

Marshall County Planning & Zoning
STAFF REPORT
April 12, 2022
Issue: Variance for Building Setback

OWNER/APPLICANT: Larry & Jill Johnson

PROPERTY DESCRIPTION: Lots 4 & 5 of Isensee's Fourth Clear Lake Subdivision in the SW1/4 of Section 18, T126N, R53W of the 5th P.M., Marshall County, South Dakota

CURRENT ZONING: Lake Front Residential (R-3)

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

REQUEST: Larry & Jill Johnson have requested a variance to build a home on the property described as Lots 4 & 5 of Isensee's Fourth Clear Lake Subdivision in the SW1/4 of Section 18, T126N, R53W. The petitioner is asking to build the home 28.5 from the road right-of-way line instead of the 30ft requirement, 5ft from the Northwest property line instead of the 7ft requirement; and 38.5ft from the normal high-water mark instead of the 50ft requirement, per the Marshall County Zoning Ordinance.

HISTORY/ISSUE(S):

1. The Lots were purchased by the applicants on April 13, 2015.
2. There is an existing house and a small shed on Lot 4.
3. The eaves of the proposed structure will be 1 ½ feet.
4. Lot 4 has an average depth of approximately 154.1ft and a width of approximately 44.25ft. Lot 5 has an average depth of approximately 147.5ft and a width of approximately 44.8ft.
5. Note that there is a principal structure located less than fifty (50) feet from the normal high-water mark on properties contiguous to the lot or parcel upon which a proposed structure is to be constructed, the setback from the normal high-water mark will be established utilizing a sight line that averages the setback of the principal structures on the adjoining lots. Average setback: 30 feet.
6. The road to the North is a span of 30'.
7. Marshall County Ordinance requires new structures to be placed a minimum of 30ft from a road right-of-way line, 7ft from a property line and 50ft from the normal high-water mark.
8. No written comments or objections were received prior to the hearing.
9. Staff Recommendation – **1.5' variance to the road right-of-way line setback, 2' variance to the Northwest property line setback and a 10' variance to the normal high-water mark setback for the house and a 11.5' variance to the normal high-water mark setback.**
10. 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 variances to lake lots in the past, when the neighbors had no objections.
 - i. Similar right-of-way line variances allowed – 4' for J. Teveldal 10/2020, 7' for W. Buss 9/13, 8' for M. Hill 7/14 & 15' for K. Stiegelmeier 10/12
 - b. The Board has granted similar property 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 & 3' for D. Weber 10/19
 - c. 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 – 6' for R. & K. Moeckly 6/19, 7' for J. Monson 10/20 & 22' for M. & M. Braun 9/16

- d. 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 – 1.5’ variance to the road right-of-way line setback, 2’ variance to the Northwest property line setback and a 10’ variance to the normal high-water mark setback for the house and a 11.5’ 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 12, 2022 at 9:00 a.m. at the Marshall County Courthouse Commissioners Chambers, concerning the following application for variance from the Marshall County Zoning Ordinance.

Larry & Jill Johnson have requested a variance to build a home on the property described as Lots 4 & 5 of Isensee's Fourth Clear Lake Subdivision in the SW1/4 of Section 18, T126N, R53W. The petitioner is asking to build the home 28.5 from the road right-of-way line instead of the 30ft requirement, 5ft from the Northwest property line instead of the 7ft requirement; and 38.5ft 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: March 30, 2022

1T (Mar 30)
**NOTICE OF HEARING
- APPLICATION FOR
VARIANCE**

Notice is hereby given that the Marshall County Planning & Zoning Board will meet on April 12, 2022 at 9:00 a.m. at the Marshall County Courthouse Commissioners Chambers, concerning the following application for variance from the Marshall County Zoning Ordinance.

Larry & Jill Johnson have requested a variance to build a home on the property described as Lots 4 & 5 of Isensee's Fourth Clear Lake Subdivision in the SW1/4 of Section 18, T126N, R53W. The petitioner is asking to build the home 28.5 from the road right-of-way line instead of the 30ft requirement, 5ft from the Northwest property line instead of the 7ft requirement; and 38.5ft 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 \$8.70.

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

March 30, 2022

Dear Property Owner,

Larry & Jill Johnson have requested a variance to build a home on the property described as Lots 4 & 5 of Isensee's Fourth Clear Lake Subdivision in the SW1/4 of Section 18, T126N, R53W. The petitioner is asking to build the home 28.5 from the road right-of-way line instead of the 30ft requirement, 5ft from the Northwest property line instead of the 7ft requirement; and 38.5ft 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 April 12, 2022 at 9:00 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

Sent to the following adjacent landowners on 3/30/2022:

1. Thomas & Joan Brewster – 4432425 North Shore Dr. Lake City, SD 57247
2. Mildred Breker – 10071 450th Ave. Lidgerwood, ND 58053
3. Matthew Hill – 10985 86th St. SE Oakes, ND 58474
4. Deborah Bosse – 12486 96th St. SE Cogswell, ND 58017

MARSHALL COUNTY APPLICATION FOR VARIANCE

DATE: 3-26-22

To: Marshall County Planning and Zoning Commission
PO Box 9
Britton, SD 57430

(1 1/2 - 40 feet)
ROW line

The undersigned do hereby request a variance from the Marshall County Zoning Lot Line & Ordinance to build (or set) Build within High Water Mark 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): Lots 4 & 5 of Jensen's 4th Clear Lake Subdivision in the SW 1/4 of Sec. 18-7, 126 N. - R. 53 W

Reason: The new house HWM - It would be 2ft further back from existing structure & easier to see kids in water over the bank. We will be moving a shed on shore line off = Lot Line to West -> to give us more room on the east side. ~~to add to~~

Applicant Name: Jill M & Larry B Johnson Phone: 605-270-4158 & 605-270-6894
Address: 721 SW 1st St Madison, SD 57042
Applicant Signature: Jill Johnson
Owner Signature (if different than applicant): Same as above

For Internal Office Use Only:

Date Received: 3/28/22 Fees(non-refundable): 150.00 Paid: YES NO
Inspection Report: See staff report

Date of Hearing by Planning and Zoning Commission: April 12th, 2022
Action taken by Planning and Zoning Commission: _____

MARSHALL COUNTY WEB VIEWER

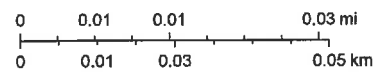


4/7/2022, 3:37:59 PM

PLAT

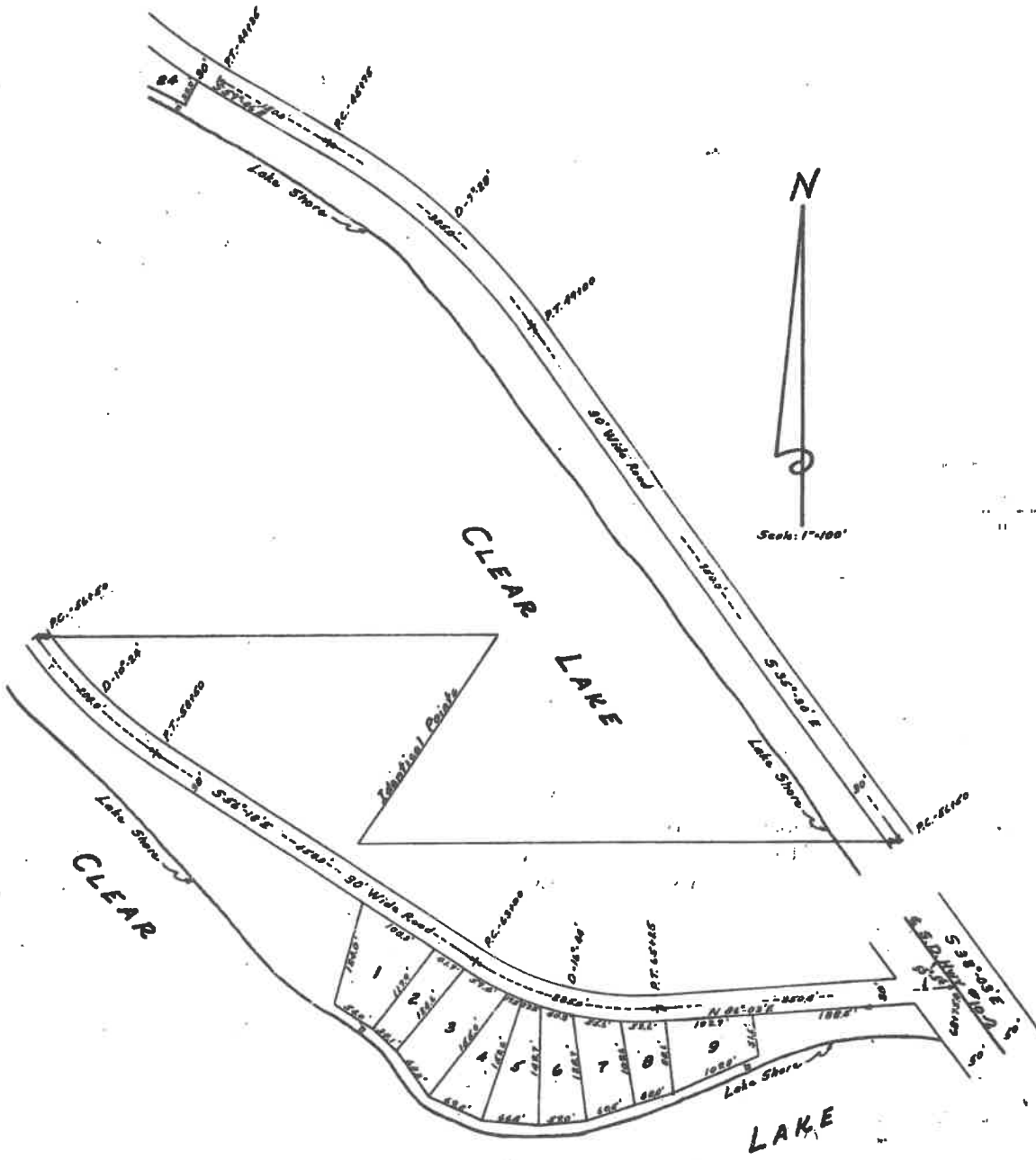
- ISENSEE'S 4TH ADDITION
- TOWNSHIPS
- PARCELS

1:1,128



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community, Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC. (c) OpenStreetMap contributors, and the GIS

Plat Showing
ISENSEE'S FOURTH CLEAR LAKE SUBDIVISION IN
THE SW ¼ OF SEC. 18 - T. 126 N. - R. 53 W.
MARSHALL COUNTY, S. DAK.



2-158

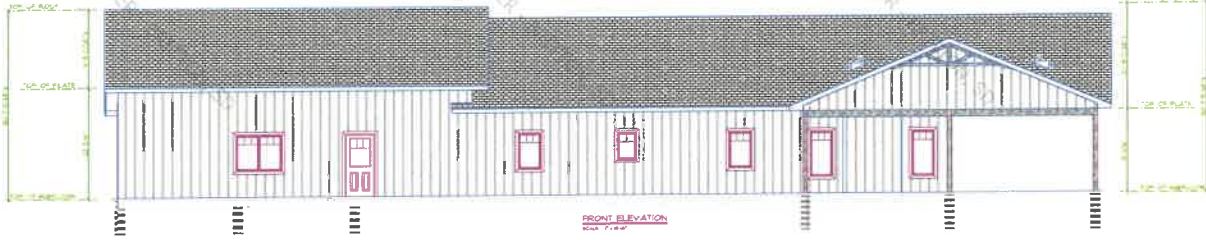


DRAWN BY: orin.punt@scottslumber.com
 PLOT DATE: Thursday, March 31, 2022
 JOB: Johnson, Jerry & Jill Res #2
 SALESMAN: christie@scottslumber.com

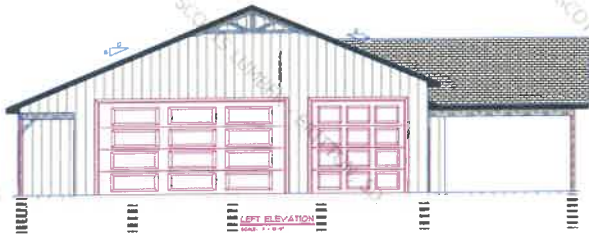
PHONE: (605) 449-5282
 FAX: (605) 449-3218
www.Scottslumber.com

Scott's Lumber
 161 Vander Horst, Britton, SD

© 2022 Scott's Lumber. All rights reserved. This drawing is the property of Scott's Lumber and is not to be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or by any information storage and retrieval system, without the prior written permission of Scott's Lumber. The information contained herein is for informational purposes only and does not constitute an offer of any product or service. The information contained herein is subject to change without notice. The information contained herein is not to be used for any purpose other than that intended. The information contained herein is not to be used for any purpose other than that intended. The information contained herein is not to be used for any purpose other than that intended.



FRONT ELEVATION
Scale 1/8" = 1'-0"



LEFT ELEVATION
Scale 1/8" = 1'-0"



RIGHT ELEVATION
Scale 1/8" = 1'-0"



REAR ELEVATION
Scale 1/8" = 1'-0"

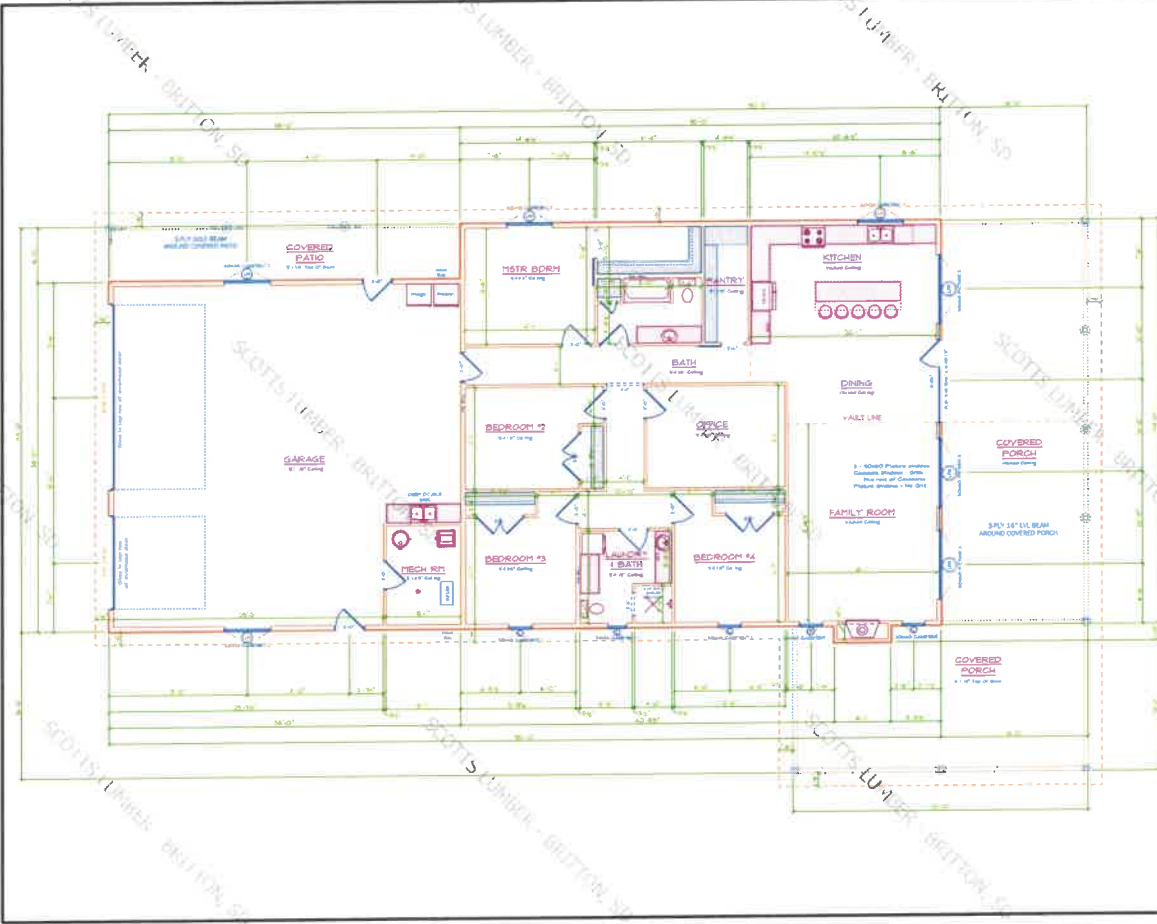
ELEVATIONS		
Window	Color	Frame
A	White	White
B	White	White
C	White	White
D	White	White
E	White	White
F	White	White
G	White	White
H	White	White
I	White	White
J	White	White
K	White	White
L	White	White
M	White	White
N	White	White
O	White	White
P	White	White
Q	White	White
R	White	White
S	White	White
T	White	White
U	White	White
V	White	White
W	White	White
X	White	White
Y	White	White
Z	White	White

DRAWN BY: orin.punt@scottslumber.com
 PLOT DATE: Thursday, March 31, 2022
 JOB: Johnson, Jerry & Jill Res #2
 SALESMAN: Chris Wegliwer@scottslumber.com
 PAGE: 2

PHONE: (605) 448-5282
 (605) 448-5282
 FAX: (605) 448-5278
 www.Scottslumber.com

Scott's Lumber
 161 Vander Horck, Britton, SD

© 2022 SCOTT'S LUMBER. All rights reserved. This drawing is the property of Scott's Lumber and is to be used only for the project and location specified. No part of this drawing may be reproduced or transmitted in any form or by any means, electronic or mechanical, including photocopying, recording, or by any information storage and retrieval system, without the prior written permission of Scott's Lumber. The user of this drawing assumes all liability for any errors or omissions. The user of this drawing is advised to verify all dimensions and specifications with the manufacturer of the materials shown. The user of this drawing is advised to verify all dimensions and specifications with the manufacturer of the materials shown. The user of this drawing is advised to verify all dimensions and specifications with the manufacturer of the materials shown.



NOTE:
 For all these openings in the case of the door left
 Panel # 2 is a choice of material as per approval

LAYOUT			
Item	Qty	Unit	Notes

ANSI SCHEDULE	
TYPE	AREA

PHONE: (605) 448-5282
FAX: (605) 448-5278
SALES MAN: christie@scottslumber.com
SALES MAN: christie@scottslumber.com
SALES MAN: christie@scottslumber.com

161 Vander Horck, Britton, SD
www.ScottLumber.com

Scott's Lumber
 161 Vander Horck, Britton, SD

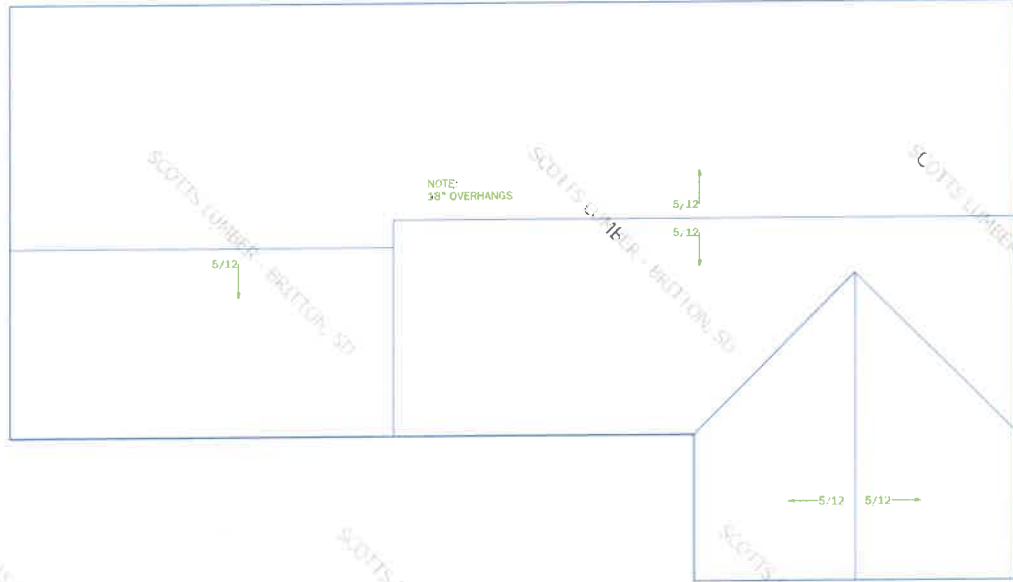
DRAWN BY: orin.punt@scottslumber.com
PLOT DATE: Thursday, March 31, 2022
JOB: Johnson, Gary & Jill Res #2
PAGE: 3

SCOTT'S LUMBER - BRITTON, SD

SCOTT'S LUMBER - BRITTON, SD

SCOTT'S LUMBER - BRITTON, SD

SCOTT'S LUMBER - BRITTON, SD



ROOF PLAN
2021100

Material	Quantity	Unit	Notes
1	12.00	sq ft	
2	12.00	sq ft	
3	12.00	sq ft	
4	12.00	sq ft	
5	12.00	sq ft	

DRAWN BY: erin.paine@scottslumber.com
 PLOT DATE: Thursday, March 31, 2022
 JOB: Johnson, Larry & Jill Res #2
 SALESMAN: christa.wegia@scottslumber.com
 PAGE: 4

PHONE: (605) 448-5282
 FAX: (605) 449-5278
 www.ScottsLumber.com
 1671 Vander Horck, Britton, SD

Scott's Lumber
 1671 Vander Horck, Britton, SD

SCOTT'S LUMBER - BRITTON, SD

SCOTT'S LUMBER - BRITTON, SD

SCOTT'S LUMBER - BRITTON, SD

SCOTT'S LUMBER - BRITTON, SD

Larry & Jill Johnson Res #2 Site Plan

Date: Thursday, March 31, 2022
Scale: 1" = 20'-0"



THIS PLAN IS THE PROPERTY OF SCOTT'S LUMBER. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREON. IT IS NOT TO BE REPRODUCED, COPIED, OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF SCOTT'S LUMBER. ANY UNAUTHORIZED USE OF THIS PLAN IS STRICTLY PROHIBITED. SCOTT'S LUMBER ASSUMES NO LIABILITY FOR ANY ERRORS OR OMISSIONS. THE USER OF THIS PLAN AGREES TO HOLD SCOTT'S LUMBER HARMLESS FROM AND AGAINST ALL SUCH LIABILITY. THE USER OF THIS PLAN AGREES TO HOLD SCOTT'S LUMBER HARMLESS FROM AND AGAINST ALL SUCH LIABILITY. THE USER OF THIS PLAN AGREES TO HOLD SCOTT'S LUMBER HARMLESS FROM AND AGAINST ALL SUCH LIABILITY.



Scott's Lumber
1611 Vander Horck, Britton, SD
www.ScottsLumber.com

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

DRAWN BY: orin@scottslumber.com
PLOT DATE: Thursday, March 31, 2022
JOB: Johnson, Larry & Jill Res #2
SALESMAN:
chris.wieg@scottslumber.com

Variance – Larry & Jill Johnson







