

**Marshall County Planning & Zoning  
STAFF REPORT  
June 6, 2024**

**OWNER/APPLICANT:** Daniel Zenk

**PROPERTY DESCRIPTION:** Lot 1A in the Plat of Fagerland First Addition in Government Lot 1 and Government Lot 5 of Section 18, T125N, R56W

**CURRENT & SURROUNDING ZONING:** Agricultural (Ag)

**REQUEST:** The petitioner is asking to build the house 24ft from the road right-of-way line instead of the 60ft requirement, per the Marshall County Zoning Ordinance.

**HISTORY/ISSUE(S):**

1. A plat for this property was approved by the Commissioners on January 23, 2024. The plat is recorded in the Register of Deeds office in Book 6, Page 99. This property currently sits empty.
2. The petitioner is constructing the home at an angle within the lot, causing a portion of the home to sit closer to the right-of-way line.
3. The road lying to the North is a minimum maintenance road but is an extension of the Township Road which extends to the West. The Township is considering resuming maintenance on the road.
4. The minimum maintenance road is a platted road and has not been vacated according to records, which indicates that road setbacks would need to be met.
5. The Lot in which the home is proposed to sit on contains 2.51 acres total.
6. Marshall County Ordinance requires that all structures shall be set back not less than sixty (60) feet from all public right-of-ways measured from the road right-of-way.
7. No written comments or objections were received prior to the hearing.
8. Staff Recommendation – **Board discussion on the matter of how close the home is proposed to sit from the right-of-way line. After discussion, a 36’ variance to the right-of-way line 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 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 – 17’ for G. Waldner (Sunset Colony) 2/2020, 33’ for Newport Colony 11/17
  - b. The Board would consider approving other similar requests meeting the unique circumstances.
10. 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 – Board discussion on the matter of how close the home is proposed to sit from the right-of-way line. After discussion, a 36’ 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 June 6, 2024 at 9:00 a.m. at the Marshall County Courthouse Commissioners Chambers, concerning the following application for variance from the Marshall County Zoning Ordinance.

Daniel Zenk has requested a variance to build a house on the property described as Lot 1A in the Plat of Fagerland First Addition in Government Lot 1 and Government Lot 5 of Section 18, T125N, R56W. The petitioner is asking to build the house 24ft from the road 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: May 15, 2024*

1T(May 15)  
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Published at an approximate cost of \$7.25 and can be viewed free of charge at [www.sdpublicnotices.com](http://www.sdpublicnotices.com).

**MARSHALL COUNTY APPLICATION FOR VARIANCE**

DATE: 5/10/24

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) House within 24' (6' eave) 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 1A in the Plat of Eagerland First Addition in Gov't Lot 1 + Gov't Lot 5 - Sec. 18, T125N, R56W

Reason: Close to road to the north

Applicant Name: Daniel Zenk Phone: 605-592-0370  
Address: 1402 7th St, Britton, SD 57430  
Applicant Signature: Danz  
Owner Signature (if different than applicant): \_\_\_\_\_

**For Internal Office Use Only:**

Date Received: 5/10/24 Fees(non-refundable): \$150.00 Paid: (YES) NO  
Inspection Report: See staff report

Date of Hearing by Planning and Zoning Commission: \_\_\_\_\_

Action taken by Planning and Zoning Commission: \_\_\_\_\_

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

May 17, 2024

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

**Sent to the following adjacent landowners on 5/17/24:**

1. Byron & Malissa Fagerland – 12006 Rose Hill Rd Langford, SD 57454
2. Dennis & Jean Fagerland – 11948 430<sup>th</sup> Ave. Langford, SD 57454

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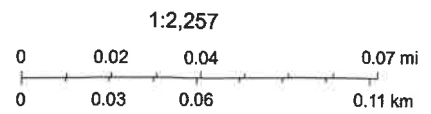
Erin Collins-Miles  
Planning and Zoning Administrator

# MARSHALL COUNTY WEB VIEWER



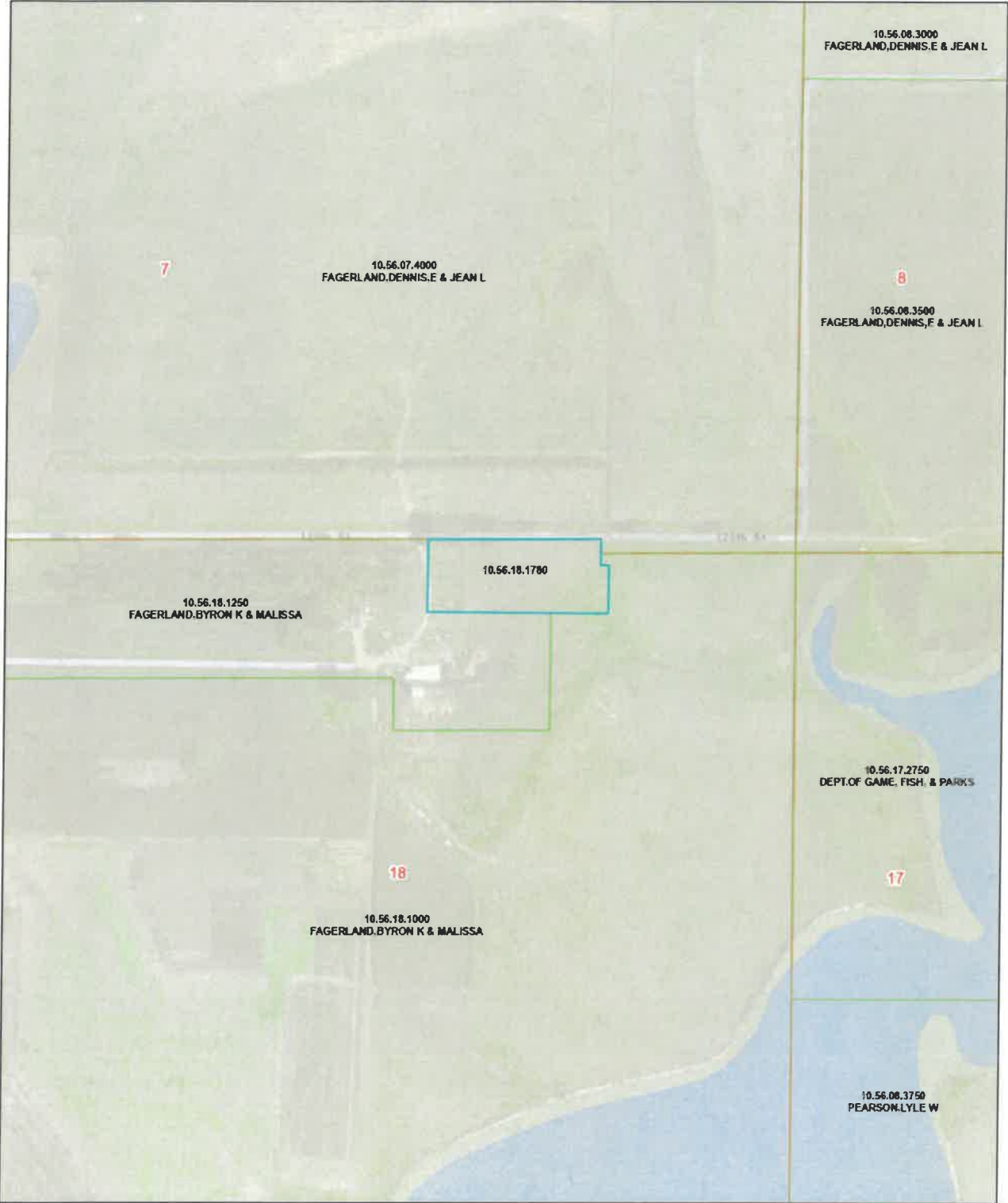
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-  TOWNSHIPS
-  SECTIONS
-  PARCELS



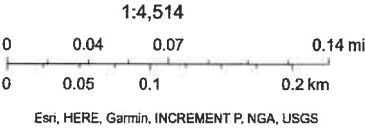


# MARSHALL COUNTY WEB VIEWER



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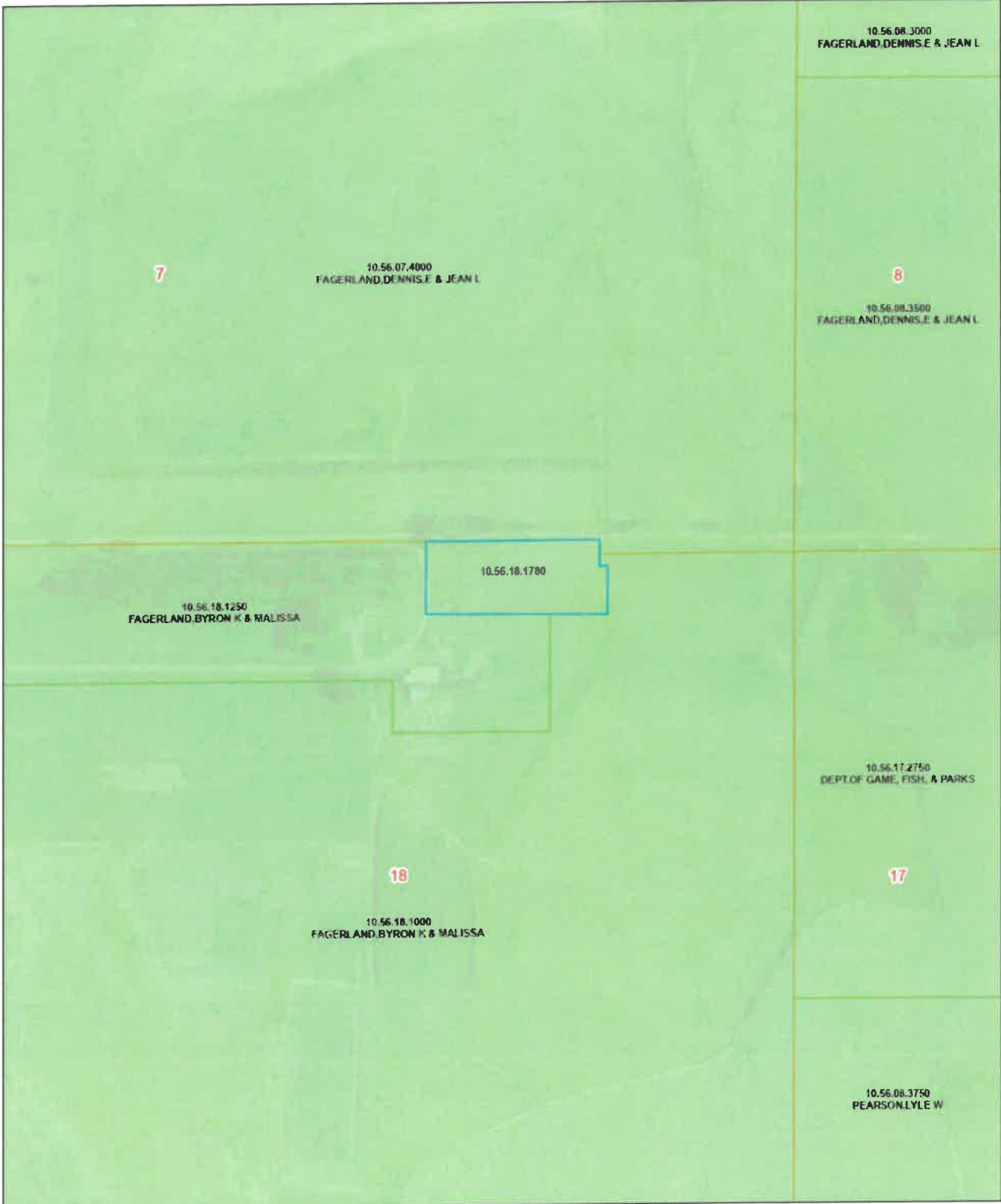
- TOWNSHIPS
- SECTIONS
- PARCELS



This map is intended for general planning purposes only. District III and Marshall County makes no claims, representations, and warranties regarding the accuracy of the data.



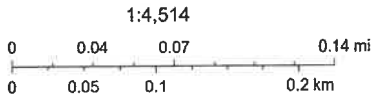
# MARSHALL COUNTY WEB VIEWER



5/24/2024, 3:40:35 PM

### ZONING

- Agricultural District
- TOWNSHIPS
- SECTIONS
- PARCELS



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## Variance – Daniel Zenk







