

**Marshall County Planning & Zoning  
STAFF REPORT  
August 9, 2022  
Issue: Variance for Building Setback**

**OWNER/APPLICANT:** Bryce Johnson

**PROPERTY DESCRIPTION:** Lot 30 in the Plat showing Isensee's Second Clear Lake Subdivision in S1/2 of Section 12, T126N, R54W and NE1/4 of Section 13, T126N, R54W of the 5th P.M., Marshall County, South Dakota

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

**SURROUNDING ZONING:** Lake Front Residential (R-3), Agricultural (Ag) and Highway Commercial (HC)

**REQUEST:** Bryce Johnson has requested a variance to place a garage 23ft from the right-of-way line instead of the 30ft requirement, per the Marshall County Zoning Ordinance.

**HISTORY/ISSUE(S):**

1. Records show that the instrument date for this property under the current owner is 4/28/21.
2. On April 4, 2022 the Planning & Zoning Administrator, Erin Collins-Miles, approved a building permit after being on-site on 4/4/2022 (BP #9-22). The building was staked out and was measured prior to the permit approval. All setbacks were met according to Marshall County Zoning Ordinances on this date.
3. I was on location on July 13, 2022 and noticed the building was closer than what was originally specified to the right-of-way line setback. Construction of the garage was already complete. I measured to confirm and found that the building was in fact closer than 30' to the right-of-way line setback. A letter was sent to Mr. Johnson that day.
4. The home on the property was approved on April 21, 2021 (BP #21-21).
5. Lot 30 has an average depth of approximately 228.1ft and a width of approximately 78.35ft.
6. The road lying Northeast of the Lot is a span of 30'.
7. Marshall County Ordinance requires new structures to be placed a minimum of 30 feet from the right-of-way line.
8. No written comments or objections were received prior to the hearing.
9. Staff Recommendation – **7' variance to the right-of-way line 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 A. & M. Feia 4/21, 7' for A. & M. Feia 4/21, 12.1' & 13.4' for D. & L. Vig 6/21 and 5' for T. & N. Stiegelmeier 5/24/22.
  - 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 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 August 9, 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.

Bryce Johnson has requested a variance to place a garage on the property described as Lot 30 in the Plat showing Isensee's Second Clear Lake Subdivision in S1/2 of Section 12, T126N, R54W and NE1/4 of Section 13, T126N, R54W. The petitioner is asking to place the building 23ft from the 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: July 27, 2022*

11 (July 27)  
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Erin Collins-Miles, Planning & Zoning Administrator  
Published once at an approximate cost of \$7.83 and can be viewed free of charge at [www.sdpublic-notices.com](http://www.sdpublic-notices.com).

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

July 27, 2022

Dear Property Owner,

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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

**MARSHALL COUNTY APPLICATION FOR VARIANCE**

DATE: 7-25-22

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) Garage within 23' ft 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): \_\_\_\_\_

Reason: Garage is set 25 ft from road

Applicant Name: Brye Johnson Phone: 605-237-2462

Address: 442681 N Shore Dr

Applicant Signature: [Signature]

Owner Signature (if different than applicant): [Signature]

**For Internal Office Use Only:**

Date Received: 7/25/22 Fees(non-refundable): \$150.00 Paid:  YES  NO

Inspection Report: See Staff report

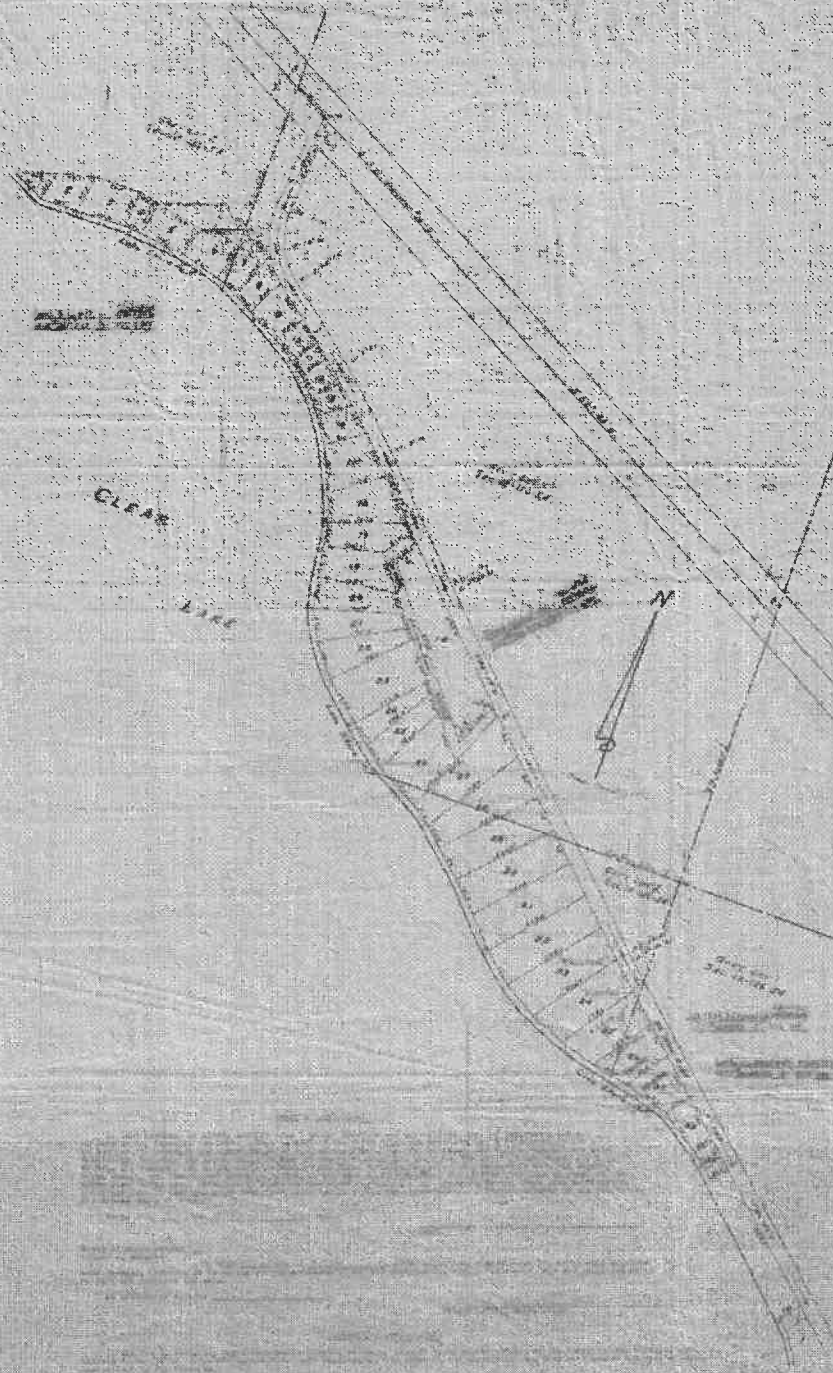
Date of Hearing by Planning and Zoning Commission: August 9, 2022

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





THE SECOND CLEAR LAKE SUBDIVISION IN 1/4 OF  
SECTION 7, T. 100 N., R. 24 W. AND NE 1/4 OF SEC. 10, T. 100 N., R. 24 W.  
MARSHALL COUNTY, IOWA







# MARSHALL COUNTY WEB VIEWER



# MARSHALL COUNTY WEB VIEWER



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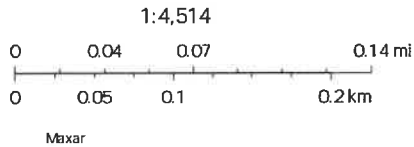
**ZONING**

- Agricultural District
- Highway Commercial District
- Lake Front Residential District

**PLAT**

- BINGER'S ADDITION
- CORNELIOUS ADDITION

- FREDRICKSON ADDITION
- ISENSEE'S 2ND SUBDIVISION
- ISENSEE'S 3RD SUBDIVISION
- POLKINGHORN ADDITION
- TISHER'S CLEAR LAKE ADDITION
- TOWNSHIPS
- PARCELS





# MARSHALL COUNTY WEB VIEWER

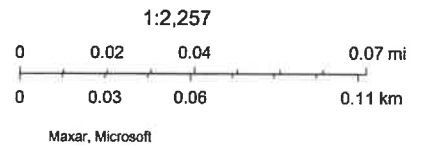


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**PLAT**

- BINGER'S ADDITION
- CORNELIOUS ADDITION
- FREDRICKSON ADDITION
- ISENSEE'S 2ND SUBDIVISION

- POLKINGHORN ADDITION
- TISHER'S CLEAR LAKE ADDITION
- TOWNSHIPS
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## Variance – Bryce Johnson





