

**Marshall County Planning & Zoning
STAFF REPORT
August 5, 2025**

OWNER/APPLICANT: Justin Bock & Kelly Burley

PROPERTY DESCRIPTION: Tract 2 in the Plat showing Miller Tracts in the NW1/4 of Section 29, T126N, R59W

CURRENT & SURROUNDING ZONING: Agricultural (Ag)

REQUEST: The petitioner is asking to allow the building to be 47 feet from the right-of-way line, instead of the 60-foot requirement, per the Marshall County Zoning Ordinance.

HISTORY/ISSUE(S):

1. The property has been owned by the applicants since 12/11/2020.
 - a. The addition to the Quonset was began prior to obtaining a building permit. A letter was sent via mail on 7/1/25.
 - a. The applicant was unaware of permitting requirements.
2. There are 3 other existing buildings on the parcel listed above.
 - a. The petitioner has constructed the new addition on the North side of the existing Quonset.
3. According to the applicant, the structure is intended to be used as a reception location.
 - a. The road lying to the North of the structure in question is a township road.
 - b. There is a line of trees which sits directly between the addition and the township road.
4. The applicants also own 2 other surrounding parcels, one of which includes their home to the West of the Quonset.
 - a. Note that any work done to the existing structures, as they are currently built on the South side of 116th St., would most likely result in a variance needing to be obtained.
5. 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 line.
6. No written comments or objections were received prior to the writing of this staff report.

Staff Recommendation/Action Item – 13' variance to the right-of-way line setback and to adopt the facts and the recommended findings of the Planning Commission listed in the staff report.

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 Ag District.
 - a. The Board has granted similar right-of-way line variances to Ag parcels in the past, when the neighbors had no objections.
 - i. Similar right-of-way line variances allowed – 14' for R. Sonstegard 10/16, 17' for G. Waldner 2/2020,
 - b. The Board would consider approving other similar requests meeting the unique circumstances.
8. 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.
- 9. If the Board chooses to grant the variance, it must make findings pursuant to TITLE 19, Chapter 19.6 of the Zoning Ordinance.

MARSHALL COUNTY APPLICATION FOR VARIANCE

DATE: 7/9/25

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 47' 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): Tract 2

Reason: Added on to existing structure for storage purposes. Much of the land to the south is wet and more difficult to build on. Electrical hookups are close proximity to the structure.

Applicant Name: Kelly Burley
Justin Bock Phone: 605-380-2350

Address: 41307 116th ST

Applicant Signature: Justin Bock

Owner Signature (if different than applicant): Justin Bock

For Internal Office Use Only:

Date Received: 7/9/25 Fees(non-refundable): \$100.00 Paid: ☒ YES ☐ NO -mail receipt
Inspection Report: See staff report

Date of Hearing by Planning and Zoning Commission: August 5, 2025

Action taken by Planning and Zoning Commission: _____

NOTICE OF HEARING - APPLICATION FOR VARIANCE

Notice is hereby given that the Marshall County Planning & Zoning Board will meet on August 5, 2025 at 9:00 a.m. at the North Marshall Firehall meeting room, concerning the following application for variance from the Marshall County Zoning Ordinance.

Justin Bock and Kelly Burley have requested a variance for an existing storage building addition on the property described as Tract 2 in the Plat showing Miller Tracts in the NW1/4 of Section 29, T126N, R59W. The petitioner is asking to allow the building to be 47 feet from the right-of-way line, instead of the 60-foot requirement, per the Marshall County Zoning Ordinance.

Erin Collins-Miles
Planning & Zoning Administrator

Published once at the approximate cost of

For publication: July 16, 2025

1T(July 16)
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- APPLICATION FOR
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Erin Collins-Miles
Planning & Zoning/E911/Drainage Director
Phone: 448.7540
Email: mczoning@venturecomm.net

911 Vander
Horck
PO Box 9
Britton, SD 57430

July 1, 2025

Kelly Burley & Justin Bock
41307 116th St.
Claremont, SD 57432

To whom this may concern,

I am aware that an addition to a shed/garage has been constructed on the property described as MILLER TRACT 2 IN NW1/4; Parcel number 18.59.29.2250. I am writing to make you aware that construction or placement of any buildings or structures of any kind is prohibited without first acquiring a building permit through Marshall County. Per our ordinance; No building, structure or driveway shall be erected, partially erected, moved, added to, or structurally altered without a permit issued by the Zoning Administrator. Please contact my office to ensure a permit is on file for you in regard to this structure.

Upon receipt of this letter, please fill out the permit enclosed and contact my office to confirm that you are complying with the Zoning Ordinances set forth by Marshall County. Failure to comply could result in further action being taken.

Please find the following document enclosed:
Building Permit Application

If you have any questions, please contact my office.
Sincerely,

Erin Collins-Miles

Erin Collins-Miles

Planning & Zoning, Drainage, E911 Director
Marshall County, South Dakota

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

July 10, 2025

Dear Property Owner,

Notice is hereby given that the Marshall County Planning & Zoning Board will meet on August 5, 2025 at 9:00 a.m. at the North Marshall Firehall meeting room, concerning the following application for variance from the Marshall County Zoning Ordinance.

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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 Director

MARSHALL COUNTY PLANNING & ZONING COMMISSION
P.O.BOX 9
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Sincerely,

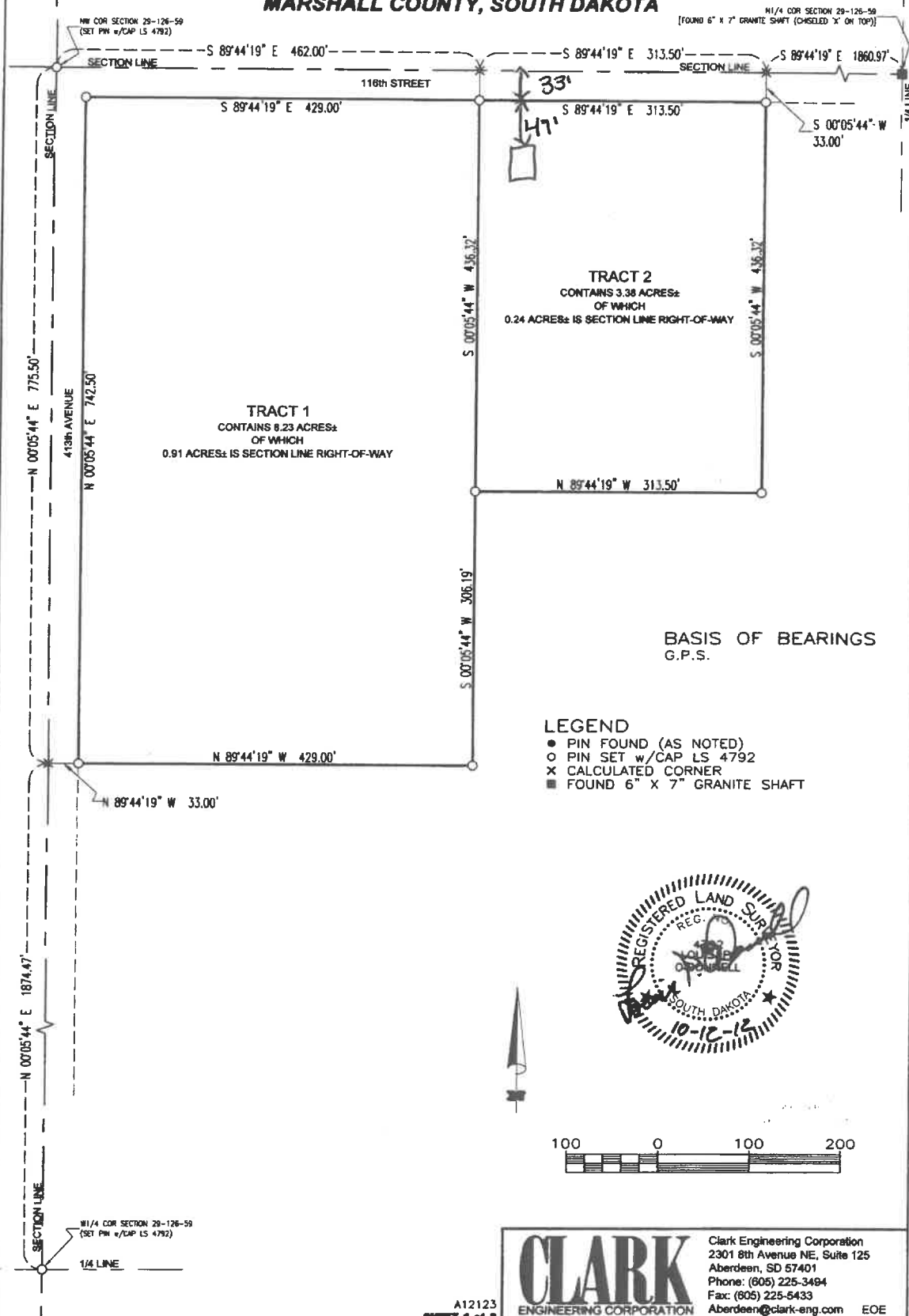
Erin Collins-Miles

Erin Collins-Miles
Planning and Zoning Director

Sent to the following adjacent landowners on 7/14/25:

1. Michael & Julie Docter – 11511 413th Ave. Amherst, SD 57421
2. Mark & Diane Luitjens – 302 Wilder Rd Vermillion, SD 57069

**PLAT SHOWING
MILLER TRACTS
IN THE NW1/4 OF SECTION 29
TOWNSHIP 126 NORTH, RANGE 59 WEST OF THE 5th P.M.,
MARSHALL COUNTY, SOUTH DAKOTA**



PLOTTED BY: ZACH PLOTTED ON: 10/12/2012 2:48 PM Z:\2012 PROJECTS\12123 MARK HANSE\PLAT\A12123.DWG

5-91 Slide 144

**PLAT SHOWING
MILLER TRACTS
IN THE NW1/4 OF SECTION 29
TOWNSHIP 126 NORTH, RANGE 59 WEST OF THE 5th P.M.,
MARSHALL COUNTY, SOUTH DAKOTA**

OWNER'S CERTIFICATE

WE, ERIC J. MILLER AND MELISSA J. MILLER, HUSBAND AND WIFE, AS JOINT TENANTS WITH RIGHT OF SURVIVORSHIP AND NOT AS TENANTS IN COMMON, DO HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE NORTH 47 RODS OF THE WEST 28 RODS OF THE NORTHWEST QUARTER (NW1/4) OF SECTION TWENTY-NINE (29), TOWNSHIP ONE HUNDRED TWENTY-SIX (126) NORTH, RANGE FIFTY-NINE (59) WEST OF THE 5th P.M., MARSHALL COUNTY, SOUTH DAKOTA, AND THAT WE HAVE CAUSED THE SAME TO BE SURVEYED AND PLATTED AS SHOWN ON THE ATTACHED PLAT WHICH SHALL BE HEREINAFTER KNOWN AND DESCRIBED AS TRACT 1 "MILLER TRACTS IN THE NW1/4 OF SECTION 29, TOWNSHIP 126 NORTH, RANGE 59 WEST OF THE 5th P.M., MARSHALL COUNTY, SOUTH DAKOTA" AND THAT DEVELOPMENT OF THIS LAND SHALL CONFORM TO ALL EXISTING APPLICABLE ZONING, SUBDIVISION AND SEDIMENT CONTROL REGULATIONS.

SIGNED THIS 5 DAY OF November 2012.

OWNERS:

Eric J. Miller
ERIC J. MILLER

Melissa J. Miller
MELISSA J. MILLER

COUNTY OF Brown)
STATE OF South Dakota) SS

ON THIS 5 DAY OF November 2012, BEFORE ME, A NOTARY PUBLIC, THE UNDERSIGNED OFFICER, PERSONALLY APPEARED ERIC J. MILLER AND MELISSA J. MILLER, HUSBAND AND WIFE, AS JOINT TENANTS WITH RIGHT OF SURVIVORSHIP AND NOT AS TENANTS IN COMMON, KNOWN TO ME TO BE THE PERSONS IN AND WHO EXECUTED THE WITHIN INSTRUMENT.

MY COMMISSION EXPIRES: 10/21/2014

Sean Code
NOTARY PUBLIC

OWNER'S CERTIFICATE

I, MARK HANSE, DO HEREBY CERTIFY THAT I AM THE OWNER OF THE NORTHWEST QUARTER (NW1/4) OF SECTION TWENTY-NINE (29) (EXCEPT THE NORTH 47 RODS OF THE WEST 28 RODS OF THE NW1/4), TOWNSHIP ONE HUNDRED TWENTY-SIX (126) NORTH, RANGE FIFTY-NINE (59) WEST OF THE 5th P.M., MARSHALL COUNTY, SOUTH DAKOTA, AND THAT I HAVE CAUSED A PORTION OF THE SAME TO BE SURVEYED AND PLATTED AS SHOWN ON THE ATTACHED PLAT WHICH SHALL BE HEREINAFTER KNOWN AND DESCRIBED AS TRACT 2 "MILLER TRACTS IN THE NW1/4 OF SECTION 29, TOWNSHIP 126 NORTH, RANGE 59 WEST OF THE 5th P.M., MARSHALL COUNTY, SOUTH DAKOTA" AND THAT DEVELOPMENT OF THIS LAND SHALL CONFORM TO ALL EXISTING APPLICABLE ZONING, SUBDIVISION AND SEDIMENT CONTROL REGULATIONS.

SIGNED THIS 5 DAY OF November 2012.

OWNERS:

Mark W. Hanse
MARK HANSE

COUNTY OF Brown)
STATE OF South Dakota) SS

ON THIS 5 DAY OF November 2012, BEFORE ME, A NOTARY PUBLIC, THE UNDERSIGNED OFFICER, PERSONALLY APPEARED MARK HANSE, KNOWN TO ME TO BE THE PERSON IN AND WHO EXECUTED THE WITHIN INSTRUMENT.

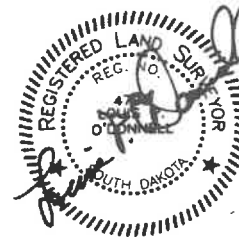
EXPIRES: 10/21/2014

Sean Code
NOTARY PUBLIC

SURVEYOR'S CERTIFICATE

I, LOUIS P. O'DONNELL, REGISTERED LAND SURVEYOR, DO HEREBY CERTIFY THAT, AT THE REQUEST OF THE OWNERS, I HAVE SURVEYED AND PLATTED "MILLER TRACTS IN THE NW1/4 OF SECTION 29, TOWNSHIP 126 NORTH, RANGE 59 WEST OF THE 5th P.M., MARSHALL COUNTY, SOUTH DAKOTA" AS SHOWN ON THE ATTACHED PLAT, THAT I HAVE FOUND AND/OR SET IRON PINS AS INDICATED THEREON, AND THAT SAID SURVEY AND PLAT ARE TRUE AND CORRECT.

SIGNED THIS 12th DAY OF October 2012.



COUNTY PLANNING COMMISSION APPROVAL

I HEREBY CERTIFY THAT THE FOLLOWING IS A CORRECT COPY OF THE RESOLUTION DULY PASSED BY THE COUNTY PLANNING COMMISSION OF MARSHALL COUNTY, SOUTH DAKOTA, AT A MEETING HELD ON THE 20 DAY OF November 2012.

David Malcher
SECRETARY OF COUNTY PLANNING COMMISSION
MARSHALL COUNTY, SOUTH DAKOTA

"BE IT RESOLVED BY THE COUNTY PLANNING COMMISSION OF MARSHALL COUNTY, SOUTH DAKOTA, THAT THE PLAT SHOWING MILLER TRACTS IN THE NW1/4 OF SECTION 29, TOWNSHIP 126 NORTH, RANGE 59 WEST OF THE 5th P.M., MARSHALL COUNTY, SOUTH DAKOTA, HAVING BEEN EXAMINED IS HEREBY APPROVED IN ACCORDANCE WITH THE PROVISIONS OF SDCL OF 1967, CHAPTER 11-6, AND ANY AMENDMENTS."

CLARK
ENGINEERING CORPORATION

Clark Engineering Corporation
2301 8th Avenue NE, Suite 125
Aberdeen, SD 57401
Phone: (605) 225-3494
Fax: (605) 225-5433
Aberdeen@clark-eng.com EOE

**PLAT SHOWING
MILLER TRACTS
IN THE NW1/4 OF SECTION 29
TOWNSHIP 126 NORTH, RANGE 59 WEST OF THE 5th P.M.,
MARSHALL COUNTY, SOUTH DAKOTA**

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COUNTY AUDITOR
MARSHALL COUNTY, SOUTH DAKOTA



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TREASURER'S CERTIFICATE

I HEREBY CERTIFY THAT ALL TAXES WHICH ARE LIENS UPON ANY OF THE LANDS INCLUDED IN THE ATTACHED PLAT ARE SHOWN BY THE RECORDS OF MY OFFICE TO BE FULLY PAID.

SIGNED THIS 19 DAY OF Nov, 2012.



COUNTY TREASURER, MARSHALL COUNTY, SOUTH DAKOTA



DIRECTOR OF EQUALIZATION CERTIFICATE

I HEREBY CERTIFY THAT I HAVE RECEIVED A COPY OF THIS PLAT THIS 21 DAY OF November, 2012.



DIRECTOR OF EQUALIZATION, MARSHALL COUNTY, SOUTH DAKOTA

60891

FILED FOR RECORD THIS 21 DAY OF November, 2012, AT 2:40 O'CLOCK P.M., AND DULY RECORDED

No. 5 PLAT No. 91

Fees - \$60.00



REGISTER OF DEEDS, MARSHALL COUNTY, SOUTH DAKOTA



CLARK
ENGINEERING CORPORATION

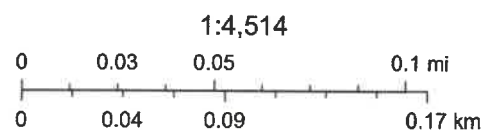
Clerk Engineering Corporation
2301 8th Avenue NE, Suite 125
Aberdeen, SD 57401
Phone: (605) 225-3494
Fax: (605) 225-5433
Aberdeen@clark-eng.com EOE

MARSHALL COUNTY WEB VIEWER

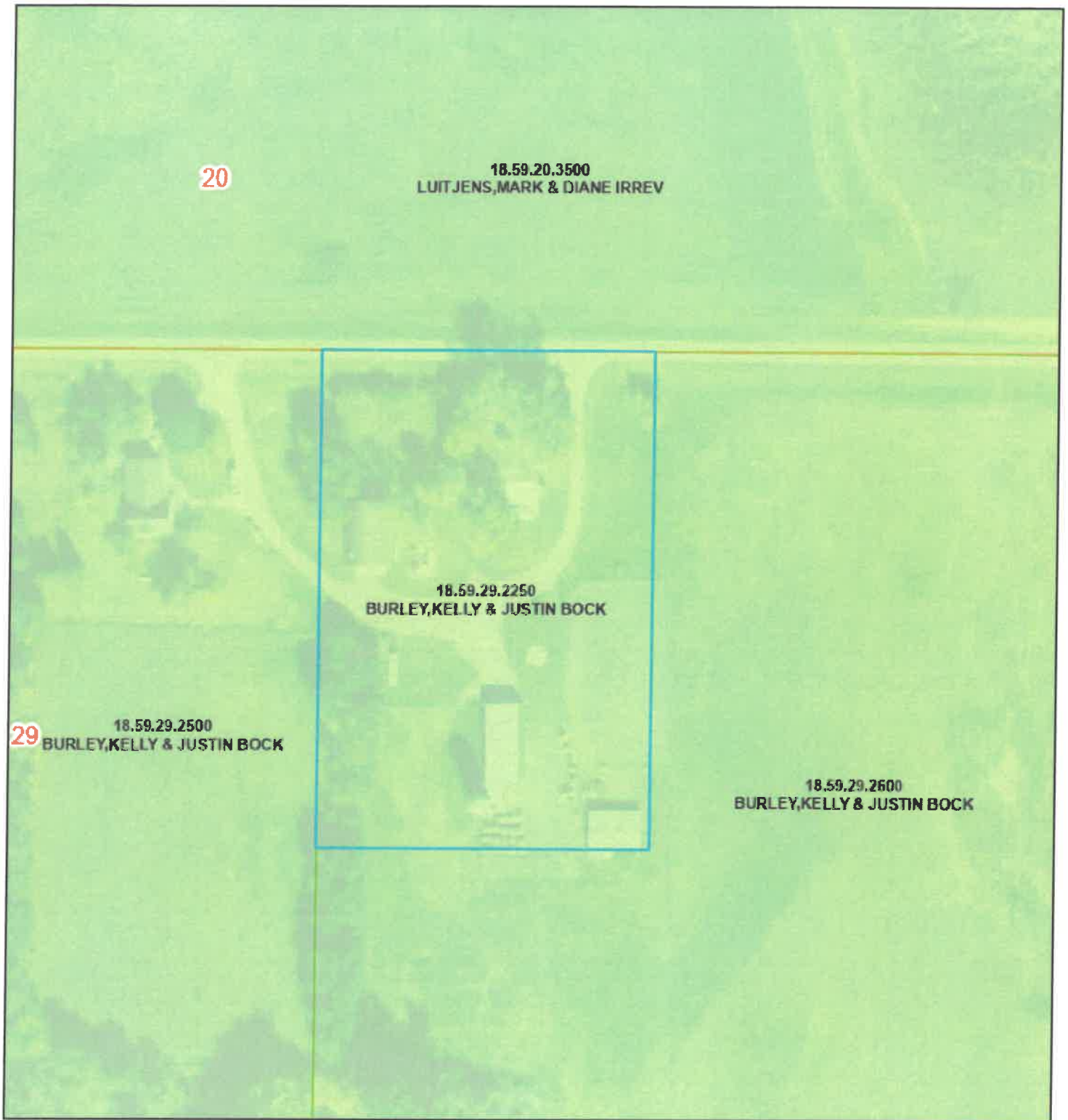


7/11/2025, 9:34:40 AM

-  TOWNSHIPS
-  SECTIONS
-  PARCELS



MARSHALL COUNTY WEB VIEWER



7/31/2025, 2:01:54 PM

ZONING

Agricultural District

TOWNSHIPS

SECTIONS

PARCELS

1:2,257

0 0.01 0.03 0.05 mi

0 0.02 0.04 0.08 km

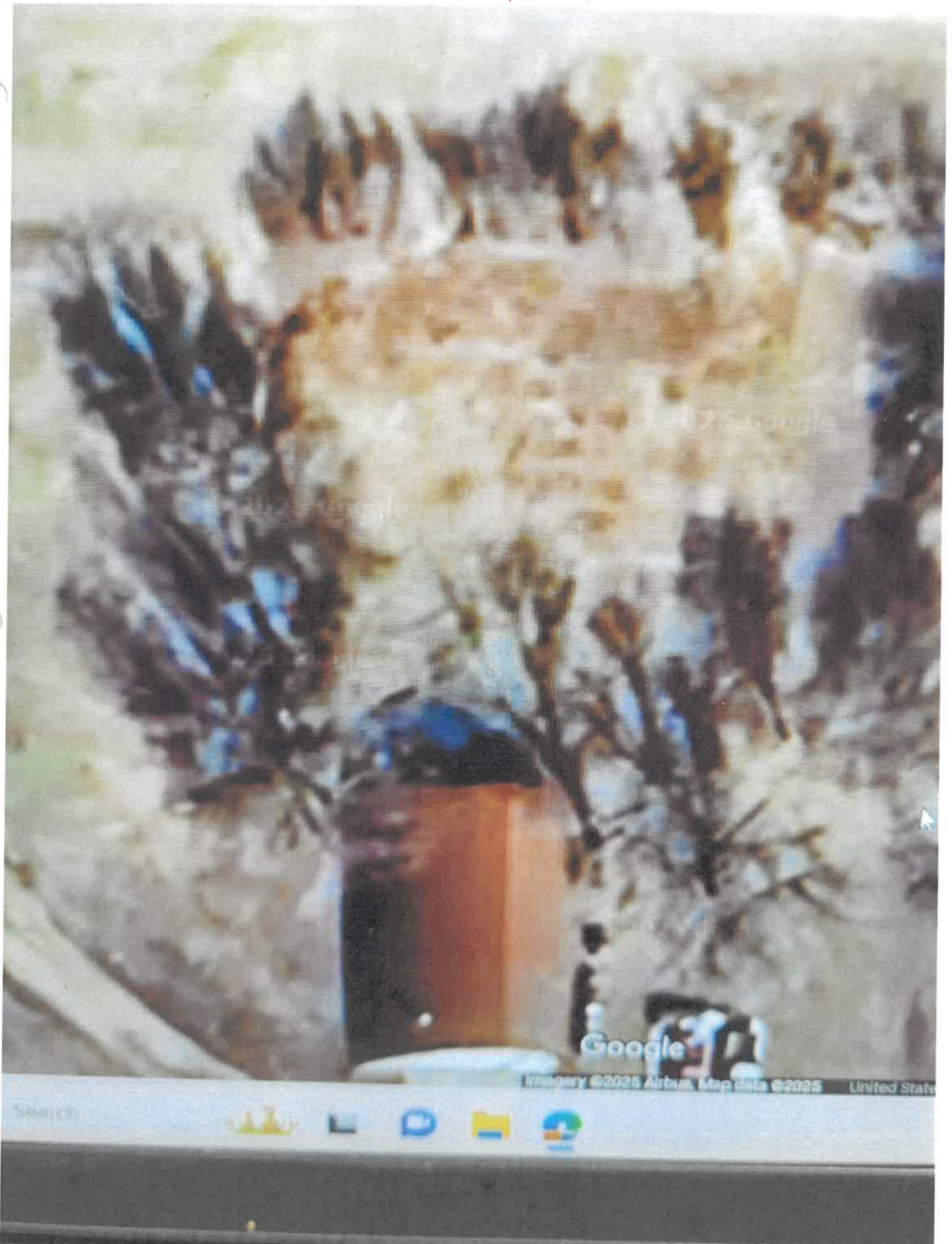
Submitted by Applicant



Submitted by Applicant



Submitted by Applicant



Variance – Justin Bock and Kelly Burley







