

**Marshall County Planning & Zoning
STAFF REPORT
August 10, 2023**

OWNER/APPLICANT: Cole Brothers Farms, LLC

PROPERTY DESCRIPTION: Cole Bin Addition in the Plat of Cole Bin Addition in the NE1/4 of Section 35, T125N, R59W of the 5th P.M., Marshall County, South Dakota

CURRENT & SURROUNDING ZONING: Agricultural District

REQUEST: Cole Brothers Farms, LLC has requested a variance to construct a grain bin 42ft from the right-of-way line, instead of the 60ft requirement, per the Marshall County Zoning Ordinance.

HISTORY/ISSUE(S):

1. According to property cards, this property was acquired by Ricky Cole on October 16, 1990. The property has since been acquired by Ricky D. Cole Family Trust on August 27, 2021.
2. There are several other bins already located on the property. The purpose of this bin is to replace old.
3. Cole Bin Addition consists of 10 acres.
4. The township road lying East of the property is 417th Ave.
5. Marshall County Ordinance requires new structures to be placed a minimum of 60ft from all public right-of-way lines.
6. No written comments or objections were received prior to the hearing.
7. Staff Recommendation – **18’ variance to the road right-of-way line setback.**
8. 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 the AG District.
 - a. The Board has granted similar right-of-way variances in the past, when neighbors had no objections.
 - i. Similar right-of-way line variances allowed – 51’ for J. Amacher 3/17 and 50’ for A. Steiner 6/14 & 3/16
 - 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 AG District.

Action Item – 18’ variance to the road 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.

Cole Brothers Farms, LLC has requested a variance to construct a grain bin on the property described as Cole Bin Addition in the Plat of Cole Bin Addition in the NE1/4 of Section 35, T125N, R59W. The petitioner is asking to build the new bin 42ft from the right-of-way line, instead of the 60ft 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 \$7.25 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

July 24, 2023

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

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Sincerely,

Erin Collins-Miles

Erin Collins-Miles
Planning and Zoning Administrator

Sent to the following adjacent landowners on 7/24/23:

1. Tammy Darling – 27574 365th Ave. Platte, SD 57369
2. Robert Williams – 41762 123rd St. Langford, SD

MARSHALL COUNTY APPLICATION FOR VARIANCE

DATE: 7-14-23

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) Grain Storage within 75' 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): NE 1/4 Section 35
Township 125N Range 59W

Reason: To allow space for future grain storage
between new and existing bins.

Applicant Name: Cole Brothers LLC Phone: 605-520-6621

Address: 11950 415th Ave Langford SD 57454

Applicant Signature: [Signature] member

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

For Internal Office Use Only:

Date Received: 7/14/23 Fees(non-refundable): \$150.00 Paid: YES NO

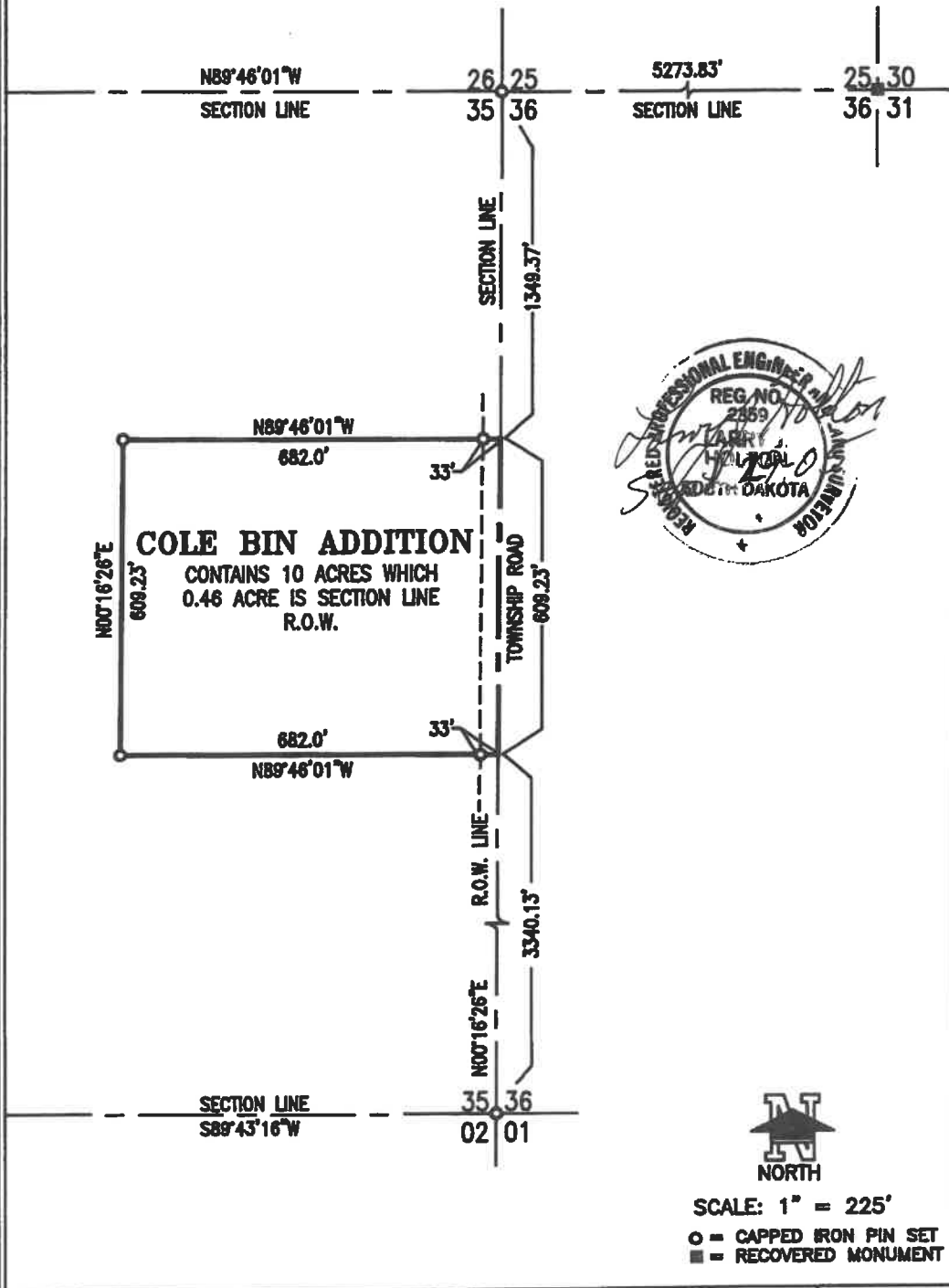
Inspection Report: See staff report

Date of Hearing by Planning and Zoning Commission: August 10, 2023

Action taken by Planning and Zoning Commission: _____

PLAT OF:

COLE BIN ADDITION IN THE NE1/4 OF SECTION 35, T125N, R59W, OF THE 5TH P.M., MARSHALL COUNTY, SOUTH DAKOTA



DRAWN: 09/28/05 FIELD: 09/28/05 512 VETERANS AVE. SISSETON, SD PH. 1-605-698-3830 DRAWN: HANSON

4-81 Slide 129

OWNERS CERTIFICATE

I(we), the undersigned, hereby certify that I(we) am(are) the absolute and unqualified owner(s) of Cole Bin Addition in the NE1/4 of Section 35, T125N, R59W, of the 5th P.M., Marshall County, South Dakota as indicated on the attached Plat. I(we) further certify that the above described property was Surveyed and Platted at my(our) request and under my(our) direction and that the development of this land shall conform to all existing applicable zoning, subdivision and erosion and sediment control regulations. Said property as Surveyed and Platted shall be hereafter known as Cole Bin Addition in the NE1/4 of Section 35, T125N, R59W, of the 5th P.M., Marshall County, South Dakota.

Dated this 1 day of Oct, 2005.

Rich D Cole

ACKNOWLEDGMENT

State of: SD
County of: Marshall

On this 11th day of Oct, 2005 Personally appeared *Rich D Cole*
Satisfactorily proven to be the person whose name is inscribed to the within instrument and acknowledged to me that she executed the same.



Larry J. Holton
My Commission expires: Aug 14, 2006

SURVEYORS CERTIFICATE

I, Larry J. Holton, a Registered Engineer and Land Surveyor in the State of South Dakota do hereby certify that at the request of the Owner, I have supervised the Surveying and Platting of Cole Bin Addition in the NE1/4 of Section 35, T125N, R59W, of the 5th P.M., Marshall County, South Dakota as shown on the attached plat and that I have supervised the setting of iron pins with caps as shown and that said survey and plat are true and correct.

Dated this 30 day of Sept, 2005.

Larry J. Holton
Larry J. Holton PE & LS
SD Registration No. 2349

RESOLUTION BY THE MARSHALL COUNTY PLAN COMMISSION

On motion made and carried the following was adopted: "Be it resolved by the County Plan Commission of Marshall County, South Dakota in regular session assembled that the Plat of Cole Bin Addition in the NE1/4 of Section 35, T125N, R59W, of the 5th P.M., Marshall County, South Dakota be approved this 25 day of Oct., 2005 in accordance with the provisions of SDCL, Chapter 11-22-2 and all acts amendatory thereto." I, Lisa Olson, Chairman Marshall County Plan Commission certify that the fore going is a true copy of the resolution adopted by the Board of Marshall County Plan Commission at a meeting of the Board held on this 25 day of Oct., 2005.

Lisa Olson
Chairman Marshall County Plan Commission

RESOLUTION BY THE BOARD OF COUNTY COMMISSION MARSHALL COUNTY SOUTH DAKOTA

On motion made and carried the following resolution was adopted: "Be it resolved by the Board of County Commissioners of Marshall County, South Dakota in regular meeting assembled that the Plat of Cole Bin Addition in the NE1/4 of Section 35, T125N, R59W, of the 5th P.M., Marshall County, South Dakota be approved this 25 day of Oct., 2005." In accordance with the provisions of SDCL 11-3 and all acts amendatory thereto. I, Julie Hagen, County Auditor of Marshall County, certify that this is a true copy of the resolution adopted by the Board of Commissioners of Marshall County, South Dakota.

Dated this 25 day of Oct., 2005.

Julie Hagen
County Auditor, Marshall County

TREASURERS CERTIFICATE

I, Flo Hart, Treasurer of Marshall County, South Dakota certify that all taxes which are liens upon the land included in the attached plat as shown by my records to be fully paid.

Dated this 25 day of October



Flo Hart
Treasurer, Marshall County

DIRECTOR OF EQUALIZATION CERTIFICATE

I, Jo Ann Deeman, Director of Equalization, Marshall County, South Dakota certify that I have received a copy of the attached plat as to be filed.

Dated this 25 day of October, 2005.

Jo Ann Deeman
Director of Equalization, Marshall County

52808

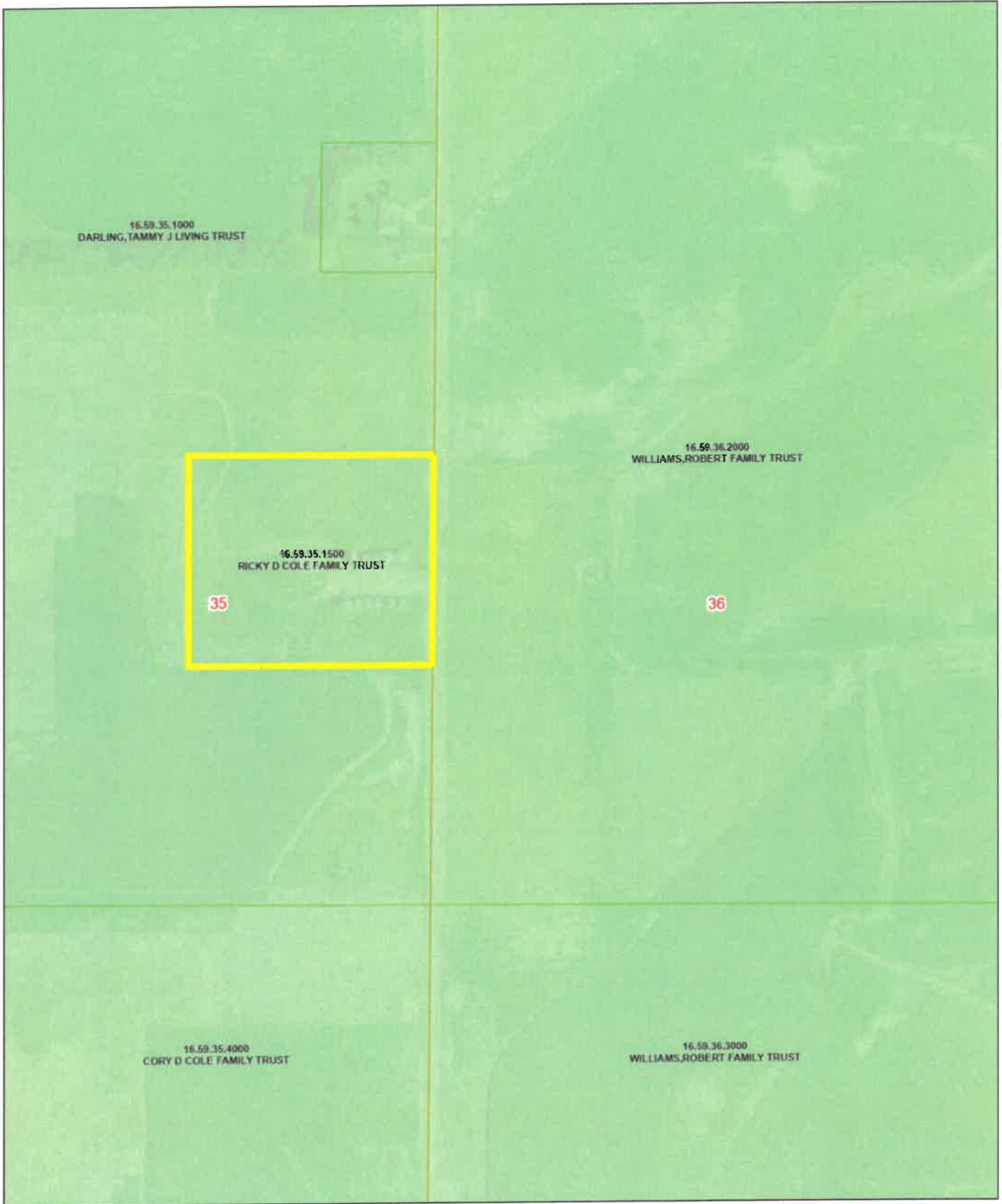
REGISTER OF DEEDS CERTIFICATE

I, Marlene Sime, Register of Deeds, Marshall County, South Dakota certify that I have received the original copy of the attached plat on this 25 day of October, 2005 at 9:40 o'clock A.M., CDL and duly recorded in Book 4.
Fees - \$20.00



Marlene Sime
Register of Deeds, Marshall County

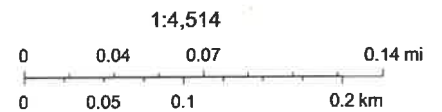
MARSHALL COUNTY WEB VIEWER



8/3/2023, 11:27:19 AM

ZONING

- Agricultural District
- TOWNSHIPS
- SECTIONS
- PARCELS

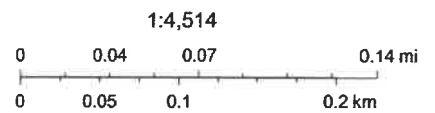


MARSHALL COUNTY WEB VIEWER



8/3/2023, 11:26:06 AM

-  TOWNSHIPS
-  SECTIONS
-  PARCELS



Cole Brothers Farms, LLC – Variance



