

**Marshall County Planning & Zoning
STAFF REPORT
November 7, 2023**

OWNER/APPLICANT: Kent Duerre

PROPERTY DESCRIPTION: Lot 1 in the Plat of Roykota Legacy Estates in the SE1/4SW1/4 and Government Lot 5 of Section 27, T126N, R55W

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

REQUEST: Kent Duerre has requested a variance to place a shed 27ft from the right-of-way line, instead of the 30ft requirement, per the Marshall County Zoning Ordinance.

HISTORY/ISSUE(S):

1. According to property cards, this property has been owned by the applicant since 1999.
2. There was a shed approved with a variance to the right-of-way line setback in 2012 (#18-12). The variance allowed the shed to be placed 15' from the road to the West and 20' from the road lying to the North.
3. The township road lying North of Lot 1 is a span of 30'.
4. Marshall County Ordinance requires new structures to be placed a minimum of 30ft from a road right-of-way line.
5. No written comments or objections were received prior to the hearing.
6. Staff Recommendation – **3' variance to the road right-of-way line setback.**
7. 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 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, 5' for T. & N. Stiegelmeier 5/22 and 7' for A. & M. Feia 4/21
 - 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 – 3' 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 November 7, 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.

Kent Duerre has requested a variance to place a shed on the property described as Lot 1 in the Plat of Roykota Legacy Estates in the SE1/4SW1/4 and Government Lot 5 of Section 27, T126N, R55W. The petitioner is asking to place the shed 27ft 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: October 25, 2023

11 (Oct 25)
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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.adpublicnotices.com

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

October 23, 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

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Planning and Zoning Administrator

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Erin Collins-Miles

Erin Collins-Miles
Planning and Zoning Administrator

Sent to the following adjacent landowners on 10/23/23:

1. Hope & Marvin Erickson – 913 11th Ave. W Spencer, IA 51301
2. Lawrence Sullivan – 116726 Roykota Dr. Lake City, SD 57247
3. Drew & Pamela Likness – 4173 Clubhouse Dr. Fargo, ND 58104
4. Samuel & Rebekah Swanson – 116730 Roykota Dr. Lake City, SD 57247

MARSHALL COUNTY APPLICATION FOR VARIANCE

DATE: 10/18/23

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) 12'x18' storage building within 27' 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): Lake Twp, sec 27-126-55 Lot 1, Roykote Legacy Estates in SE 1/4, SW 1/4

Reason: lot width doesn't allow required set-back county distance requirements

Applicant Name: Kent Duerre Phone: 605-419-2293

Address: 114749 Roykote Dr., Lake City, SD 57847

Applicant Signature: Kent Duerre

Owner Signature (if different than applicant): _____

For Internal Office Use Only:

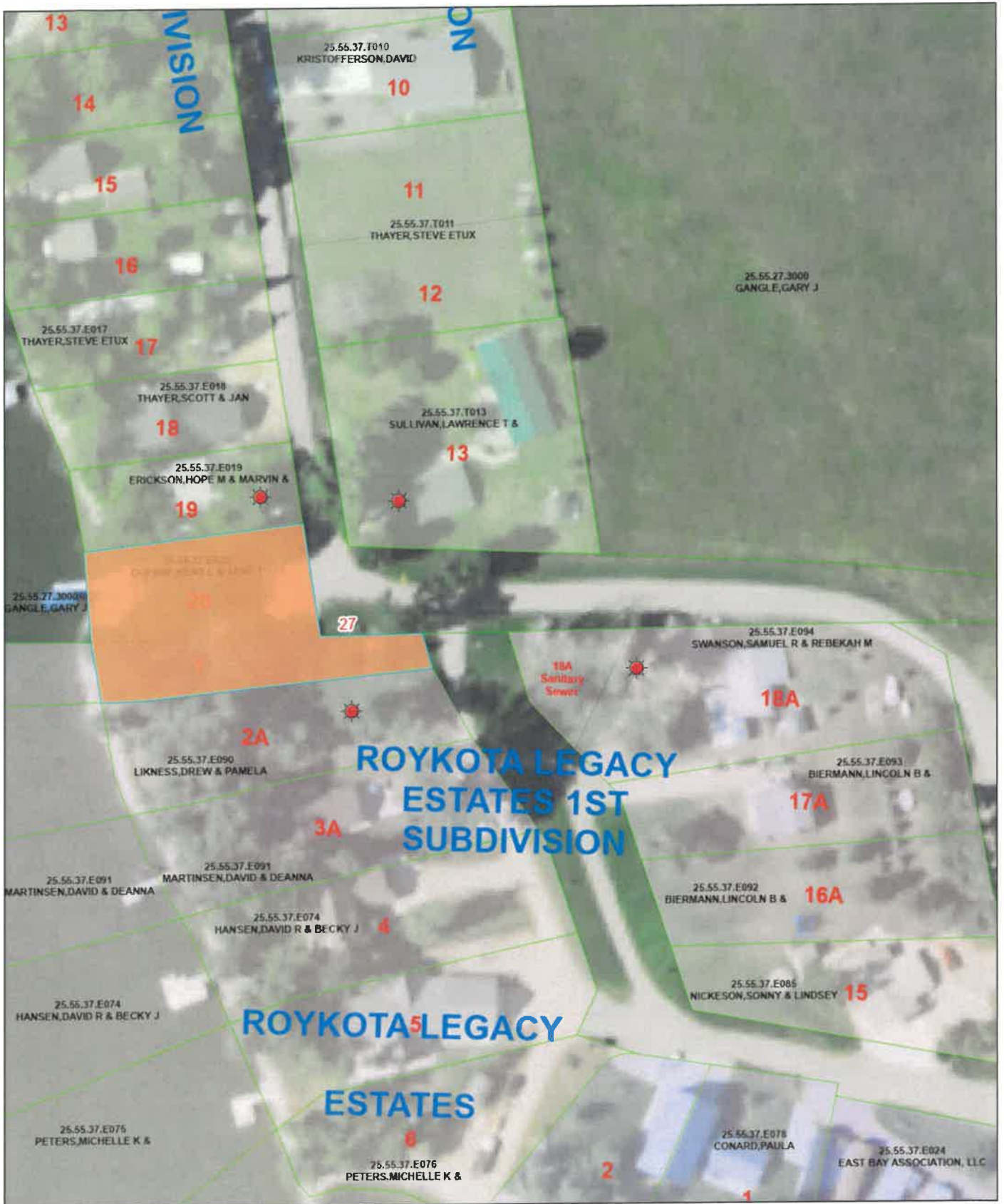
Date Received: 10/18/23 Fees (non-refundable): \$150.00 Paid: YES NO

Inspection Report: See staff report

Date of Hearing by Planning and Zoning Commission: November 7, 2023

Action taken by Planning and Zoning Commission: _____

MARSHALL COUNTY WEB VIEWER



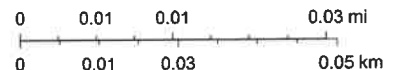
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PLAT

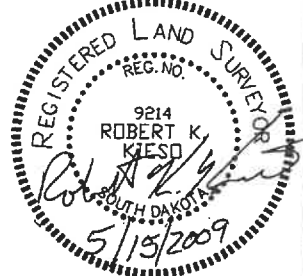
- CONARD ADDITION
- GANGLE'S SUBDIVISION
- ROYKOTA LEGACY ESTATES
- ROYKOTA LEGACY ESTATES 1ST SUBDIVISION

- ROYKOTA SUBDIVISION
- SCKERL'S SUBDIVISION
- TOWNSHIPS
- SECTIONS
- PARCELS

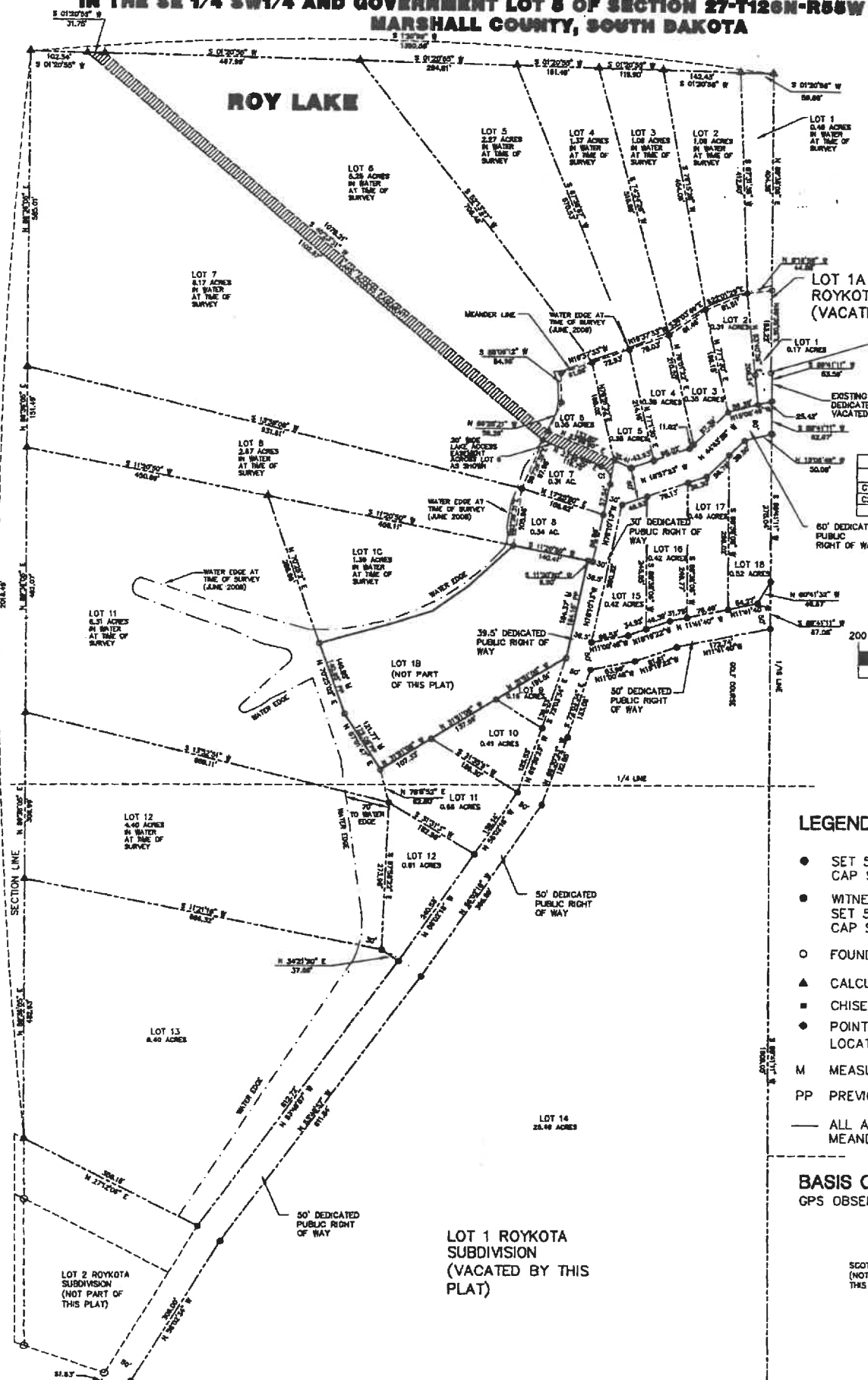
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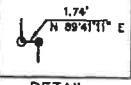
PLAT OF ROYKOTA LEGACY ESTATES IN THE SE 1/4 SW1/4 AND GOVERNMENT LOT 8 OF SECTION 27-T126N-R58W OF THE 5th P.M., MARSHALL COUNTY, SOUTH DAKOTA



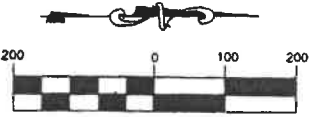
ROY LAKE



LOT 1A OF LOT 1 OF ROYKOTA SUBDIVISION (VACATED BY THIS PLAT)



CURVE TABLE					
	Radius	Delta Angle	Length	Chord	Tangent
C1	30.00	77°53'57"	40.79	37.72	24.25'
C2	4550.00	14°55'57"	1185.68	1182.07	596.06'



(IN FEET)
1 inch = 200 ft.

LEGEND

- SET 5/8" X 18" REBAR WITH SURVEY CAP STAMPED KIESO RLS 9214
- WITNESS CORNER SET 5/8" X 18" REBAR WITH SURVEY CAP STAMPED KIESO RLS 9214
- FOUND PROPERTY CORNER
- ▲ CALCULATED POINT
- CHISELED X ON CONCRETE
- ◆ POINT NOT SET, BUILDING AT LOCATION
- M MEASURED IN FIELD
- PP PREVIOUSLY PLATTED
- ALL ACRES ARE CALCULATED TO MEANDER LINE

BASIS OF BEARINGS

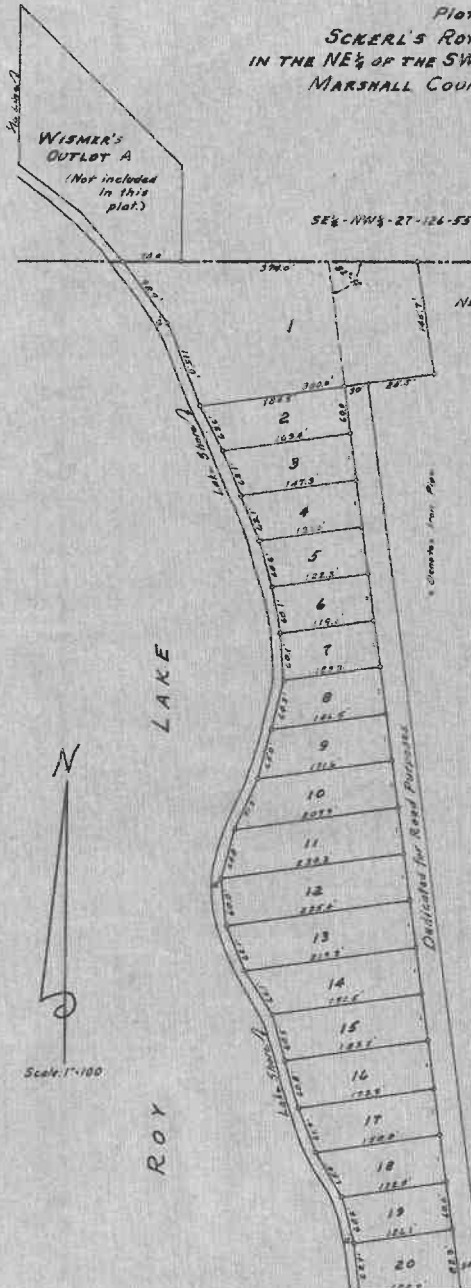
GPS OBSERVATION

SCOTT'S ADDITION (NOT PART OF THIS PLAT)

LOT 1 ROYKOTA SUBDIVISION (VACATED BY THIS PLAT)

LOT 2 ROYKOTA SUBDIVISION (NOT PART OF THIS PLAT)

**Plot Showing
SCKERL'S ROY LAKE SUBDIVISION
IN THE NE 1/4 OF THE SW 1/4 OF SEC. 27, T. 126 N., R. 55 W.
MARSHALL COUNTY, SOUTH DAKOTA**



Lot 1 is here - This plat shows the road to the North

Lot 1 is
(Booked)
FILED BOOK 5 PAGE 126

OWNER'S CERTIFICATE

I, Max W. Deboel, do hereby certify that I am the absolute and unqualified owner of the Northwest Quarter of the Southwest Quarter of Section 27, Township 126 North, Range 55 West of the Fifth Principal Meridian, in Marshall County, South Dakota, and that I have caused a portion of the same to be surveyed and platted into lots as shown on this plat, which shall hereafter be known and described as "Sckerl's Roy Lake Subdivision in the NE 1/4 of the SW 1/4 of Sec. 27, T. 126 N., R. 55 W." I further certify that the above described land is free from any incumbrances.

Signed this 16 day of April, 1906.

Max W. Deboel
Owner

State of South Dakota ss
County of Marshall
On this 16 day of April, 1906, before me, a Notary Public, personally appeared Max W. Sckerl, known to me to be the person described in and who executed the within instrument, and who acknowledged to me that he executed the same.

My commission expires:

Wm. J. Deboel
Notary Public
My Commission Expires July 31, 1907

SURVEYOR'S CERTIFICATE

I, William B. Stallner, Registered Land Surveyor, do hereby certify that I have surveyed and platted "Sckerl's Roy Lake Subdivision in the NE 1/4 of the SW 1/4 of Sec. 27, T. 126 N., R. 55 W.," as shown on this plat, that I have set true pins as shown, and that said survey and plat are true and correct.

Signed this 6th day of December, 1907.

William B. Stallner
Registered Land Surveyor 800

State of South Dakota ss
County of Brown
On this 6th day of December, 1907, before me, a Notary Public, personally appeared William B. Stallner, known to me to be the person described in and who executed the within instrument, and who acknowledged to me that he executed the same.

My commission expires:

Notary Public, Brown County, South Dakota

I hereby certify that the following is a correct copy of the resolution duly passed by the Board of County Commissioners of Marshall County, South Dakota at a meeting held on the 16th day of May, 1906:

"It is resolved by the Board of County Commissioners of Marshall County, South Dakota, that the plat showing 'Sckerl's Roy Lake Subdivision in the NE 1/4 of the SW 1/4 of Sec. 27, T. 126 N., R. 55 W.,' having been examined, is hereby approved in accordance with the provisions of Section 45,200, Chapter 45,2 of the South Dakota Code of 1905, and amendments thereof."

TREASURER'S CERTIFICATE

I hereby certify that all taxes which are liens upon any of the lands included in the above plat are shown by the records of my office to be fully paid.

Max W. Deboel
County Treasurer, Marshall County, S. D.

DIRECTOR OF EQUALIZATION'S CERTIFICATE

I hereby certify that I have received a copy of this plat this _____ day of _____, 1906.

Director of Equalization, Marshall County, South Dakota

Filed for record this 16th day of May, 1906, at _____ o'clock P. M., and duly recorded in Book _____

Max W. Deboel
Register of Deeds, Marshall County, S. D.

APPLICATION FOR VARIANCE FROM ZONING ORDINANCE

MARSHALL COUNTY
STATE OF SOUTH DAKOTA

DATE: 4/20/12

To: Marshall County Planning and Zoning Commission

The undersigned do hereby request a variance from the Marshall County Zoning Ordinance to build (or set) Shed within 10' & 15' 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 1 - Roykota Legacy Estates Section 27, T126N, R55W

Reason: See attached

COPY

Owner's Signature: Liane Duene

Agent's Signature: _____

4/19/12 - onsite & verified owner requesting shed to be placed 15ft from ROW running West & 10ft away from ROW running North. Ordinance states structures to be 30' from "other" row. Thus owner will need 15' & 20' variance.
For Internal Office Use Only:

Date of Hearing by Planning and Zoning Commission: 5/29/12

Action taken by Planning and Zoning Commission: Micklitsch motioned, Symens seconded to approve 15ft & 20ft variances for ROW setback. 15ft variance applies to ROW running West & 20ft variance applies to ROW running North (through Roykota Legacy Estates development).

MARSHALL COUNTY
Building Permit Application
PO Box 9, Britton SD 57430
605-448-5291

Applicant: Kent Duerre Permit No. 18-12

Applicant's Address: 116749 Roykota Dr Daytime Phone #: 605-448-8493

Builder: purchased Address: _____

Project Location: Lot 1A of Lot 1 Roykota Legacy Estates Sec: 27 Twp: 124 Range: 55

Town of _____ Lot: _____ Block: _____ Addition: _____

Do You Own This Property? YES NO If Not, Owner's Name _____

Is This Project NEW CONSTRUCTION or REMODELING _____?

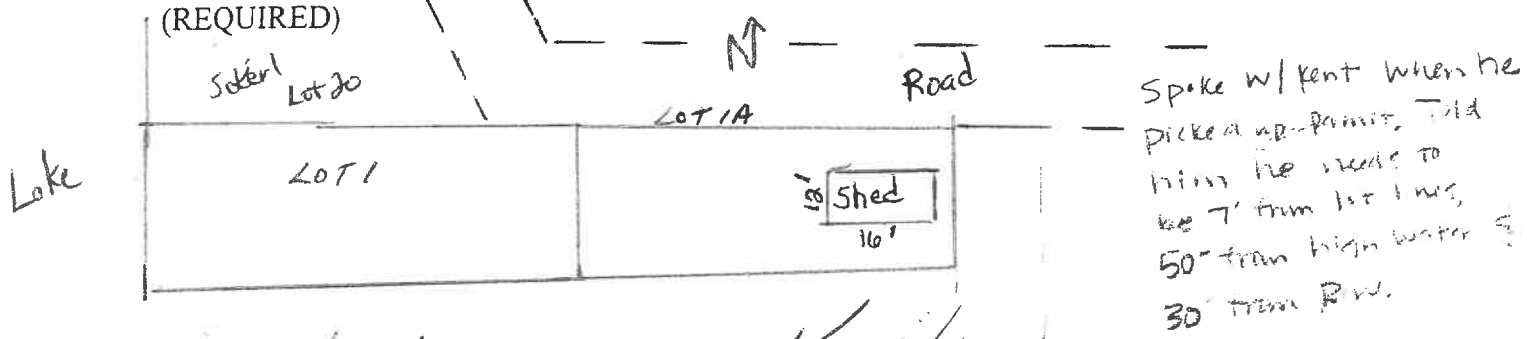
Type of Building: storage shed Size: _____ X _____

Will There Be Any Buildings Removed? YES NO If Yes, Describe _____

Total Cost Estimate or Actual Cost: _____

Zoning District of Project (Circle One): Ag Residential Lake-Front Resid Commercial Other

Sketch of Project, indicating distance from roads, lot lines, and high-water marks if applicable: (REQUIRED)



DATE: 3/27/12 SIGNED: Kent Duerre
 APPLICANT

Project must be started within one year of permit approval or permit becomes null and void.

***** POW SETBACKS *****

APPROVAL DATE: 4/3/12 SIGNED: Shannon Lee
 Zoning Administrator

No Fee
 \$100.00 Fine for Failure to Obtain Permit
 \$100.00 Variance Fee pd 4/26/12
15ft & 20ft variances approved for POW setback - see variance form attached
 City Foreman

Disapproval Date: _____ Reason for Disapproval: _____

MARSHALL COUNTY WEB VIEWER

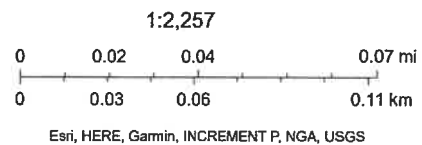


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PLAT

- CONARD ADDITION
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- ROYKOTA LEGACY ESTATES
- ROYKOTA LEGACY ESTATES 1ST SUBDIVISION

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- SCKERL'S SUBDIVISION
- TOWNSHIPS
- SECTIONS
- PARCELS



MARSHALL COUNTY WEB VIEWER



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ZONING

- Agricultural District
- Lake Front Residential District

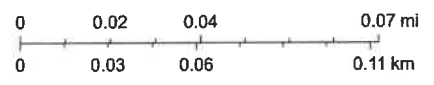
PLAT

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ROYKOTA LEGACY ESTATES 1ST SUBDIVISION

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- PARCELS

1:2,257



Variance – Kent Duerre



