

**Marshall County Planning & Zoning
STAFF REPORT
May 23, 2023
Issue: Variance for Building Setback**

OWNER/APPLICANT: Jay & Jennifer Harris

PROPERTY DESCRIPTION: Lot 8 in the Plat of Schlekeway Beach in Government Lots 2 & 3, Section 19, T126N, R53W

CURRENT ZONING: Lake Front Residential (R-3)

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

REQUEST: Jay & Jennifer Harris have requested a variance to construct a covered porch. The petitioner is asking to build the porch 36ft from the normal high-water mark instead of the 50ft requirement, per the Marshall County Zoning Ordinance.

HISTORY/ISSUE(S):

1. The Lot was purchased by the applicant on March 10, 2022.
2. The Lot in question currently sits empty. A building permit was recently acquired to construct a 40'x70' building on Lots 8 & 8A (BP No. 9-23).
3. Lot 8 has an average depth of approximately 112.5ft and a width of approximately 98ft.
4. 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: 37.5 feet.
5. The applicant owns all Lots directly South of Lot 8; 8A, 36A and 36.
6. Marshall County Ordinance requires new structures to be placed a minimum of 50ft from the normal high-water mark.
7. No written comments or objections were received prior to the hearing.
8. Staff Recommendation – **14' 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 high-water mark variances to lake lots in the past, when the neighbors had no objections.
 - i. Similar high-water mark variances allowed – 11.5' for L. & J. Johnson 4/22, 10' for R. Renner 6/21, 14' for R. Mahoney 10/12 and 11' for K. Freudenthal 3/18
 - 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 – 14' 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 May 23, 2023 at 9:00 a.m. at the Marshall County Courthouse Commissioners Chambers, concerning the following application for variance from the Marshall County Zoning Ordinance.

Jay & Jennifer Harris have requested a variance to construct a covered porch on the property described as Lot 8 in the Plat of Schlekeway Beach in Government Lots 2 & 3, Section 19, T126N, R53W. The petitioner is asking to build the porch 36ft 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: May 10, 2023

1T (May 10)
**NOTICE OF HEARING
- APPLICATION FOR
VARIANCE**

Notice is hereby given that the Marshall County Planning & Zoning Board will meet on May 23, 2023 at 9:00 a.m. at the Marshall County Courthouse Commissioners Chambers, concerning the following application for variance from the Marshall County Zoning Ordinance.

Jay & Jennifer Harris have requested a variance to construct a covered porch on the property described as Lot 8 in the Plat of Schlekeway Beach in Government Lots 2 & 3, Section 19, T126N, R53W. The petitioner is asking to build the porch 36ft from the normal high-water mark instead of the 50ft requirement, per the Marshall County Zoning Ordinance.

Erin Collins-Miles, Planning & Zoning Administrator

Published at an approximate cost of \$7.54 and can be viewed free of charge at www.sdpublicnotices.com.

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

May 12, 2023

Dear Property Owner,

Notice is hereby given that the Marshall County Planning & Zoning Board will meet on May 23, 2023 at 9:00 a.m. at the Marshall County Courthouse Commissioners Chambers, concerning the following application for variance from the Marshall County Zoning Ordinance.

Jay & Jennifer Harris have requested a variance to construct a covered porch on the property described as Lot 8 in the Plat of Schlekeway Beach in Government Lots 2 & 3, Section 19, T126N, R53W. The petitioner is asking to build the porch 36ft from the normal high-water mark instead of the 50ft 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 PLANNING & ZONING COMMISSION
P.O.BOX 9
BRITTON, SOUTH DAKOTA 57430
605.448.7540

May 12, 2023

Dear Property Owner,

Notice is hereby given that the Marshall County Planning & Zoning Board will meet on May 23, 2023 at 9:00 a.m. at the Marshall County Courthouse Commissioners Chambers, concerning the following application for variance from the Marshall County Zoning Ordinance.

Jay & Jennifer Harris have requested a variance to construct a covered porch on the property described as Lot 8 in the Plat of Schlekeway Beach in Government Lots 2 & 3, Section 19, T126N, R53W. The petitioner is asking to build the porch 36ft from the normal high-water mark instead of the 50ft 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

Sent to the following adjacent landowners on 5/12/23:

1. Troy Knecht – 40193 112th St. Houghton, SD 57449
2. Karen Neuharth – 120 N 15th St. Oakes, ND 58474
3. Dirk & Rebecca Weber – P.O. Box 63 Britton, SD 57430
4. Rebecca Hicks – P.O. Box 157 Lake City, SD 57247
5. Max & Peggy Davidson – P.O. Box 973 Britton, SD 57430

MARSHALL COUNTY APPLICATION FOR VARIANCE

DATE: 5-8-23

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) Covered Area within 36' 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 8, ~~lot 8A~~ of Schlekeway Beach in Gov. lots 2-3 Section 19 Township 126 N

Reason: 14 foot covered Area facing the water - 2 ft is eave

Applicant Name: Jay + Jennifer Harris Phone: (701) 210-0545

Address: 8760 112th Ave. SE Oakes, ND 58474

Applicant Signature: Jennifer Harris

Owner Signature (if different than applicant): Jennifer Harris

For Internal Office Use Only:

Date Received: 5/8/23 Fees(non-refundable): \$150.00 Paid: YES NO

Inspection Report: See Staff report onsite 5/5/23

Date of Hearing by Planning and Zoning Commission: May 23, 2023

Action taken by Planning and Zoning Commission:

MARSHALL COUNTY WEB VIEWER

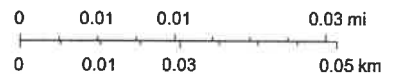


5/12/2023, 2:14:03 PM

PLAT

- SCHLEKEWAY'S BEACH ADDITION
- WESTBY LAKESIDE ADDITION
- TOWNSHIPS
- SECTIONS
- PARCELS

1:1,128



MARSHALL COUNTY WEB VIEWER



5/12/2023, 2:15:53 PM

ZONING

- Agricultural District
- Lake Front Residential District

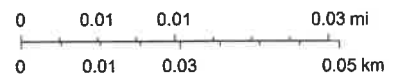
PLAT

SCHLEKEWAY'S BEACH ADDITION

WESTBY LAKESIDE ADDITION

- TOWNSHIPS
- SECTIONS
- PARCELS

1:1,128



CLL
WATER AT TIME OF

Top of Retaining Wall ±1826.8
1827

Cabin
Finish Floor - 1827.9

Neighbors approx 25' from bottom - check for rec. in file
N34°23'54"W 66.13'

LOT 7 & 7A, SCHLEKEWAY BEACH
PARCEL ID 25.55.37.D007
25.53.37.D07A
OWNER: KAREN NEUHARTH

Garage
Finish Floor - 1831.0

72.66' N55°53'11"E
36' from OHWM

12' Covered Area
±2' eave

N34°23'54"W 34.03'

40' x 70' Building

Neighbors approx 20' from bottom
N26°28'24"W 71.32'

Shed

LOT 8A, SCHLEKEWAY BEACH
PARCEL ID 28.53.37.D08A
OWNER: JAY & JENNIFER HARRIS

Storage

LOT 9 & 9A, SCHLEKEWAY BEACH
PARCEL ID 25.55.37.D0100
25.53.37.D09A
OWNER: TROY KNECHT, ETAL

LOT 36A, SCHLEKEWAY BEACH
PARCEL ID 28.53.37.D36A
OWNER: JAY & JENNIFER HARRIS

89.42 N56°41'09"E

N26°28'24"W 28.44'

8A

36A

7A

9

1829

30.56

1829

TRIPLE 12" OAK

TRIPLE OAK

MAPLE

ASH

36" COTTONWOOD

18" OAK

8" ELM
3" ELM
5" ELM

16" STUMP
w/REG. WTH

4" PVC

HYDRANT

6" PVC

RURAL WATER METER PIT

STUMP

1830

1831

15.8

15" OAK

12" OAK

12" OAK

8" OAK

4" ELM
POOR COND.

11.5

25.5

14' Leano

12.0000

11.5

POWER POLE

62'

3

Variance – Jay & Jennifer Harris







