

**Marshall County Planning & Zoning
STAFF REPORT
August 10, 2023
Issue: Variance for Building Setback**

OWNER/APPLICANT: Carson Cobb

PROPERTY DESCRIPTION: Lots 21-23 in the Plat of Lots 21 through 26 & Lots 21A through 24A in Block 1 of Freeman's Subdivision of Lot 2 in Gov't Lot 4 of Section 18, T126N, R55W.

CURRENT ZONING: Lake Front Residential (R-3)

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

REQUEST: Carson Cobb has requested a variance to build a deck to replace the old 3.5ft from the right-of-way line at the Southwest corner, 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 3/11/21.
2. The deck which is being replaced fell through due to rot, environmental exposure and age.
3. The home on the property has been on the lots since approximately the early 90's.
4. The house is significantly closer to the road in this area, as are several other grandfathered structures which makes variances unavoidable in most instances.
5. Lots 21-23 have average depths of approximately 64, 63.66 & 63.2ft, respectively and a widths of approximately 29, 27 & 50ft, respectively.
6. The applicants also own the lots directly West of them across the road.
7. Adjacent landowner letters were not necessary as the applicants own all lots surrounding them which would be classified as "adjacent."
8. Marshall County Ordinance requires new structures to be placed a minimum of 30 feet from the road right-of-way line.
9. No written comments or objections were received prior to the hearing.
10. Staff Recommendation – *Discussion on a 1-time variance for grandfathered structures in this area and not excluding other areas with similar situations; all projects proposed after the 1-time variance would require a building permit only. – 26.5' variance to the right-of-way line setback.*
11. 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 – 23' for D. Anderson 8/17, 2' for R. Renner 6/21 and 7' for R. Renner 6/21
 - 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 – Discussion on a 1-time variance for grandfathered structures in this area and not excluding other areas with similar situations; all projects proposed after the 1-time variance would require a building permit only. – 26.5’ 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 10, 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.

Carson Cobb has requested a variance to build a deck to replace the old on the property described as Lots 21-23 in the Plat of Lots 21 through 26 & Lots 21A through 24A in Block 1 of Freeman's Subdivision of Lot 2 in Gov't Lot 4 of Section 18, T126N, R55W. The petitioner is asking to build the new deck 3.5ft from the right-of-way line at the Southwest corner, 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 26, 2023

1T (July 26)
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Erin Collins-Miles, Planning & Zoning Administrator
Published at an approximate cost of \$8.12 and can be viewed free of charge at www.sdpublicnotices.com.

MARSHALL COUNTY APPLICATION FOR VARIANCE

DATE: 6/30/23

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) deck within 3.5' of a (circle applicable): Other Rd, Lot Line or High Water Mark.

Structure would be located on (legal description): Lots 21-22-23 + Lots 21A-22A-23A in Blk 1 in Lot 2 Freeman's Sec. 18 126-55

Reason: Existing deck has wood rot. I would like to replace rotted wood. I would make deck smaller than existing deck. Also pour a concrete pad within existing deck parameter.

Applicant Name: Carson Cobb Phone: 308-293-0261
Address: 11482 Spillway Drive Lake City, SD 57247
Applicant Signature: Carson Cobb
Owner Signature (if different than applicant): _____

For Internal Office Use Only:

Date Received: 6/30/23 Fees(non-refundable): \$100.00 Paid: YES NO

Inspection Report: See Staff report

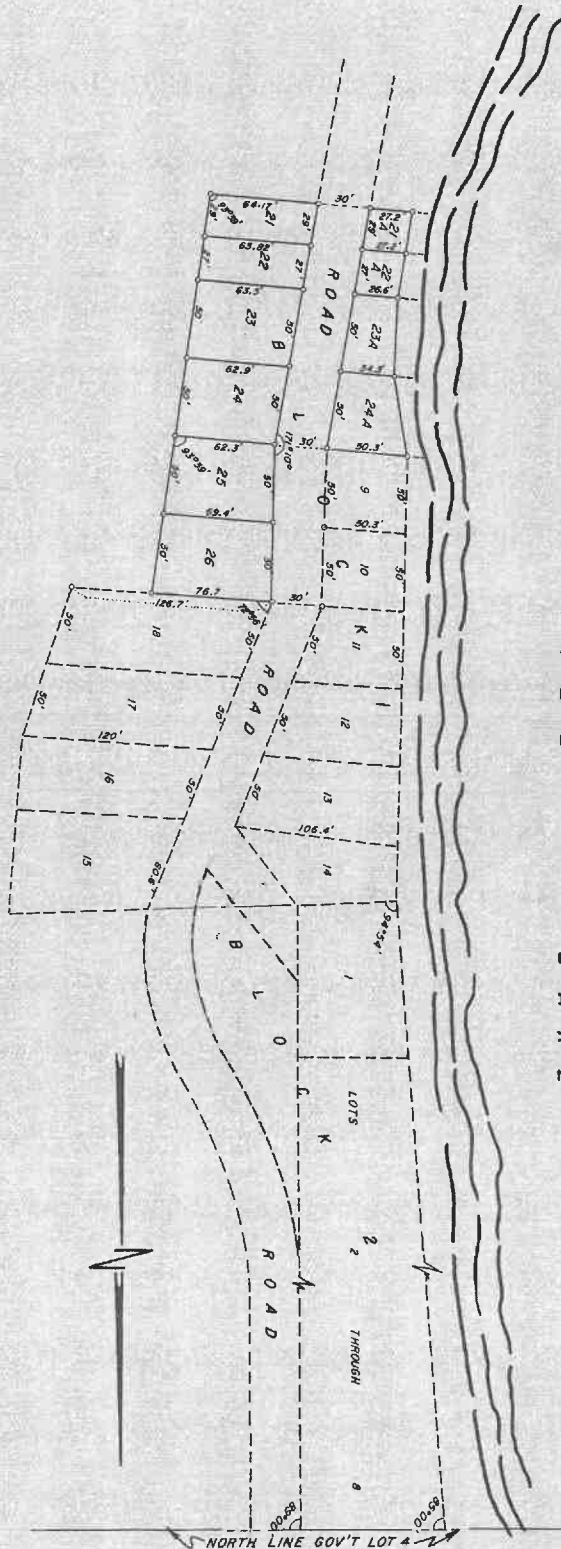
Date of Hearing by Planning and Zoning Commission: July 25, 2023

Action taken by Planning and Zoning Commission: _____

BULL HEAD LAKE

F O U R M I L E L A K E

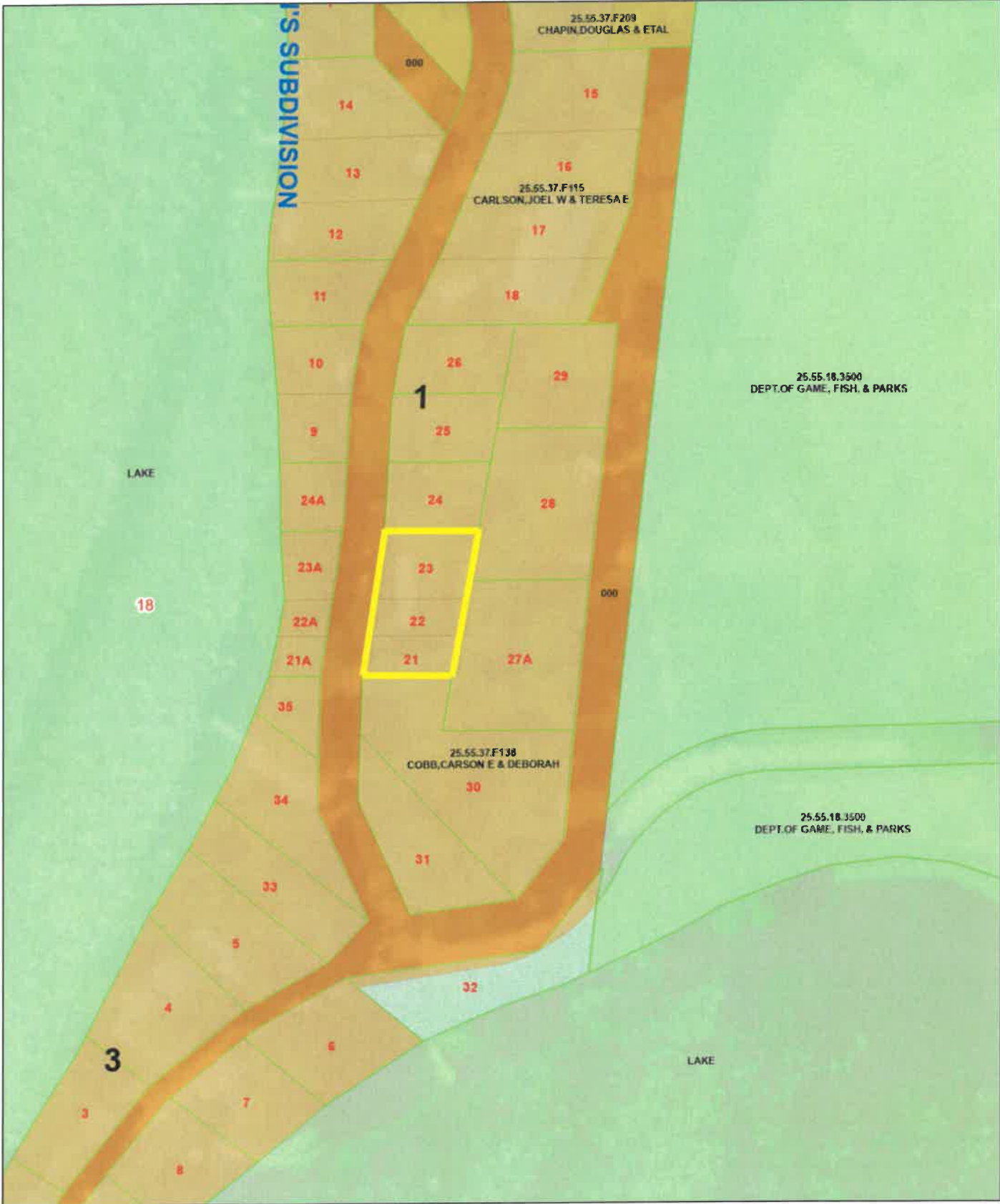
PLAT OF:
LOTS 21 THROUGH 26 & LOTS 21A THROUGH 24A IN
BLOCK 1 OF FREEMAN'S SUBDIVISION OF LOT 2 IN GOV'T LOT 4
OF SEC. 18 T166N R59W OF THE 5TH. P.M., MARSHALL COUNTY,
SOUTH DAKOTA.



John C. Beck
REGISTERED PROF. ENG. & LAND SURVEYOR
SCALE 1" = 50'
APRIL 17, 1973
o = IRON PIN

21

MARSHALL COUNTY WEB VIEWER



8/3/2023, 11:24:34 AM

ZONING

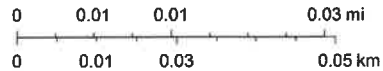
- Agricultural District
- Lake Front Residential District

PLAT

- FREEMAN'S OUTLOT ADDITION

- FREEMAN'S SUBDIVISION
- TOWNSHIPS
- SECTIONS
- PARCELS

1:1,128



MARSHALL COUNTY WEB VIEWER

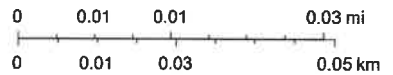


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PLAT

- FREEMAN'S OUTLOT ADDITION
- FREEMAN'S SUBDIVISION
- TOWNSHIPS
- SECTIONS
- PARCELS

1:1,128



Carson Cobb – Variance





