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

1f (July 27) NOTICE OF HEARING - APPLICATION FOR VARIANCE

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Frin Collins-Miles, Planning & Zoning Administrator Published once at an approximate cost of \$7.83 and can be viewed free of change at www.sdpublic-notices.corn.

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

July 27, 2022

Dear Property Owner,

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.

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

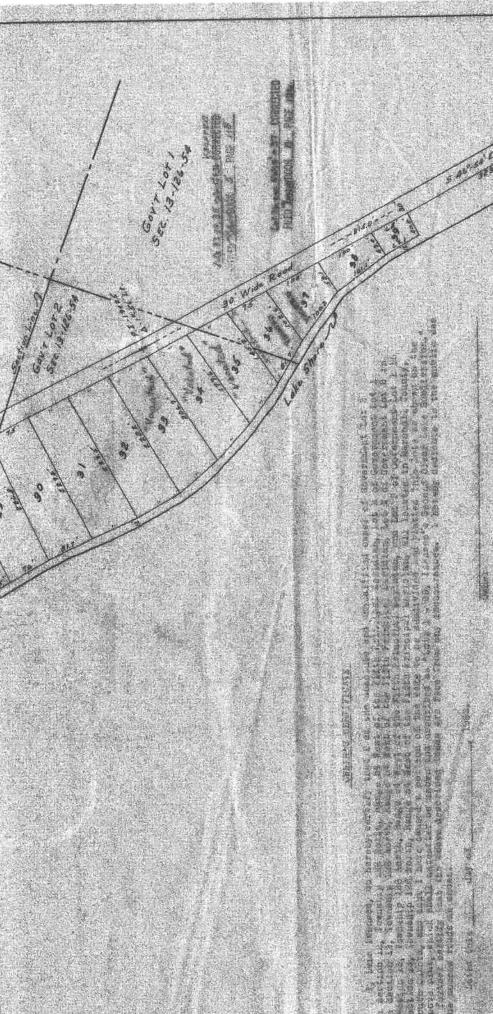
Erin Collins-Miles Planning and Zoning Administrator

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) 600ge within 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): 25 ft from Reason: Comon is Johnson Phone: 605-237-2462 Applicant Name: Byce Address: 44268 Applicant Signature: Owner Signature (if different than applicant): For Internal Office Use Only: Date Received: 7/25/22 Fees(non-refundable): \$\\$150.00 Paid: Inspection Report: See Staffreport

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

Action taken by Planning and Zoning Commission:



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MARSHALL COUNTY BUILDING PERMIT APPLICATION [X] Attached Site Plan(Required) APPLICANT Tohnson Address (Mailing): 447681 North Shoe Orle City: Lake UH State: SD Zip: 57247 Phone: 605-237-2462 PROPERTY INFORMATION Legal Owner: Brya Johnson Legal Description: LOT 30 Tsensee's and Subdivision Township: 186N Range: 54W Section: 13 Parcel ID: 25. 55. 37. BO30 Zoning Class: R-3 TYPE OF IMPROVEMENT [] Remodel/Repair New Building [] Mobile Home [] Addition 442681 North Shore Drive [] Move [] Other SETBACK/ZONING REQUIREMENTS Use of Proposed Structure:_ 21 eave * onsite on 4/4/22* Furthest protrusion at least 7 feet from property or lot Type of Construction: Stick X]YES []NO []NA Location not closer than 50 feet from established high Size: 32 8 48 Sidewall Height: 10 Cb YES []NO []NA water mark? Estimated Total Cost: \$ 52 K Setback distance from ROW(s) meets requirement for (include concrete, finish, etc.) XIYES []NO []NA applicable Zoning Class? SIGNATURES Complies with all other Marshall Co. Planning & Zoning The owner of this building & the undersigned agree to XYES []NO []NA Ordinances? conform to all applicable laws of Marshall County, SD. 3.31-22 CONTRACTOR Owner's Signature Name: 3-31-22 Address: Phone: Applicant is Hereby: [X] Approved [] Disapproved Reason for Disapproval:____ Permit Fee \$ 50-00

* Send bill to applicant*

Zoning Administrator Signature

MARSHALL COUNTY WEB VIEWER



PLAT

FREDRICKSON ADDITION

ISENSEE'S 2ND SUBDIVISION

TISHER'S CLEAR LAKE ADDITION

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

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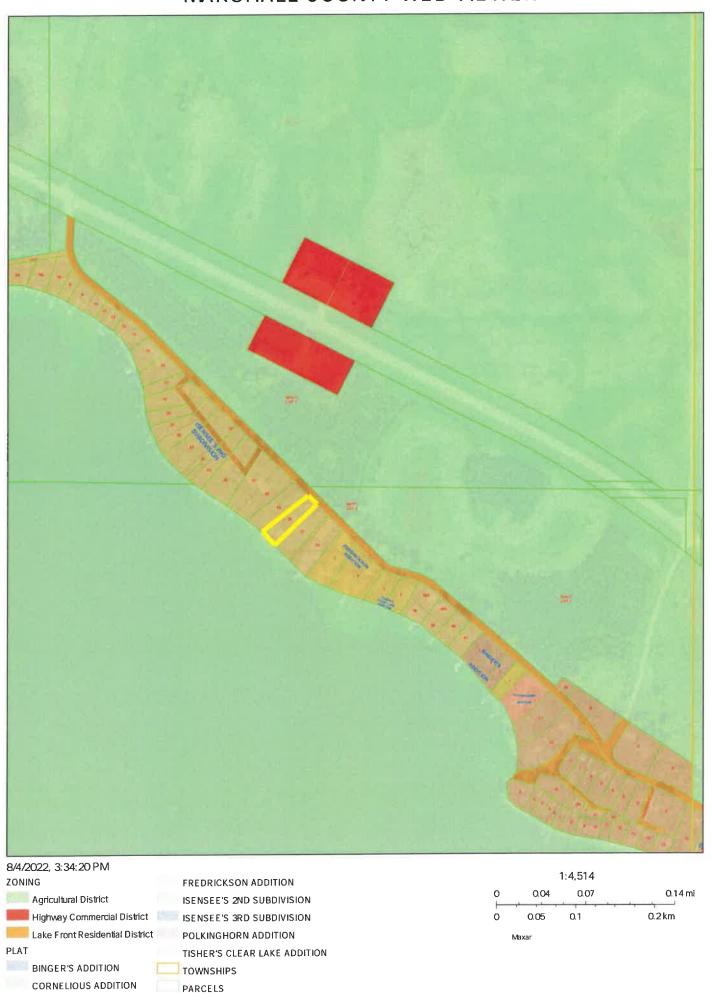
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TOWNSHIPS

PARCELS

MARSHALL COUNTY WEB VIEWER



MARSHALL COUNTY WEB VIEWER



Variance – Bryce Johnson



