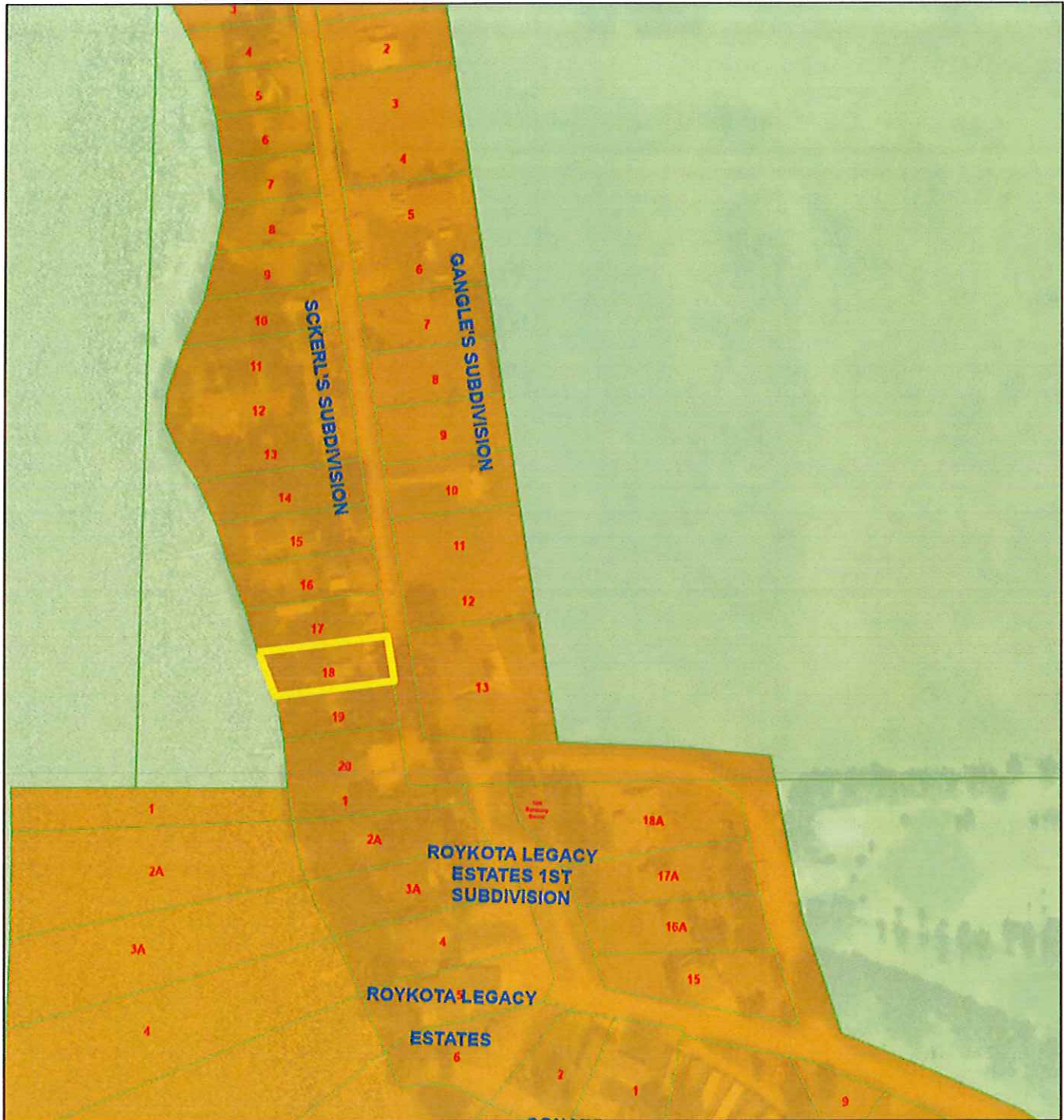
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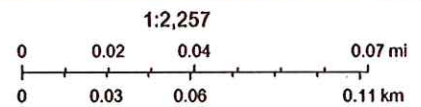
MARSHALL COUNTY WEB VIEWER



5/27/2021, 3:07:27 PM

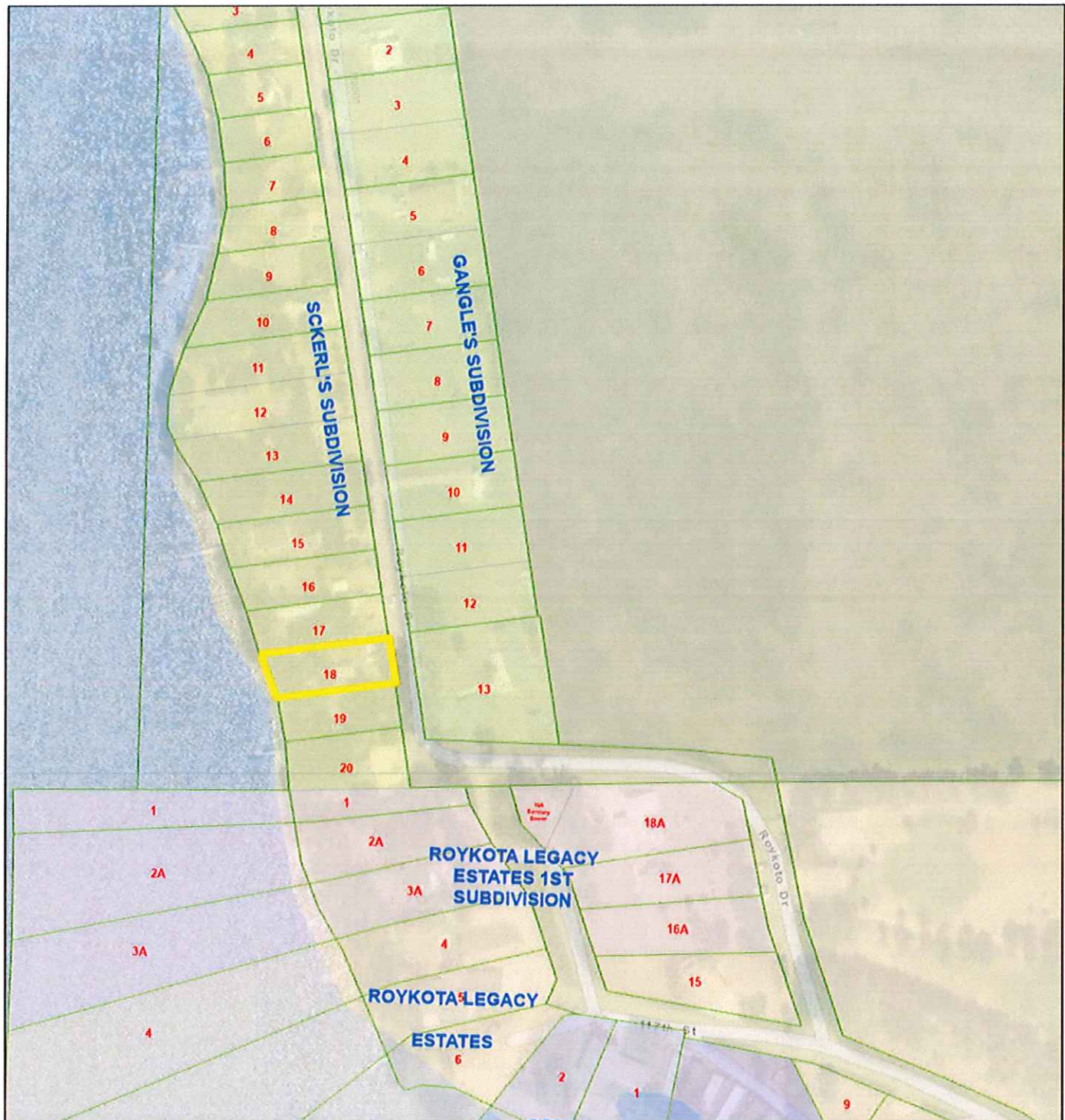
ZONING

-  Agricultural District
-  Lake Front Residential District
-  TOWNSHIPS
-  PARCELS



Maxar, Microsoft

MARSHALL COUNTY WEB VIEWER

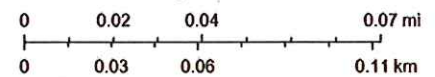


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PLAT

-  CONARD ADDITION
-  GANGLE'S SUBDIVISION
-  ROYKOTA LEGACY ESTATES
-  ROYKOTA LEGACY ESTATES 1ST SUBDIVISION
-  ROYKOTA SUBDIVISION
-  SCKERL'S SUBDIVISION
-  TOWNSHIPS
-  PARCELS

1:2,257



Esri, HERE, Garmin, INCREMENT P, NGA, USGS, Maxar, Microsoft

Scott Thayer – Variance

