

**Marshall County Planning & Zoning
STAFF REPORT
November 7, 2024**

Issue #1 Variance for Building(s) Setback

OWNER/APPLICANT: Tania Henning

PROPERTY DESCRIPTION: Lot 12 in the Plat of Lots 1A, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 12A of Gangle's subdivision in Gov't Lot 5 of Section 22, T126N, R55W

CURRENT ZONING: Lake Front Residential (R-3)

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

REQUEST: Tania Henning has requested a variance to place a storage shed. The petitioner is asking to place the building 4 feet at the SE corner and 7 feet at the NE corner from the right-of-way line, instead of the 30ft requirement; per the Marshall County Zoning Ordinance.

HISTORY/ISSUE(S):

1. The Lots were purchased by the applicant on September 11, 2024.
 - a. Mack Land Surveying completed a survey for the property owners previously due to the shed encroaching on the State Land lying to the South by 33.2'. The shed has since been moved onto Lot 12A to await its permanent location.
2. The road lying to the East is maintained by the State Park, and is as span of 66'. The Road lying Northeast is a public road with varying road spans (see plat) and is maintained by the County.
 - a. The County maintains up to the entrance of the State Park.
3. Lot 12 has an average depth of approximately 128.74ft and a width of 40.91ft. Lot 12A has an average depth of approximately 125.56ft and an average width of approximately 33.62ft.
4. The close proximity of the shed to the right-of-way has been considered at length.
 - a. MC Highway Superintendent states they do not maintain the entrance of the State Park, so there is no risk with equipment or snow removal.
 - b. An email was sent to RoyLake@state.sd.us on 10/30/24 due to no response to adjacent landowner letter sent via mail on 10/23/24.
5. Marshall County Ordinance requires new structures to be placed a minimum of 30ft from a road right-of-way line.
6. No written comments or objections have been received prior to the writing of this staff report.
7. Staff Recommendation – **Structure should be placed in a different location on the property due to no other structures being present on the Lot(s) in question.**
If the Board were to see no issue with this variance application and would consider this request to be a unique situation, a 26' variance at the SE corner to the right-of-way line setback and a 23' variance at the NE corner to the right-of-way line setback would be recommended.
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 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, 28' for G. Fischer 9/18 and 30' for J. Nice.
 - 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 – Structure should be placed in a different location on the property due to no other structures being present on the Lot(s) in question.

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NOTICE OF HEARING - APPLICATION FOR VARIANCE

Notice is hereby given that the Marshall County Planning & Zoning Board will meet on November 7, 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.

Tania Henning has requested a variance to place a storage shed on the property described as Lot 12 in the Plat of Lots 1A, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 12A of Gangle's subdivision in Gov't Lot 5 of Section 22, T126N, R55W. The petitioner is asking to place the building 4 feet at the SE corner and 7 feet at the NE corner 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 23, 2024

1T(Oct 23)
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MARSHALL COUNTY PLANNING & ZONING COMMISSION
P.O.BOX 9
BRITTON, SOUTH DAKOTA 57430
605.448.7540

October 23, 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

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Planning and Zoning Administrator

Sent to the following adjacent landowners on 10/23/24:

1. Marshall County Highway Shop c/o Dustin Hofland – 10844 423rd Ave. Britton, SD 57430
2. Karleen Josephson – 1502 East 18th St. Sioux Falls, SD 57104
3. Dept. of Game, Fish & Parks c/o Habitat Section 523 E Capitol Ave. Pierre, SD 57501
4. Road – Roy Lake State Park 11545 Northside Drive RoyLake@state.sd.us – sent on 10/30/24
5. Gary Gangle – 11624 SD HWY 25 Lake City, SD 57247

MARSHALL COUNTY APPLICATION FOR VARIANCE

DATE: 10-16-24

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) storage shed within 26 ft 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): Section 27 Lots 12 & 12A of Geangle's subdivision in Gort. Lot 5 of Section 22 Township 126 North, Range 55 West of the 5th PM

Reason: Marshall Co.

Applicant Name: Dania Henning Phone: 701-427-5482

Address: PO Box 259

Applicant Signature: Dania Henning

Owner Signature (if different than applicant): _____

For Internal Office Use Only:

Date Received: 10/18/24 Fees(non-refundable): \$150.00 Paid: YES NO

Inspection Report: See staff report

Date of Hearing by Planning and Zoning Commission: November 7, 2024



Action taken by Planning and Zoning Commission: _____

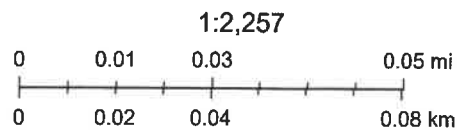
MARSHALL COUNTY WEB VIEWER



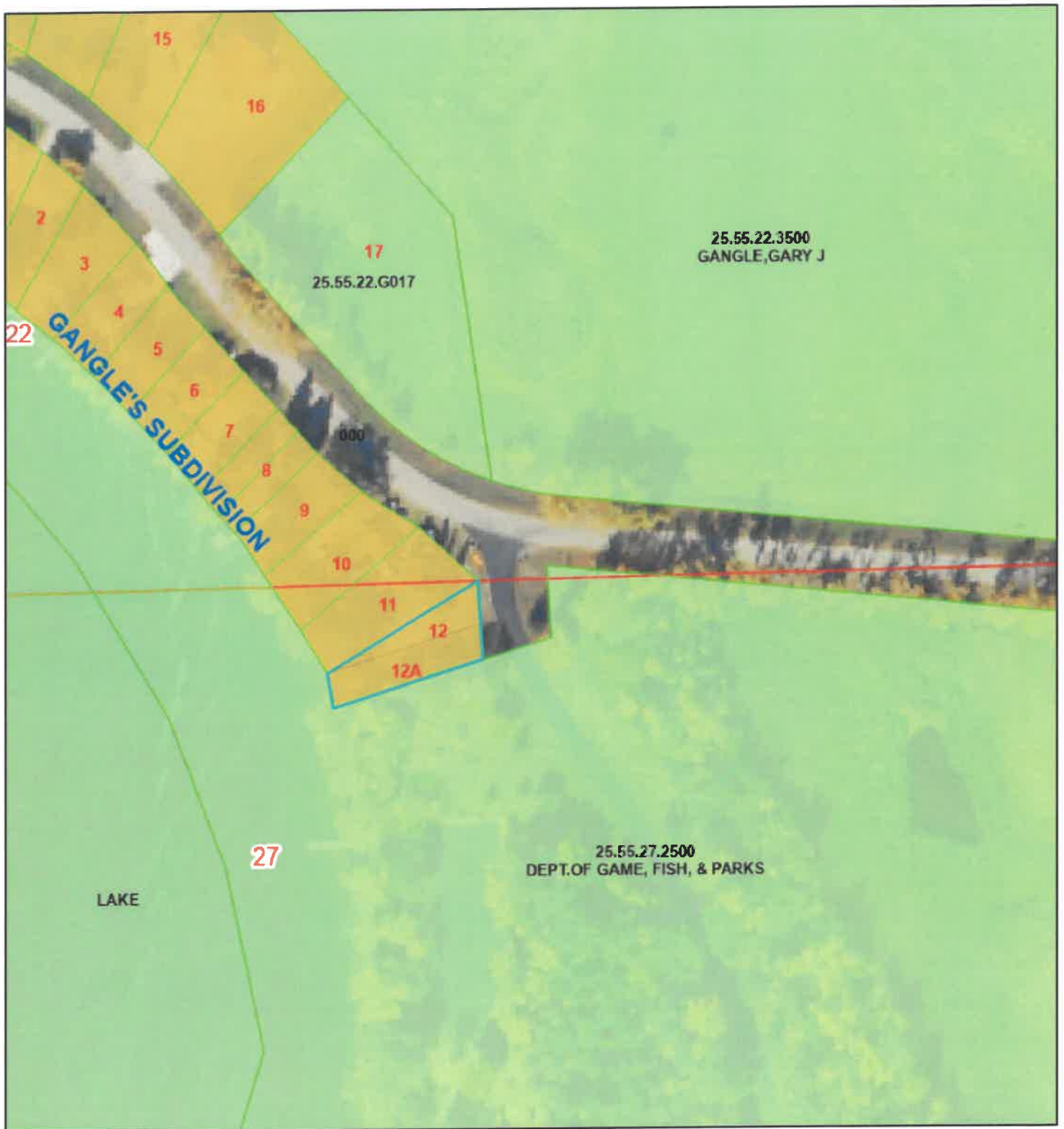
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PLAT

-  GANGLE'S SUBDIVISION
-  TOWNSHIPS
-  SECTIONS
-  PARCELS



MARSHALL COUNTY WEB VIEWER



10/30/2024, 12:24:13 PM

ZONING

 Agricultural District

 Lake Front Residential District

PLAT

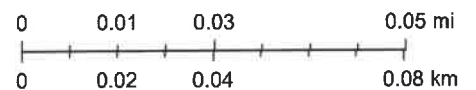
 GANGLE'S SUBDIVISION

 TOWNSHIPS

 SECTIONS

 PARCELS

1:2,257



Hi Rick & Lundee,

We have a question for you regarding Gangle Subdivision in Section 22. I have attached that plat along with Northside Add and an Affidavit that was recorded. Here is a screen shot from our GIS. Since Gangle's Subdivision doesn't actually match up to the Section line it pushes part of Lots 10, 11, 12 & 12A into Section 27. Are we interpreting it correctly? We are just wondering if that area needs to be replatted?



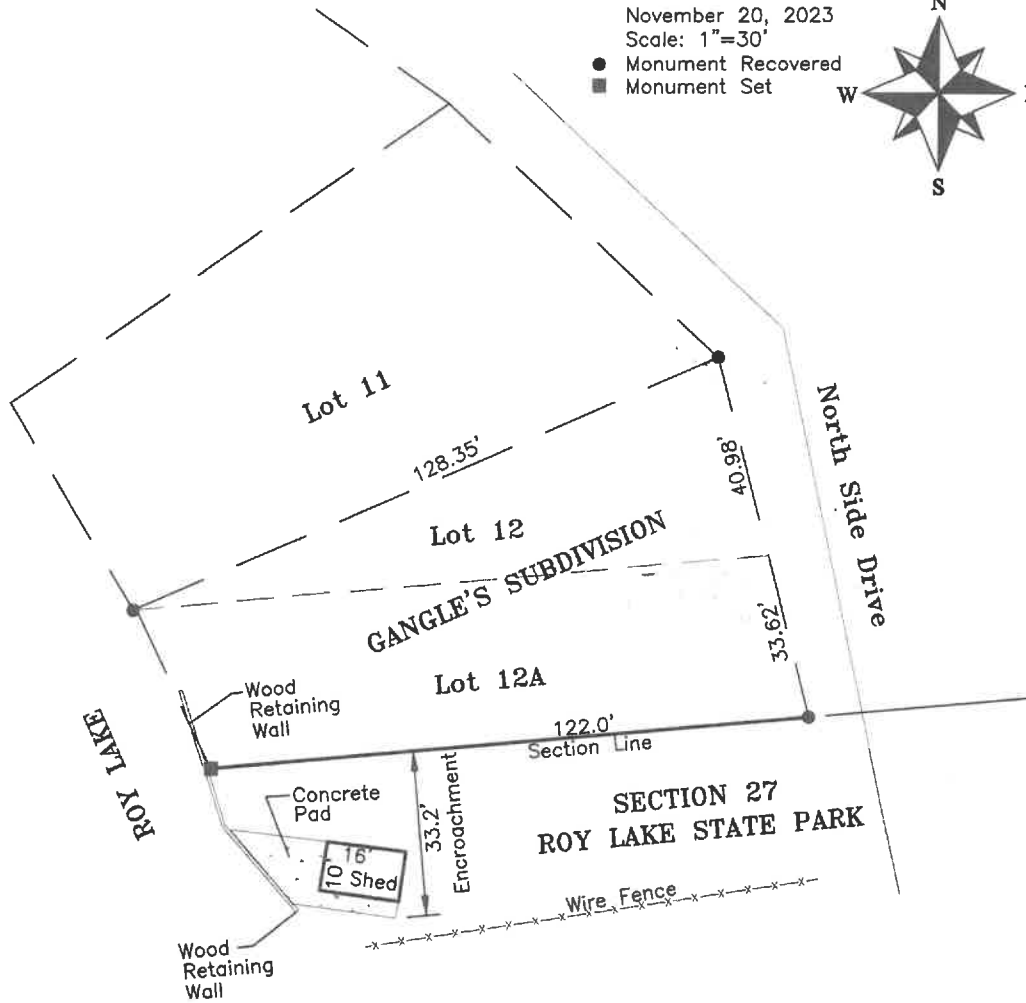
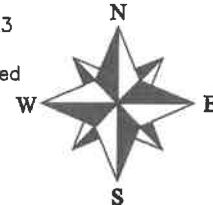
Kalissa Stelzer

Marshall County Register of Deeds
1611 Vander Horck (Temporary Location)
PO Box 130
Britton, SD 57430
605.448.2352
mcregister@venturecomm.net
marshall.sdcounties.org/

The Register of Deeds office takes no responsibility for searches, which are provided as a convenience only. The official public records are available for your review.

Survey of
 The boundary between Roy Lake State Park in
 Section 27, and Lots 12 and 12A of of Gangle's
 Subdivision in Government Lot 5 of Section 22,
 Township 126 North, Range 55 West of the 5th
 P.M., Marshall County, South Dakota.

November 20, 2023
 Scale: 1"=30'
 ● Monument Recovered
 ■ Monument Set



Marty W Mack
 Registered Land Surveyor

MACK
 Land Surveying LLC

Marty Mack
 Registered Land Surveyor
 Certified Federal Surveyor

Cell: (605) 880-3108 • Phone: (605) 878-2007
 808 South Maple • Watertown, SD 57201
 macklandsurveying@gmail.com

STATE OF SOUTH DAKOTA)
) SS AFFIDAVIT
COUNTY OF MARSHALL)

I, John O. Babcock, of 708 NW 4, Watertown, South Dakota 57201, having been first duly sworn upon oath, do hereby declare and state as follows:

That I am a registered professional engineer and land surveyor licensed to practice in the State of South Dakota and that I do so practice and have for many years. That I was the city engineer for Watertown, South Dakota for many years and that during that time I did other land surveys separate and distinct from that position as my free time and circumstances dictated.

That as such I prepared a plat for the late Joe Gangle of RR, Lake City, South Dakota 57247 which was completed on May 11, 1972 and was known as, "Plat of: Lots 1A, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 12A of Gangle's Subdivision in Gov't Lot 5 of Sec. 22, T 126N, R 55, W of the 5th P.M., Marshall County, South Dakota," which was duly filed and recorded in the Office of the Register of Deeds in Book 3 of Plats and Surveys on Page 1. That I prepared the west boundary of said plat pursuant to a fence line location given to me by the late Joe Gangle who was present and with me at the time that I did that part of the survey. That at the time of my survey the meander corner on the section line was under several feet of water and, therefore, was not discernible. That at a later date when subsequent surveys were conducted the surveyors were able to find the meander corner as the water had receded considerably. That it has now developed that the line which had been considered to be the section line between Section 21, to the west, and Section 22, to the east, was incorrectly marked; the section line should have been approximately 150 feet to the west. That this is made more evident in a plat that has been prepared by Lonnie Anderson, Registered Surveyor for the Clark Engineering Corporation, 1011 1st Ave. SE, Aberdeen, South Dakota.

That I have examined this plat known as "Plat Showing Roy Lake Northside Addition in the SE1/4-Sec. 21 and the SW1/4-Sec. 22, T. 126, R. 55 of the 5th P.M., Marshall County, South Dakota." That I now agree with the new section line based on that survey. That, at the same time, I find no difficulty nor any problems for the respective lot owners of either the Gangle's Subdivision or of the Sigaty Second Subdivision, to the west. That, in other words, Lot 1A, 1, 2, 3, 4, etc. will remain the same in Gangle's Subdivision. That the adjacent lots to the west of the Sigaty Second Subdivision will remain the same as to content and size with the only change being a redesignation of the lot numbers as suggested by the Clark Engineering plat.

35176

STATE OF SOUTH DAKOTA, COUNTY OF MARSHALL - SS
FILED THIS 23 DAY OF June 1993 AT 3:30 O'CLOCK P. M. BOOK PAGE 808-809
David Waterbury DEPUTY REGISTER OF DEEDS FEES \$ 7.00

That a 33 foot right-of-way on the section line that I projected should now be terminated and that the Northside Roy Lake Association who now have the Sigaty Second Subdivision could very well vacate the new section line right-of-way because in all probability no road will ever be constructed on that section line going diagonally through two lot owners' lots.

Dated at Watertown, South Dakota this 21st day of May, 1993.

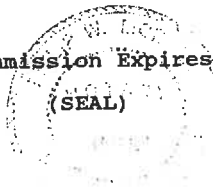


John O. Babcock
John O. Babcock

Subscribed and sworn to before me this 21st day of May, 1993.

Philip W. Morgan
Philip W. Morgan

My Commission Expires: 8-15-99



(SEAL)

Variance – Tania Henning





