

**Marshall County Planning & Zoning  
STAFF REPORT**

**May 6, 2025; POSTPONED**  
**May 20, 2025; POSTPONED**  
**June 17, 2025; POSTPONED**  
**September 2, 2025**

**Issue #1 Variance for Building Setback**

**OWNER/APPLICANT:** Randy Lien

**PROPERTY DESCRIPTION:** as Lot 5A in the Plat of Lake Dumarce Island Fourth Subdivision in Government Lot 2 and Government Lot 3 in Section 24, T127N, R54W

**CURRENT ZONING:** Lake Front Residential (R-3)

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

**REQUEST:** The petitioner is asking to allow the existing deck to be 0 feet from the normal high-water mark instead of the 50ft requirement; per the Marshall County Zoning Ordinance.

**HISTORY/ISSUE(S):**

1. The applicants have owned the Lot containing the deck since October 27, 2023.
2. The deck in question was built on the lot prior to obtaining a building permit.
  - a. Applicant stated on the variance application that the deck was built with the intent of putting a dock out from/off of the structure, and for keeping an eye on grandchildren.
  - b. The structure was discovered on 3/10/25 by the Zoning Director. Game, Fish and Parks was called that day to make them aware. Jack Baumert, conservation officer for Marshall County, stated that he would give me a call if/when he had any updates.
  - c. 4/30/25 – called for any updates from Game, Fish & Parks and left a voicemail
  - d. 5/1/25 – Zoning Director spoke with Jack Baumert, Conservation Officer. Jack stated that the permit process for this structure is a 2-part permit between Game, Fish, and Parks and the Corp of Engineers. Although G, F & P needs to approve the permit, the Corp has final say when approving the permit.
  - e. Any further updates will be given as received, or disclosed at the hearing scheduled for 5/6/25.
  - f. 5/6/25 – The Board voted to postpone both the variance and building permit applications until May 20<sup>th</sup>, 2025 to allow for further communication from Game, Fish and Parks on the matter. Rapkoch, Marshall County States Attorney, has been working to contact Jack Baumert.
  - g. 5/20/25 – The Board voted to postpone both the variance and building permit applications until June 17<sup>th</sup>, 2025 per the applicant's request.

- h. 6/11/25 – Per new information received, there is no high-water mark established by the State like other lakes, as seen on the following website:  
<https://apps.sd.gov/NR65LakeInfo/public.aspx>
  - i. **NEW** 6/17/25 - A substitute motion was made by Kilker; seconded by Bender to POSTPONE until the High-Water mark is found. The next meeting date will be determined once this is complete.
  - j. **NEW** 8/5/25 – An Elevation Report was received from Holton via email by the Zoning Director.
  - k. **NEW** 8/14/25 – Applicants requested to have the application presented with the new documents on September 2<sup>nd</sup>.
3. The Lot was previously platted as “Lot 5,” in 2012, but was vacated and replatted in 2018 to make the Lot bigger.
4. Note that there is **NO** principal structure located less than fifty (50) feet from the normal high-water mark on properties contiguous to the lot or parcel upon which a proposed structure is to be constructed, the setback from the normal high-water mark will be established utilizing a sight line that averages the setback of the principal structures on the adjoining lots. Average setback: **50ft**.
5. Marshall County ordinance states that No building permit shall be issued by the Zoning Administrator except in conformity with the provisions of this Article, unless he/she received a written order from the Board of Adjustment in the form of an administrative review, conditional use, or variance as provided by this Article.
6. Marshall County Ordinance requires new structures to be placed a minimum of 50ft from the normal high-water mark.
7. No written comments or objections have been received prior to the writing of this staff report.
8. **NEW Staff Recommendation – Discussion on the topic of the building being placed prior to a permit being acquired/approved; noting new developments within this report. According to documentation received, the structure is within 50’ of the high-water mark setback. Final motion will include the following; to adopt the facts and the recommended findings of the Planning Commission listed in the staff report.**
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 high-water mark variances to lake lots in the past, when the neighbors had no objections.
    - i. Similar high-water mark variances allowed; *Noting that there are **no** exact instances – 38’ for D. Stapleton 6/13, 31’ for D. & K. Docter 10/2020 and 33’ for D. & K. Siefkes 9/22*
  - 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.

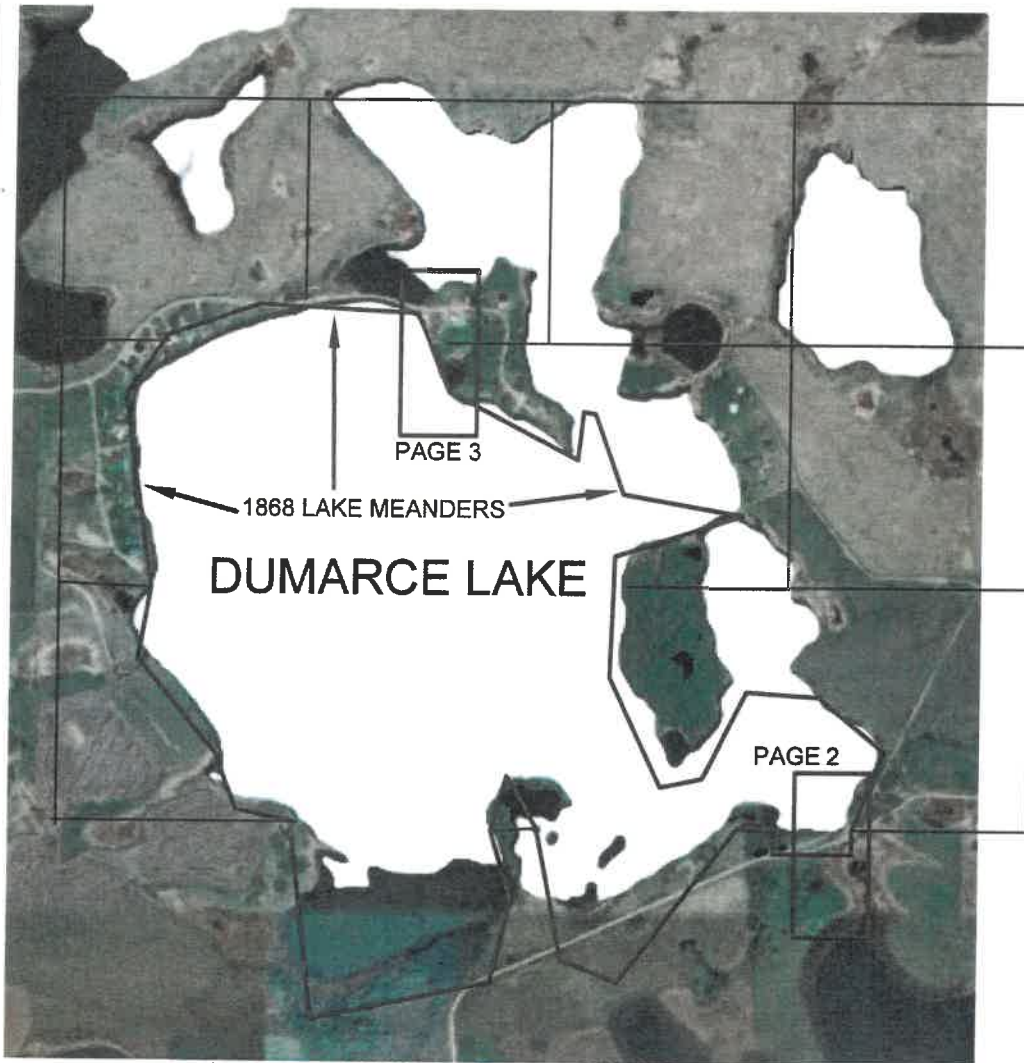
If the Board chooses to grant the variance, it must make findings pursuant to TITLE 19, Chapter 19.6 of the Zoning Ordinance.

**Action Item – Discussion on the topic of the building being placed prior to a permit being acquired/approved; noting new developments within this report. According to documentation received, the structure is within 50' of the high-water mark setback.**

**Final motion will include the following; to adopt the facts and the recommended findings of the Planning Commission listed in the staff report.**

# ELEVATION REPORT

DUMARCE LAKE  
LOCATED IN SECTION 24 & 25,  
T127N, R54W OF THE 5TH P.M.,  
MARSHALL COUNTY, SOUTH DAKOTA



LAKE MEANDERS SHOWN FOR REFERENCE ONLY

## SD DNR MEASURED LAKE

BODY OF WATER	OUTLET ELEV.	ORD. HIGH WATER MARK	DIFFERENCE
CLEAR LAKE	1822.5	1823.7	+1.2
NINE MILE	1824.9	1825.5	+0.6
ROY LAKE	1795.2	1795.7	+0.5
NORTH BUFFALO	1834.8	1835.4	+0.6
PICKEREL LAKE	1844.9	1845.6	+0.7

DATA SOURCE: <https://apps.sd.gov/NR65LakeInfo/public.aspx>

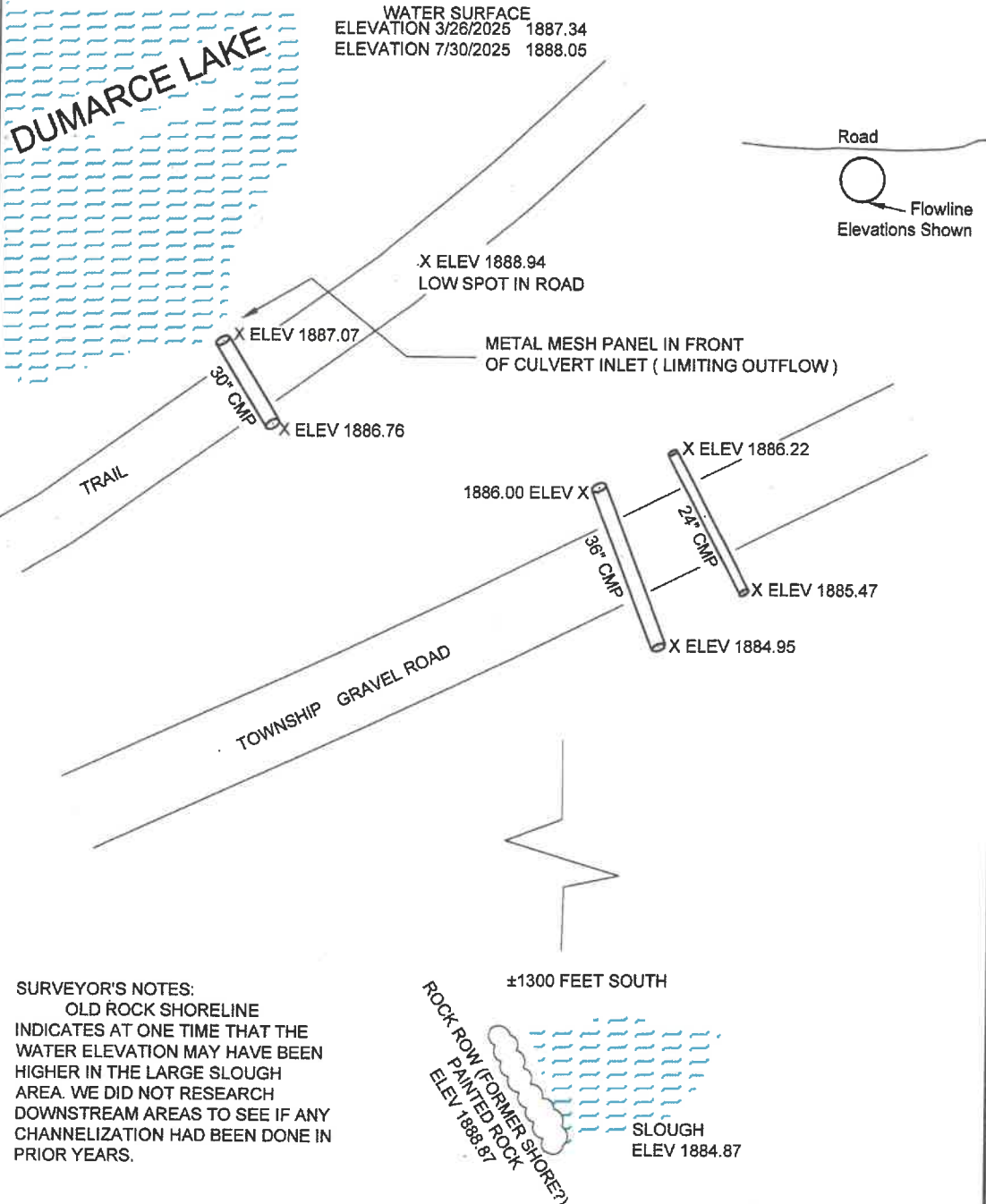


LUNDEE M STADLER  
REGISTERED LAND SURVEYOR 13482

# ELEVATION REPORT

FOR THE CULVERTS LEAVING DUMARCE LAKE

LOCATED SECTION 25,  
T127N, R54W OF THE 5TH P.M.,  
MARSHALL COUNTY, SOUTH DAKOTA



## SURVEYOR'S NOTES:

OLD ROCK SHORELINE  
INDICATES AT ONE TIME THAT THE  
WATER ELEVATION MAY HAVE BEEN  
HIGHER IN THE LARGE SLOUGH  
AREA. WE DID NOT RESEARCH  
DOWNSTREAM AREAS TO SEE IF ANY  
CHANNELIZATION HAD BEEN DONE IN  
PRIOR YEARS.

I, LUNDEE M. STADTLER, A REGISTERED LAND SURVEYOR IN THE STATE OF SOUTH DAKOTA, DO HEREBY  
CERTIFY THAT I HAVE SUPERVISED THE RESURVEY OF THE PROPERTY THAT IS DESCRIBED ABOVE, AND  
THAT SAID SURVEY AND DRAWING ARE TRUE AND CORRECT.



**Holton**  
SURVEYING & DESIGN, LLC



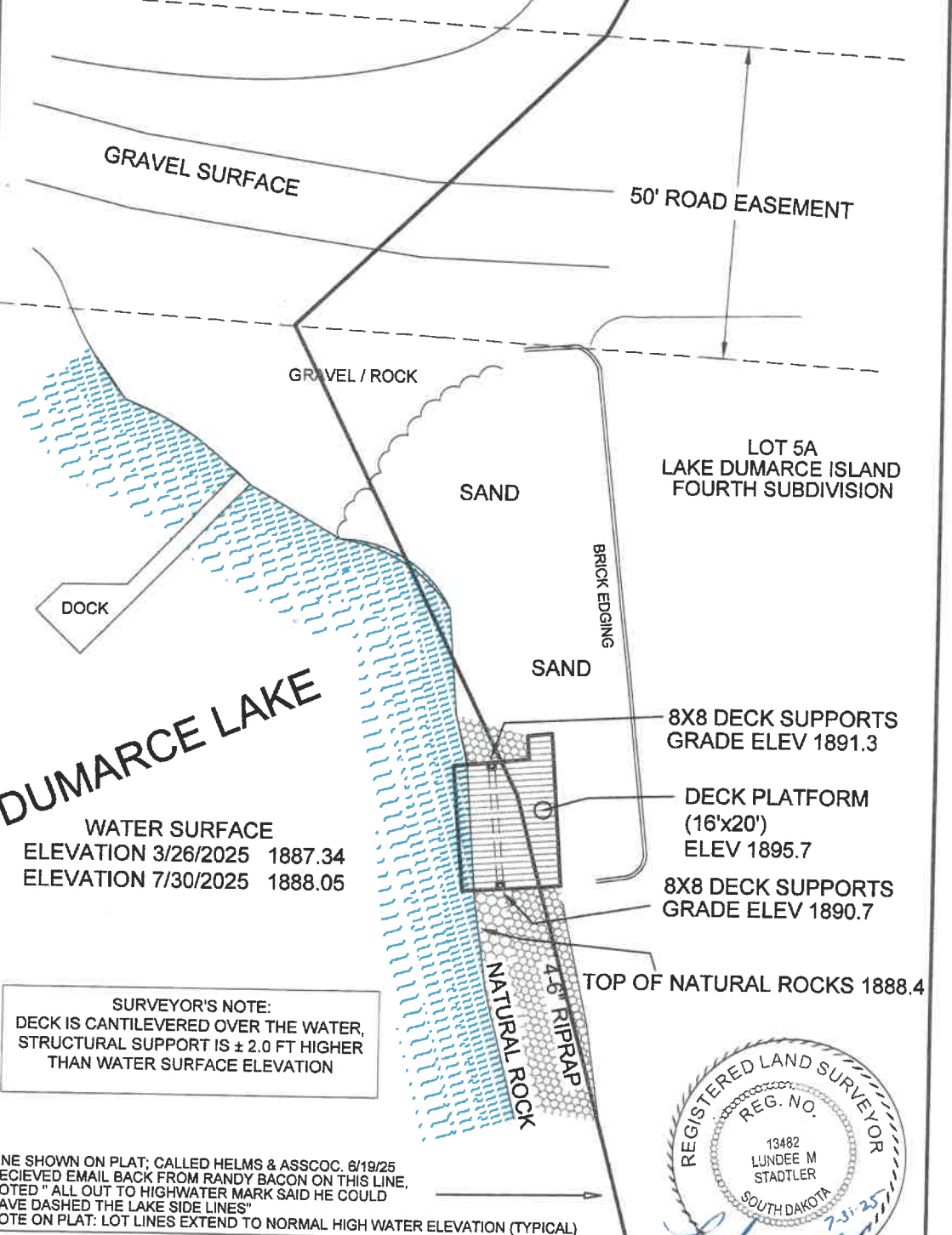
GPS-NORTH





ELEVATION REPORT
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STRUCTURE WITHIN LOT 5A, LAKE DUMARCE ISLAND 4TH SUB  
LOCATED SECTION 24,  
T127N, R54W OF THE 5TH P.M.,  
MARSHALL COUNTY, SOUTH DAKOTA




## MARSHALL COUNTY APPLICATION FOR VARIANCE

DATE: 4/7/25

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) Deck 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 5A Plat of Lake Dumarce Island 4<sup>th</sup> Subdivision in Gov't Lot 2 And Gov't Lot...

Reason: Putting a dock out from/off of deck.

Visual purpose also to keep eye on Grandkids swimming.

Applicant Name: Randy Lien Phone: 290 - 4791  
Address: 442731 Dumarce RD. N Vehlen SD. 57270  
Applicant Signature: Randy Lien  
Owner Signature (if different than applicant): \_\_\_\_\_

### For Internal Office Use Only:

Date Received: 4/17/25 Fees(non-refundable): \$15000 Paid: YES NO  
Inspection Report: See Staff report

Date of Hearing by Planning and Zoning Commission: May 6, 2025

Action taken by Planning and Zoning Commission: Postponed; see below  
Kilker motioned; Luttrell seconded to POSTPONED until the next scheduled commissioner hearing set for May 20, 2025, for the requested 50' variance for a deck to the normal high-water mark setback. This motion allows for further communication from Game, Fish and Parks on the matter prior to the next scheduled hearing; per the Marshall County Zoning Ordinance and to adopt the facts and the recommended findings of the Planning Commission listed in the staff report. A roll call vote was taken; Medhaug - Aye, Luttrell - Aye, Kilker - Aye, Bender - Aye, Schuller - Aye. Motion carried.

Medhaug motioned; Bender seconded to POSTPONED until June 17, 2025, for the requested 50' variance for a deck to the normal high-water mark setback. This motion comes per the request of the applicants; per the Marshall County Zoning Ordinance and to adopt the facts and the recommended findings of the Planning Commission listed in the staff report. A roll call vote was taken; Medhaug - Aye, Luttrell - Absent, Kilker - Aye, Bender - Aye, Schuller - Aye. Motion carried.

**Marshall County Planning & Zoning**

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**REQUEST:** The petitioner is asking to allow the existing deck to be 0 feet from the normal high-water mark instead of the 50ft requirement; per the Marshall County Zoning Ordinance.

**HISTORY/ISSUE(S):**

1. The applicants have owned the Lot containing the deck since October 27, 2023.
2. The deck in question was built on the lot prior to obtaining a building permit.
  - a. Applicant stated on the variance application that the deck was built with the intent of putting a dock out from/off of the structure, and for keeping an eye on grandchildren.
  - b. The structure was discovered on 3/10/25 by the Zoning Director. Game, Fish and Parks was called that day to make them aware. Jack Baumert, conservation officer for Marshall County, stated that he would give me a call if/when he had any updates.
  - c. 4/30/25 – called for any updates from Game, Fish & Parks and left a voicemail
  - d. 5/1/25 – Zoning Director spoke with Jack Baumert, Conservation Officer. Jack stated that the permit process for this structure is a 2-part permit between Game, Fish, and Parks and the Corp of Engineers. Although G, F & P needs to approve the permit, the Corp has final say when approving the permit.
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written order from the Board of Adjustment in the form of an administrative review, conditional use, or variance as provided by this Article.

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8. **NEW Staff Recommendation – Discussion on the topic of the building being placed prior to a permit being acquired/approved, and how the structure sits over the top of the lake; noting new developments within this report. If approved, the Board would be granting a 50' variance to the normal high-water mark setback, and to adopt the facts and the recommended findings of the Planning Commission listed in the staff report.**
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.
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If the Board chooses to deny the variance, it could use the following findings, similar to those used in previous denials of setback variances.

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

June 17, 2025

Randy Lien  
442731 Dumarce Rd. N  
Veblen, SD 57270

To whom this may concern,

This letter is to inform you of the decision made by the Marshall County Planning & Zoning Board in regard to your variance application.

After review and county commissioner hearing held in the Commissioners Chambers on June 17, 2025, your application for a variance to the normal high-water mark, per the Marshall County Zoning Ordinance; is hereby: **POSTPONED until the High-Water mark is found. The next meeting date will be determined once this is complete.**  
***Please see below for detail:***

*Luttrell motioned; Kilker seconded to deny the application. A substitute motion was made by Kilker; seconded by Bender to **POSTPONED until the High-Water mark is found. The next meeting date will be determined once this is complete;** for the requested 50' variance for a deck to the normal high-water mark setback; per the Marshall County Zoning Ordinance and to adopt the facts and the recommended findings of the Planning Commission listed in the staff report. A roll call vote was taken; Medhaug – Aye, Luttrell – Aye, Kilker – Aye, Bender – Aye, Schuller – Aye. Motion carried.*

*Kilker Motioned; Medhaug seconded to postpone a building permit for the following applicant: Randy Lien – Dumarce Township. All members voted aye. Motion carried.*

If you have any questions, please contact my office at the above-mentioned phone number or send me an email.

Sincerely,

*Erin Collins-Miles*

Erin Collins-Miles  
Planning and Zoning/E911/Drainage Administrator

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Erin Collins-Miles  
Planning and Zoning/E911/Drainage Administrator

Subject **Re: TEST email**  
From Baumert, Jack <Jack.Baumert@state.sd.us>  
To Erin Collins-Miles <mczoning@venturecomm.net>  
Date 2025-05-01 16:06

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Good afternoon Erin,

I spoke with Rhet and as the structure is not built into the actual water, he does not think we will pursue it any further as the effort would greatly outweigh the outcome on our end.

Thank you and have a great afternoon!

JB

Get [Outlook for iOS](#)

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**From:** Erin Collins-Miles <mczoning@venturecomm.net>  
**Sent:** Thursday, May 1, 2025 3:10:20 PM  
**To:** Baumert, Jack <Jack.Baumert@state.sd.us>  
**Subject:** [EXT] TEST email

Hi Jack!

Just sending this over so you have my email. Like I mentioned, if they do want to send me a letter of objection, I would like to have that to my desk no later than 4:30 tomorrow.

Thank you so much!

Have a great day!

*Erin Collins-Miles*

Erin Collins-Miles  
Planning & Zoning, Drainage, E911 Director  
Marshall County



[605.448.7540](tel:605.448.7540)



[mczoning@venturecomm.net](mailto:mczoning@venturecomm.net)



[marshall.sdcounties.org/planningzoning/](http://marshall.sdcounties.org/planningzoning/)



PO Box 9, 911 Vander Horck St. Britton, SD 57430

## NOTICE OF HEARING - APPLICATION FOR VARIANCE

Notice is hereby given that the Marshall County Planning & Zoning Board will meet on May 6, 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.

Randy Lien has requested a variance for an existing deck on the property described as Lot 5A in the Plat of Lake Dumarce Island Fourth Subdivision in Government Lot 2 and Government Lot 3 in Section 24, T127N, R54W. The petitioner is asking to allow the existing deck to be 0 feet from the normal high-water mark instead of the 50ft requirement; per the Marshall County Zoning Ordinance.

Erin Collins-Miles  
Planning & Zoning Administrator

Published once at the approximate cost of

*For publication: April 23, 2025*

1T(Apr 23)  
NOTICE OF HEARING  
- APPLICATION FOR  
VARIANCE  
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MARSHALL COUNTY PLANNING & ZONING COMMISSION  
P.O.BOX 9  
BRITTON, SOUTH DAKOTA 57430  
605.448.7540

April 25, 2025

Dear Property Owner,

Notice is hereby given that the Marshall County Planning & Zoning Board will meet on May 6, 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  
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Sincerely,

*Erin Collins-Miles*

Erin Collins-Miles  
Planning and Zoning Director

**Sent to the following adjacent landowners on 4/25/25:**

1. Robert Tchida – 44201 Dumarce Rd. Veblen, SD 57270
2. Lindie & Adam Wicks – 402 E 3<sup>rd</sup> Ave. Andover, SD 57422

## 6840-3



- 



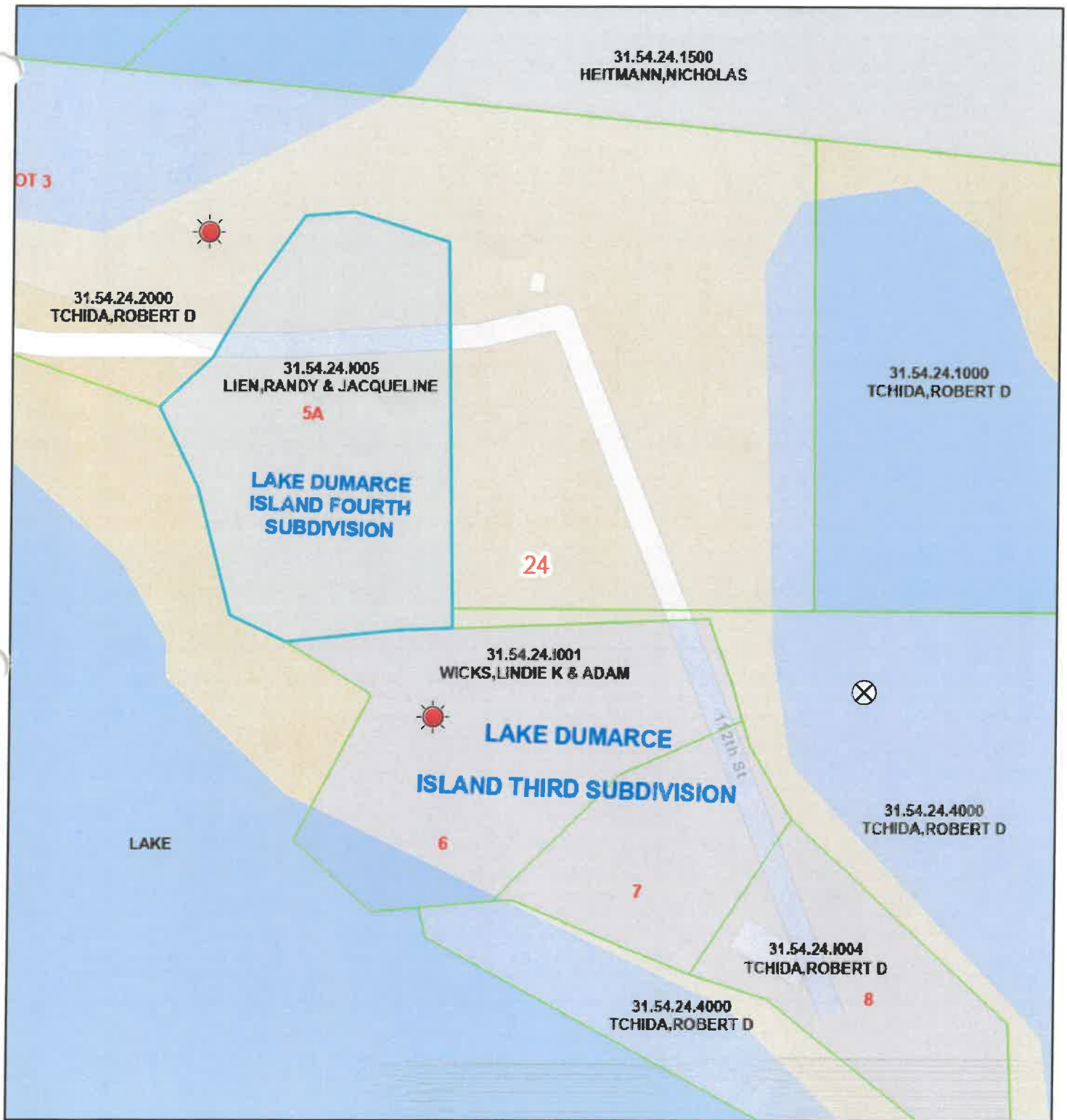
**Helms & Associates**  
CIVIL ENGINEERS & LAND SURVEYORS

221 Brown County  
Highway 19  
P.O. Box 111  
Aberdeen, S.D. 57401  
Phone: 605.225.4212  
Fax: 605.225.5189

DWG. 8940-3	BY: TMO	SHEET 1 OF 3
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5-175 Slide 152

# MARSHALL COUNTY WEB VIEWER

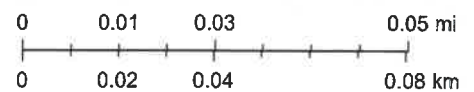


4/25/2025, 9:43:11 AM

## PLAT

- LAKE DUMARCE ISLAND FOURTH ADDITION
- LAKE DUMARCE ISLAND THIRD ADDITION
- <Null>
- HEITMANN BROTHERS SUBDIVISION
- TOWNSHIPS
- SECTIONS
- PARCELS

1:2,257



Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community

ArcGIS Web AppBuilder

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

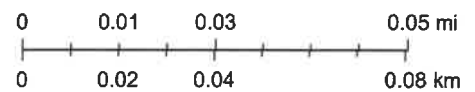


4/30/2025, 3:13:39 PM

## PLAT

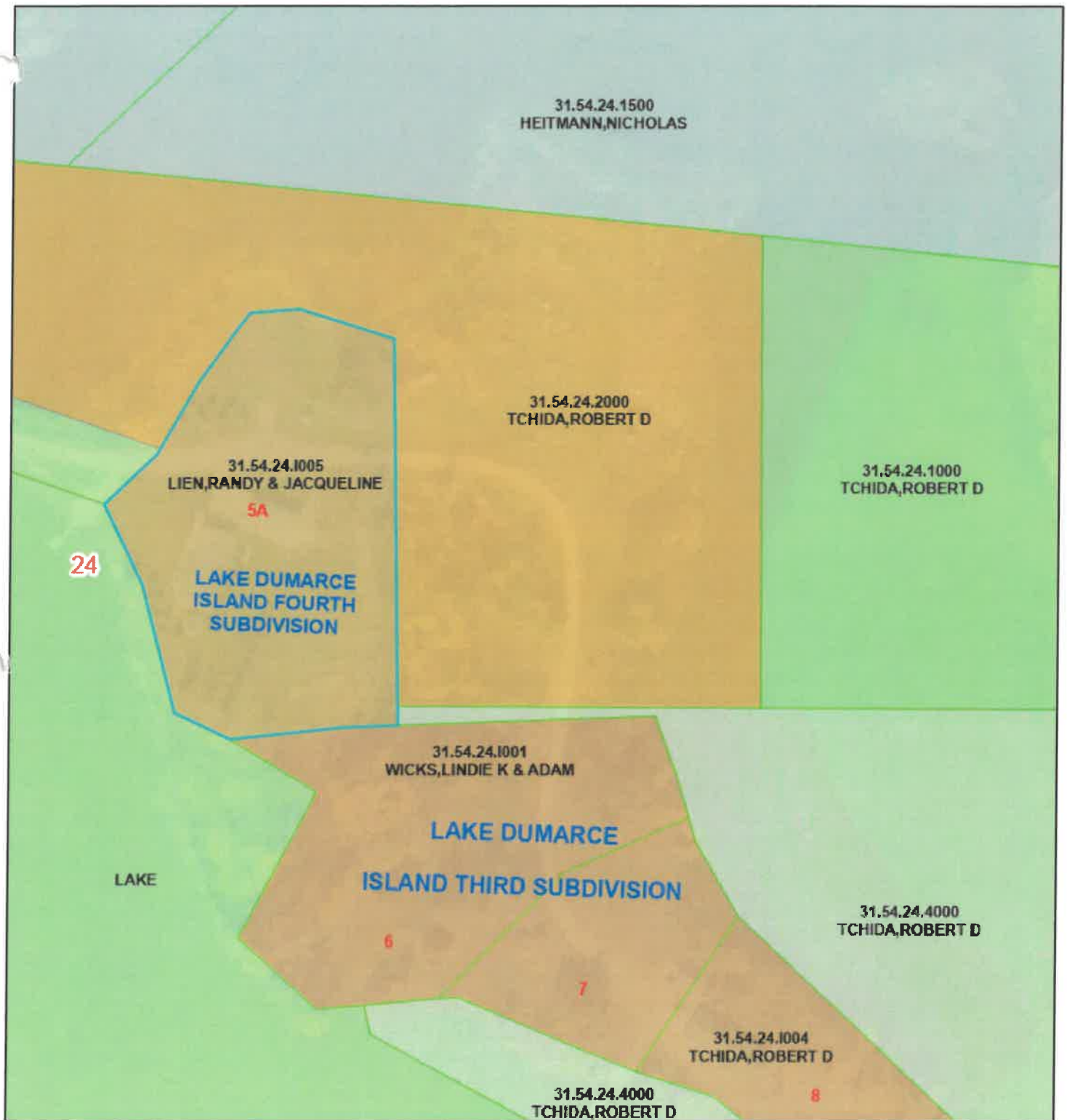
- LAKE DUMARCE ISLAND FOURTH ADDITION
- LAKE DUMARCE ISLAND THIRD ADDITION
- <Null>
- HEITMANN BROTHERS SUBDIVISION
- TOWNSHIPS
- SECTIONS
- PARCELS

1:2,257





# MARSHALL COUNTY WEB VIEWER



4/30/2025, 2:53:40 PM

## ZONING

- Agricultural District
- Lake Front Residential District

## PLAT

- LAKE DUMARCE ISLAND FOURTH ADDITION
- LAKE DUMARCE ISLAND THIRD ADDITION

<Null>

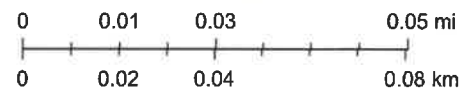
HEITMANN BROTHERS SUBDIVISION

TOWNSHIPS

SECTIONS

PARCELS

1:2,257



## Randy Lien – Variance







