

**Marshall County Planning & Zoning  
STAFF REPORT  
October 22, 2024**

**Issue #1 Variance for Building(s) Setback**

**OWNER/APPLICANT:** Jerry Nice

**PROPERTY DESCRIPTION:** Lot 25 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) and Agricultural (Ag)

**REQUEST:** Jerry Nice has requested a variance to place a storage shed. The petitioner is asking to place the building 0 feet from the right-of-way line, instead of the 30ft requirement; per the Marshall County Zoning Ordinance.

**HISTORY/ISSUE(S):**

1. Lot 25 was purchased by the applicant on July 10, 2006. The applicant also owns Lot 26, which lies directly North. There is a cabin on this Lot.
2. The road lying to the West is privately maintained and is a township road.
3. Lot 25 has an average depth of approximately 65.85ft and a width of approximately 50ft.
4. The applicant is asking to place the structure 2' into the right-of-way. There is a distance of 28' from the West edge of the road, or ROW line, to the proposed location of the structure.
  - a. Pictures indicate that if the shed were to be moved 2' further East, it would affect an existing TV satellite which has wires running underground.
  - b. There is no eave on the front or rear sides of the building (East/West), but there is an eave on both sides (North/South)
5. Note: The house which lies on Lot 26 is only 24' from the ROW line on the West edge of the road.
6. Marshall County Ordinance requires new structures to be placed a minimum of 30ft from a road right-of-way line.
7. No written comments or objections have been received prior to the writing of this staff report.
8. Staff Recommendation – **30' 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 – 26.5' for C. Cobb 8/23, 24' for J. Peters 5/23, 25' for R. & C. Jorgenson 7/2020 and 28' for G. Fischer 9/18
  - 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 – 30' 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 October 22, 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.

Jerry Nice has requested a variance to place a storage shed on the property described as Lot 25 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 place the building 0 feet 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 9, 2024*

11(Oct 9)  
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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](http://www.sdpublicnotices.com).

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

October 7, 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

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Sincerely,

*Erin Collins-Miles*

Erin Collins-Miles  
Planning and Zoning Administrator

**Sent to the following adjacent landowners on 10/7/24:**

1. David Forrette – 11482 Spillway Dr. Lake City, SD 57247
2. Wayne Freeman – 42875 112<sup>th</sup> St. Britton, SD 57430
3. Galen Jensen Jr. – PO Box 151 Pierpont, SD 57468

**MARSHALL COUNTY APPLICATION FOR VARIANCE**

DATE: 10/3/2024

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) Storage building within 0' 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 25 in Blk I in Lot 2 of Freeman's Subd. in Gov't Lot 4

Reason: TO PUT STORAGE SHED UP CABIN IS 6' INTO RIGHT OF WAY. ALSO DISH IS BORED AND WILL 4' FROM SHED STAKES

Applicant Name: JERRY NICE Phone: (402) 490-8817  
Address: P.O. BOX 193 LAKE CITY, SD 57247  
Applicant Signature: Jerry Nice  
Owner Signature (if different than applicant): \_\_\_\_\_

**For Internal Office Use Only:**

Date Received: 10/3/24 Fees(non-refundable): \$150.00 Paid: YES  NO

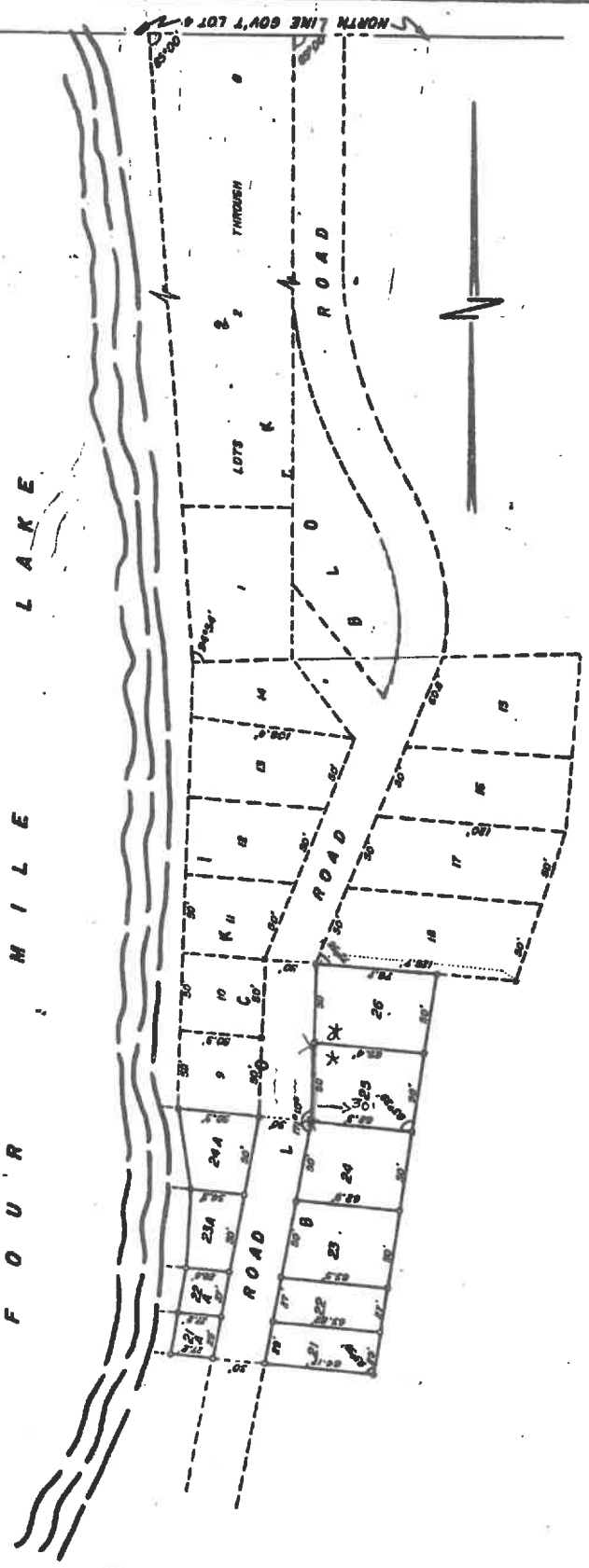
Inspection Report: See Staff Report

Date of Hearing by Planning and Zoning Commission: October 22, 2024

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

3-6

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

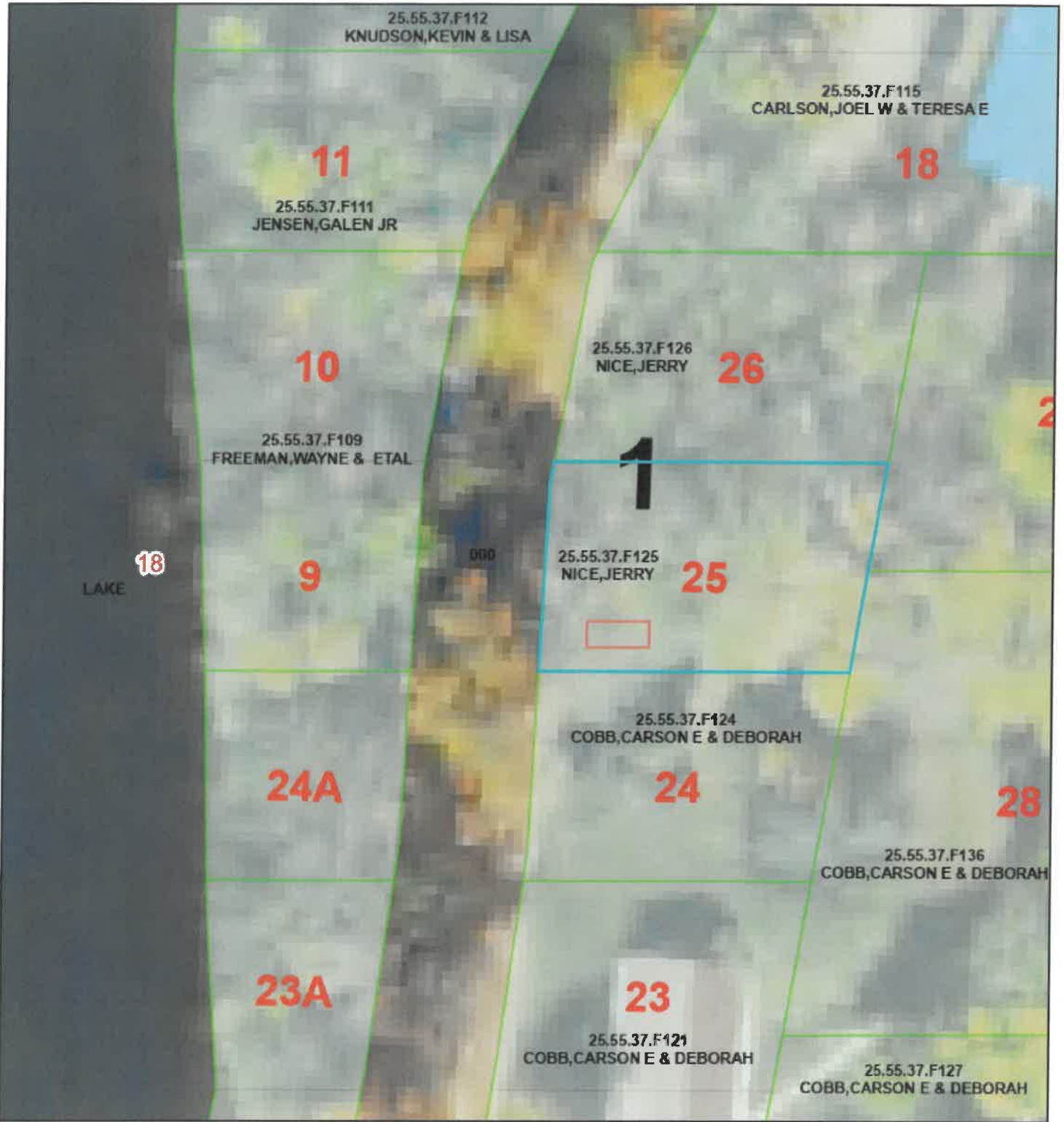


PLAT OF:

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 R55W OF THE 5TH. P.M., MARSHALL COUNTY,  
SOUTH DAKOTA.





*John E. Behnel*  
REGISTERED PROF. ENG. & LAND SURVEYOR  
SCALE 1" = 50'  
APRIL 17, 1973  
O. O. IRON PIN

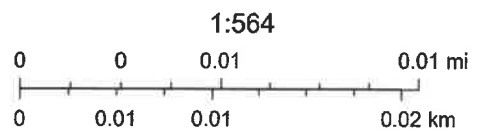
# MARSHALL COUNTY WEB VIEWER



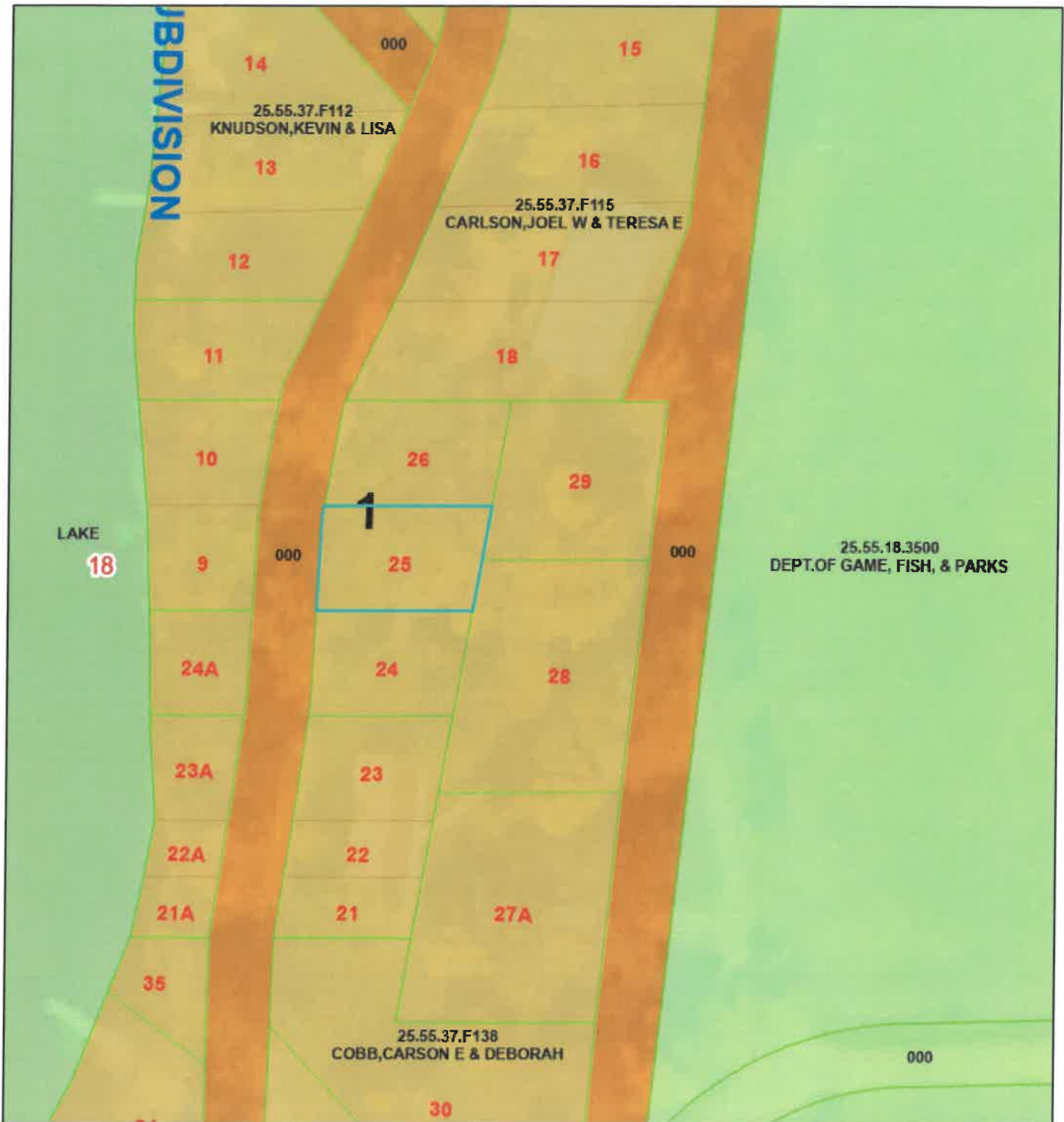
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PLAT

-  FREEMAN'S SUBDIVISION
-  TOWNSHIPS
-  SECTIONS
-  PARCELS



# MARSHALL COUNTY WEB VIEWER



10/17/2024, 3:12:18 PM

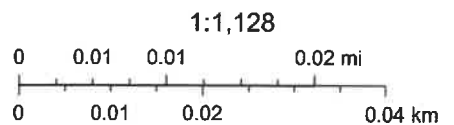
## ZONING

- Agricultural District
- Lake Front Residential District

## PLAT

- FREEMAN'S OUTLOT ADDITION

- FREEMAN'S SUBDIVISION
- TOWNSHIPS
- SECTIONS
- PARCELS





# Variance – Jerry Nice







