

**Marshall County Planning & Zoning  
STAFF REPORT  
September 2, 2025**

**OWNER/APPLICANT:** Patricia Torness-Smith

**PROPERTY DESCRIPTION:** Lot 2 of Block 1 of Schlekewy Addition of Section 12, T126N, R54W

**CURRENT/SURROUNDING ZONING:** Lake Front Residential (R-3) & Agricultural (Ag)

**REQUEST:** Pertaining to the West Lot line; the petitioner is asking to construct the addition 2 ft from the property line, instead of the 7ft requirement. The petitioner is also asking to construct the covered porch 38 ft from the normal high-water mark instead of the 50ft requirement.; all per the Marshall County Zoning Ordinance.

**HISTORY/ISSUE(S):**

1. This property has been owned by the applicants since May 26, 1999.
2. A driveway Easement runs through the Lot in question.
  - a. The cabin lies on the South side of the easement
  - b. There is a 14x24 single-stall garage located on the North side of the easement
    - i. BP No. 42-22
    - ii. There are several smaller buildings/garages in this area which are built similarly.
3. There was a 16x20 addition added to the original home in 2000.
  - a. BP No. 13-2000
4. The proposed project consists of two additions to be added to the existing home.
  - a. The addition on the West side of the home is intended to increase space for a bedroom.
  - b. The addition on the lakeside is proposed to be a covered porch.
  - c. petitioner is asking for the variance due to the need for more space within the cabin, per their request.
5. The driveway easement is maintained by the property owners. There is not a 30' road right-of-way setback on the Lot in question.
6. Lot 2 has an average depth of approximately 338.15ft and a width of approximately 68.43ft.
7. Note that there is a 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: 38ft.
8. According to the SDDENR Measured Lakes website at the time of writing this report; <https://apps.sd.gov/NR65LakeInfo/public.aspx>,
  - a. The outlet elevation is 1,822.5ft, and the Ordinary High-Water Mark is measured at 1,823.7ft.

- i. Note: website information shows that the OHWM is currently sitting above outlet level.
  - ii. **Note Website Disclaimer:** *Though we make efforts to provide and maintain accurate, complete, usable, and timely information at our websites the user should understand that the information is not guaranteed to be correct or complete. Conclusions or actions taken (based upon the maps and the information contained therein) is the sole responsibility of the user.*
- b. It is also important to take into consideration the amount of water that has been accumulated with recent storms and how that could also affect the OHWM.
- 9. Marshall County Ordinance requires new structures to be placed a minimum of 7ft from a property line and 50ft from the normal high-water mark.
- 10. No written comments or objections were received prior to the writing of this staff report.
  - a. **NEW 8/27/25** - A neighbor called with some concerns of the close proximity of the property line variance request.
  - b. **NEW 8/28/25** - The applicant called to state that she was not aware of how the property lines ran within the lot and did not know the addition would only lie 2' from the property line. As a result of this, she does not wish to proceed with building the proposed addition 2' from the property line. The applicant wished to create a document that could be signed stating that it would not be completed for reassurance to the adjacent property owner. I advised that they could object to the property line variance if they wish, as that letter would be on file in the Zoning office with the application, but I could not create the document for them to sign if the project were to be approved in its entirety.
- 11. Staff Recommendation – **5' variance to the property line setback and a 12' variance to the normal high-water mark setback. Per the applicant's request, they wish to only proceed with the high-water mark variance request.**
- 12. 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 property line variances to lake lots in the past, when the neighbors had no objections.
    - i. Similar property line variances allowed – 5' for J. Monson 10/2020, 5' for R. Olson 10/24, 6' for D. & A.J. Vietor 6/24, 3' for R. Renner 6/21 and 6' for D. & A. Vietor 6/24.
  - b. 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 – 8' for A. Grupe 9/14, 11.5' for L. & J. Johnson 4/22, 14' for J. & J. Harris 5/23 (covered porch) and 14' & 17' for M. & E. Hrabik 7/25 (covered porch)
  - c. The Board would consider approving other similar requests meeting the unique circumstances.
- 13. 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.
14. 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 – 5' variance to the property line setback and a 12' variance to the normal high-water mark setback. Per the applicant's request, they wish to only proceed with the high-water mark variance request.**

## NOTICE OF HEARING - APPLICATION FOR VARIANCE

Notice is hereby given that the Marshall County Planning & Zoning Board will meet on September 2, 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.

Patricia Torness-Smith has requested a variance for a covered porch and an addition, both to the existing structure, on the property described as Lot 2 of Block 1 of Schlekewy Addition of Section 12, T126N, R54W. Pertaining to the West Lot line; the petitioner is asking to construct the addition 2 ft from the property line, instead of the 7ft requirement. The petitioner is also asking to construct the covered porch 40 ft from the normal high-water mark instead of the 50ft requirement.; all per the Marshall County Zoning Ordinance.

Erin Collins-Miles  
Planning & Zoning Administrator

Published once at the approximate cost of

*For publication: August 20, 2025*

### 1T(Aug 20) NOTICE OF HEARING -APPLICATION FOR VARIANCE

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## MARSHALL COUNTY APPLICATION FOR VARIANCE

DATE: 7/24/2025

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) \_\_\_\_\_ within \_\_\_\_\_ 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 2 of Block 1 of Schlekeywy Add. of Sec. 12, T126N, R54W

Reason: adding bigger bedroom + a covered porch

Applicant Name: Patricia Toersness-Smith Phone: 720-261-0637

Address: 16189 E Prentice Ln

Applicant Signature: Patricia Toersness-Smith

Owner Signature (if different than applicant): Patricia Toersness-Smith

### For Internal Office Use Only:

Date Received: 8/11/25 Fees(non-refundable): \_\_\_\_\_ Paid: YES NO

Inspection Report: See Staff report

Date of Hearing by Planning and Zoning Commission: September 2, 2025

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

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

August 21, 2025

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  
Planning and Zoning Director

**Sent to the following adjacent landowners on 8/21/25:**

1. Margaret Brauer – 2134 Rowley Ave. Madison, WI 53726
2. William Torness – 442253 Schlekewy Dr. Lake City, SD 57247
3. John & Jane Rasmussen – 217 5<sup>th</sup> Ave. East Sisseton, SD 57262

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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,

A handwritten signature in blue ink, appearing to read "Erin Collins-Miles", with a stylized flourish at the end.

Erin Collins-Miles  
Planning and Zoning Director

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**variance for Pat Smith addition**

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**From** Margaret Brauer <margbrauer@icloud.com>

**Date** Thu 8/28/2025 12:55 PM

**To** mczoning@venturecomm.net <mczoning@venturecomm.net>

**Cc** Pat Torness <pattorness@gmail.com>

Hi Erin,

I spoke with Pat Torness Smith this morning and we discussed concerns about the possible building plan for the bedroom addition.

That is the part of the plan that pertains to the variance to the West Lot line to construct the addition 2 ft. from the property line between the cottages.

I expressed by concerns to Pat and she was in agreement that this could pose problems for both of our properties in the future.

Pat and I are both in agreement to deny the variance of 2 ft. to the property line.

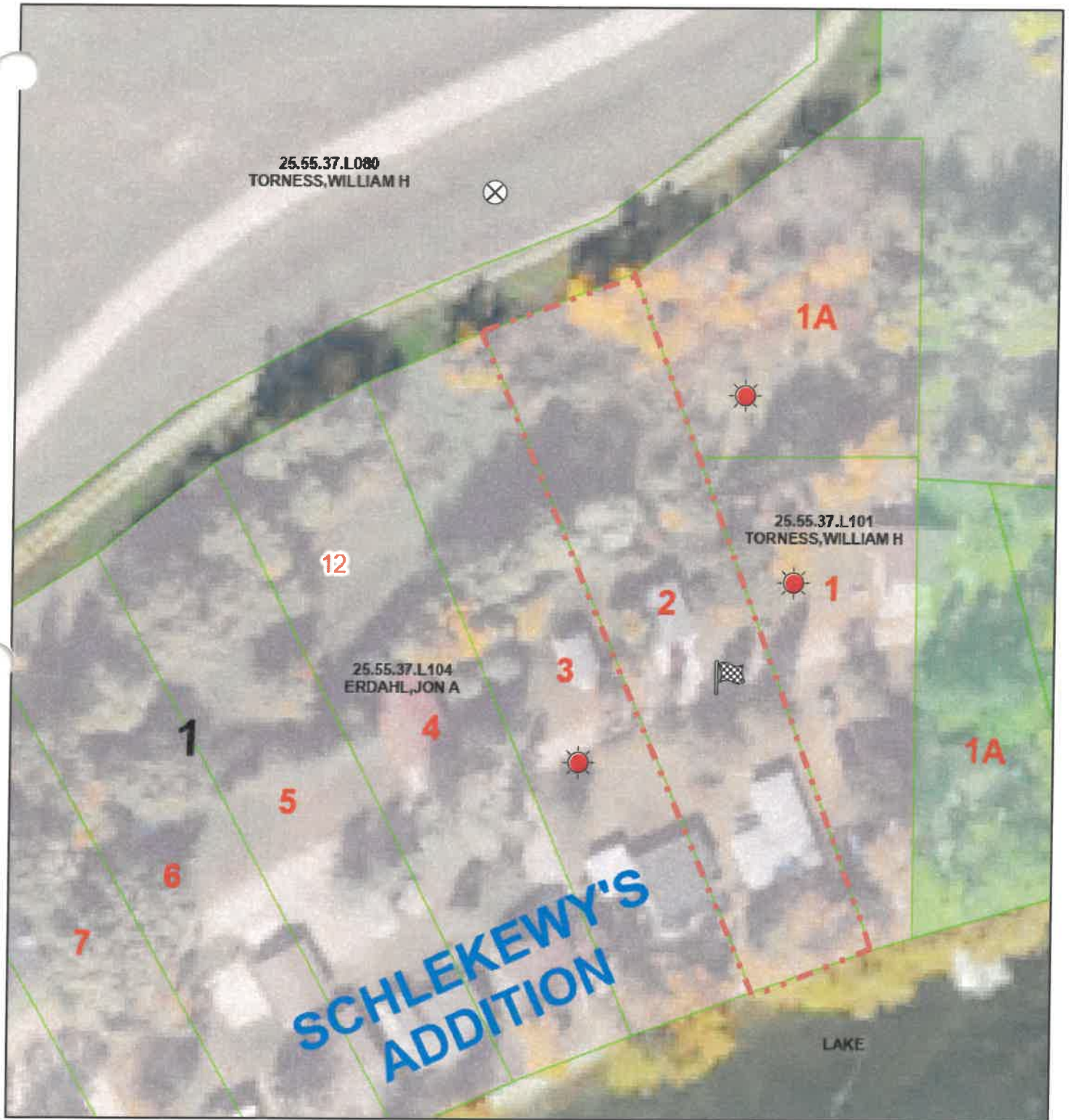
Please let me know if you need any further information from me prior to the meeting.

Thank you so much for your help and your time in speaking with me yesterday.

Margaret Brauer



# MARSHALL COUNTY WEB VIEWER



8/21/2025, 1:16:01 PM

PLAT

ISENSEE'S 1ST SUBDIVISION

SCHLEKEWY'S ADDITION

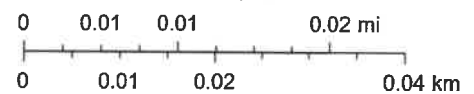
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TOWNSHIPS

SECTIONS

PARCELS

1:1,128



Gordon P. Nielsen  
Delaney, Vander Linden, Delaney,  
Nielsen, & Sannes, P.C.  
520 2<sup>nd</sup> Avenue East  
PO Box 9  
Sisseton, SD 57262  
(605) 698-7084

58017

State of South Dakota, County of Marshall  
 Filed this 9 Day of Mar 20 10 At 10:30  
 O'Clock A .M. Book A-40 Page 403  
 By Maureen Sime  
 Register of Deeds Deputy  
 Fees \$ 10.00

## QUIT CLAIM DEED

Clayton Smith and Patricia Smith, husband and wife, of 19189 E. Prentice Lane, Centennial, Colorado 80015, GRANTOR, for One Dollar (\$1.00) and other good and valuable consideration grant, convey and quit claim to Patricia Torness-Smith, of 19189 E. Prentice Lane, Centennial, Colorado 80015, GRANTEE, all of Grantor's interest in and to the following described real property located in the County of Marshall and State of South Dakota, to-wit:

**Lot 2 of Block 1 of Schlekewy Addition of Section 12, Township 126, Range 54, West of the Fifth Principal Meridian, Marshall County, South Dakota**

Subject to easements and reservations of record, and subject to any state of facts an accurate survey would disclose.

Transfer Tax exempt pursuant to SDCL 43-4-22(18).

Dated this 15 day of <sup>March</sup>~~February~~, 2010.

Clayton Smith  
Clayton Smith


Patricia Smith  
Patricia Smith

STATE OF COLORADO )  
 ) SS:  
COUNTY OF Apache )

On this 1<sup>st</sup> day of ~~February~~<sup>March</sup>, 2010, before me the undersigned officer, personally appeared Clayton Smith and Patricia Smith, husband and wife, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged that she executed the foregoing instrument for the purposes therein contained.

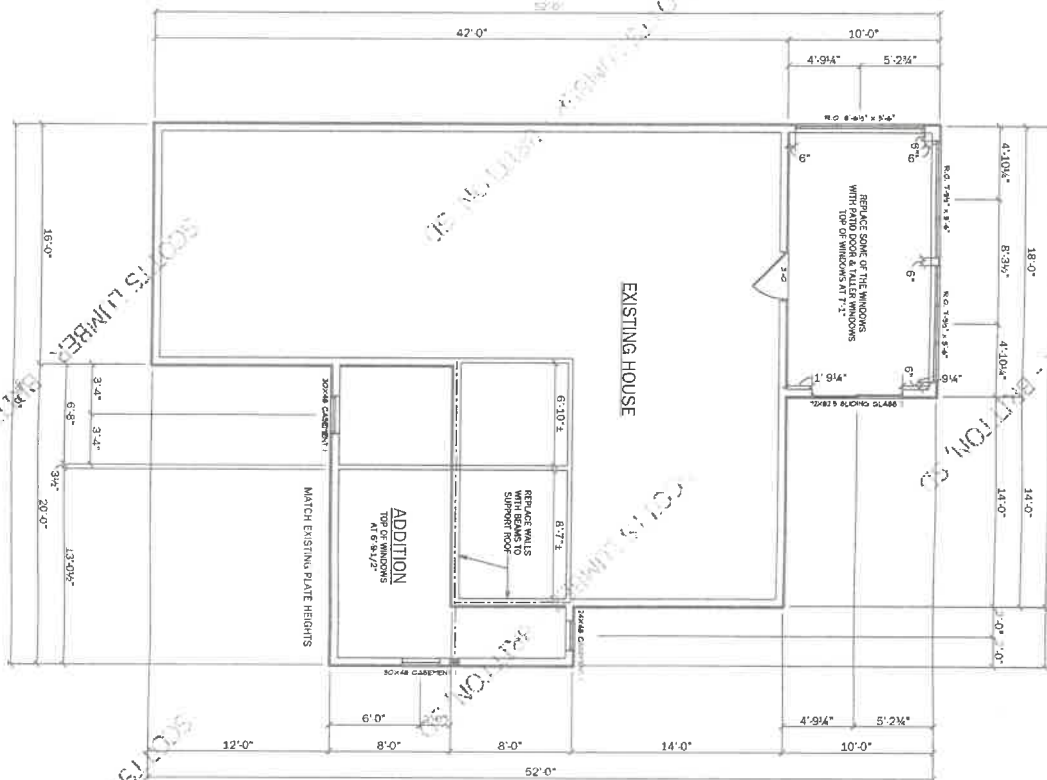
In witness whereof I hereunto set my hand and official seal.



  
 Notary Public  
 My Commission Expires: 9/15/2012



Pat Torness  
Smith - BP  
+ variance coming



MAIN FLOOR PLAN			
Revision	Date	By	Check
1	07/16/2025	CP	

NOTE

DO NOT have drawings if not plan does not have PLO's filled or located by the opening



**Scott's Lumber**

761 Vander Horck, Britton, SD

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FAX:  
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www.ScottsLumber.com

DRAWN BY: orlin.punt@scottslumber.com

PLOT DATE: Wednesday, July 16, 2025

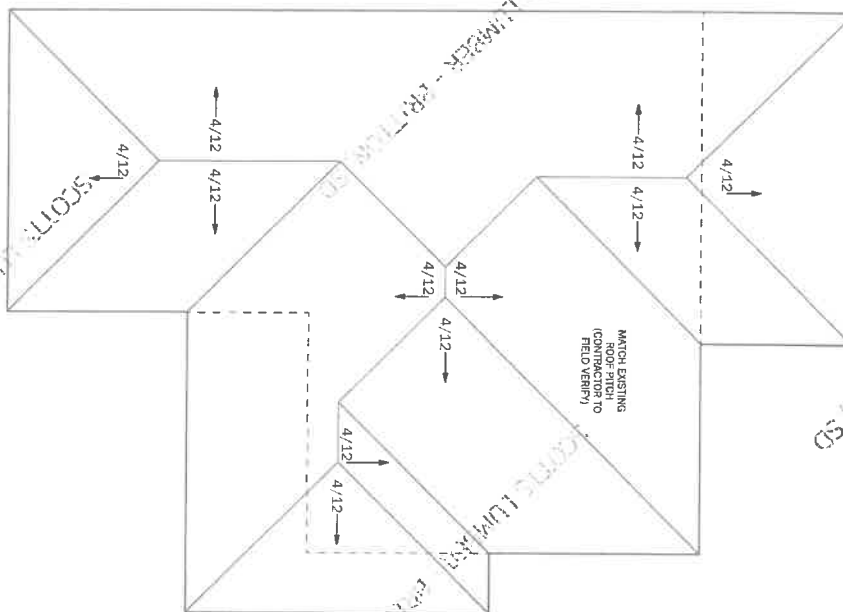
JOB: Torness, Pat Addition #2

SALESMAN:

eli.nelson@scottslumber.com

PAGE:

3



ROOF PLAN			
LIVING ROOM : 10 sq ft			
Revision	Date	Drawn By	Checked By
0	07/16/2025	CP	

This drawing has been prepared using information provided to us by the customer who is solely responsible for the accuracy of the information provided. These drawings are not a permit drawing prepared by an architect and may not meet applicable state and local building codes which vary widely. The customer should consult their contractor and/or local building inspector to determine any changes to meet the state and local building code requirements. Customer is responsible for consulting local building officials for the required building permits. We assume no responsibility for omissions or changes coming from any errors, omissions, deficiencies or defects of any drawings.

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PLOT DATE: Wednesday, July 16, 2025  
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SALESMAN:  
elli.nelson@scottslumber.com

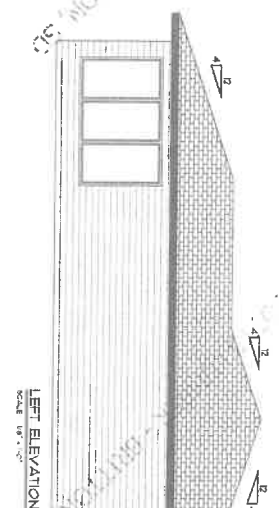
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SCOTT'S LUMBER - BRITTON, SD

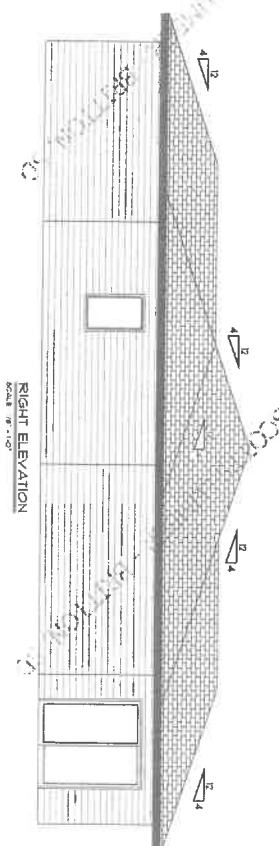
SCOTT'S LUMBER - BRITTON, SD

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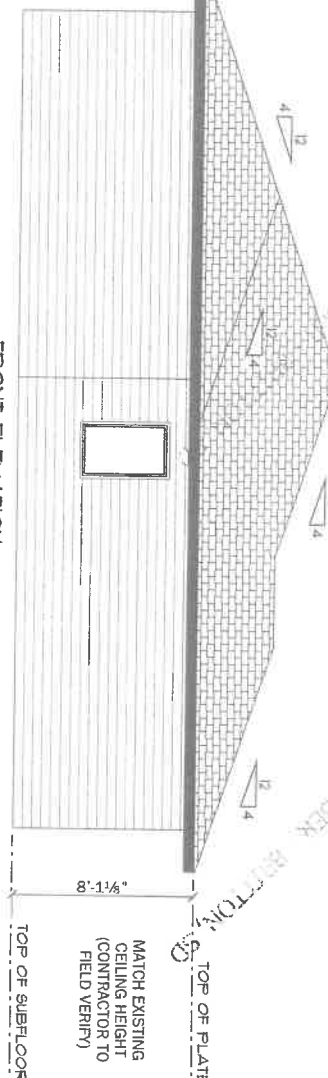


LEFT ELEVATION  
SCALE: 1/8" = 1'-0"



RIGHT ELEVATION  
SCALE: 1/8" = 1'-0"

FRONT ELEVATION  
SCALE: 3/16" = 1'-0"

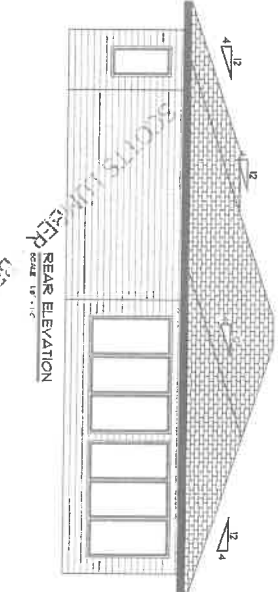


MATCH EXISTING  
CEILING HEIGHT  
(CONTRACTOR TO  
FIELD VERIFY)

8'-1 1/8"

TOP OF SUBFLOOR

TOP OF PLATE



REAR ELEVATION  
SCALE: 1/8" = 1'-0"

ELEVATIONS			
LIVING ROOM - 0 sq ft			
Revision	Date	Drawn By	Done By
0	01/16/2025	IM	OP

This drawing has been prepared using information provided to us by the customer who is solely responsible for the accuracy of the information provided. These drawings are not a permit drawing prepared by an architect and may not meet applicable state and local building codes which vary widely. The customer should consult their contractor and/or local building inspector to determine any changes to meet the state and local building code requirements. Customer is responsible for consulting local building officials for the required building permits. We assume no responsibility for claims or damages arising from any errors, omissions, deletions or omissions of any drawings.

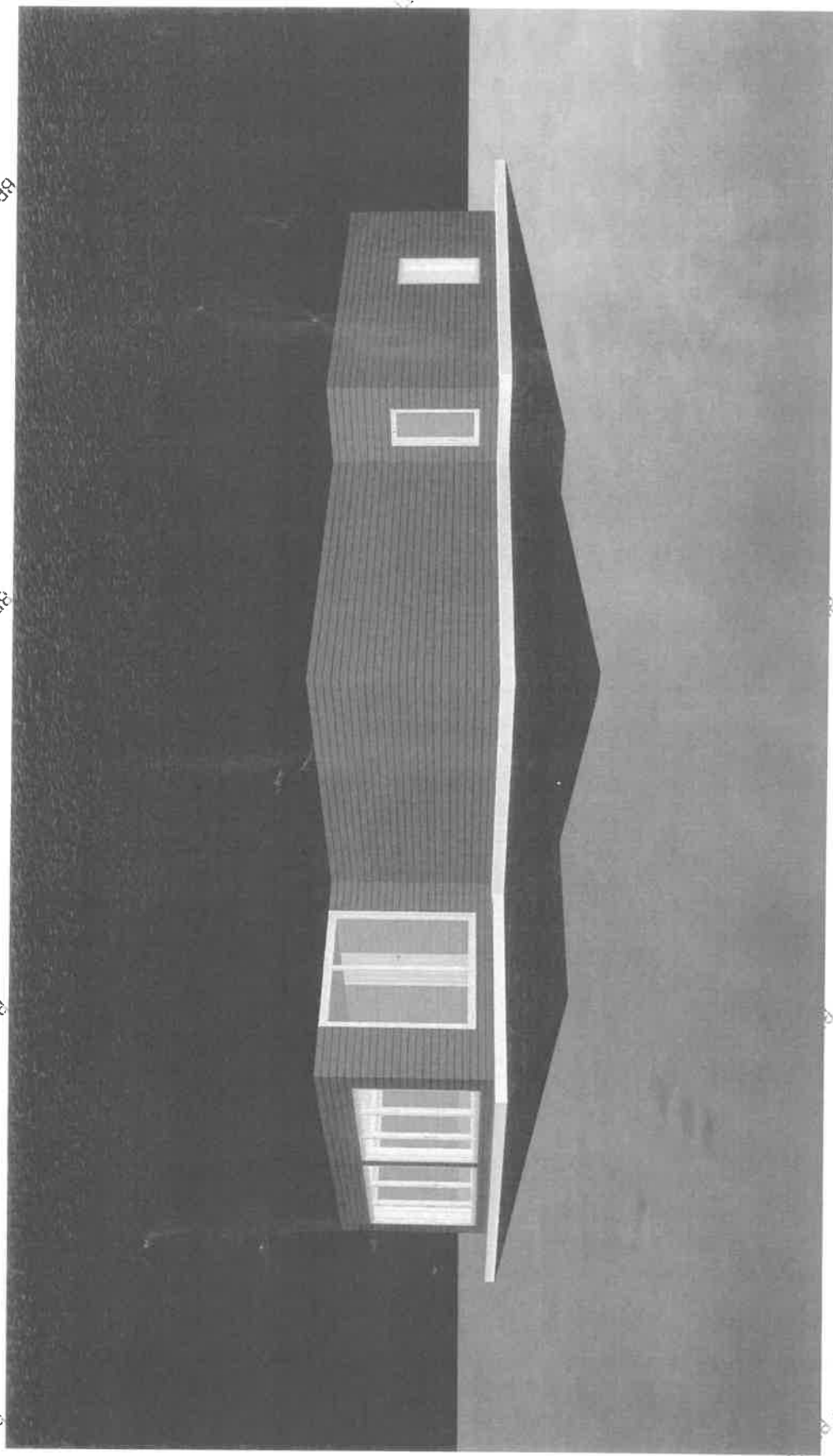
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PLOT DATE: Wednesday, July 16, 2025  
JOB: Torness, Pat Addition #2  
SALESMAN: ell.nelson@scottslumber.com  
PAGE: 2





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PLOT DATE: Wednesday, July 16 2025	
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SALESMAN: elli.nelson@scottslumber.com	PAGE: 1

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8/21/2025, 3:16:06 PM

PLAT

ISENSEE'S 1ST SUBDIVISION

SCHLEKEWY'S ADDITION

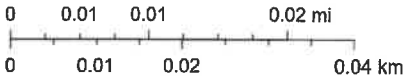
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TOWNSHIPS

SECTIONS

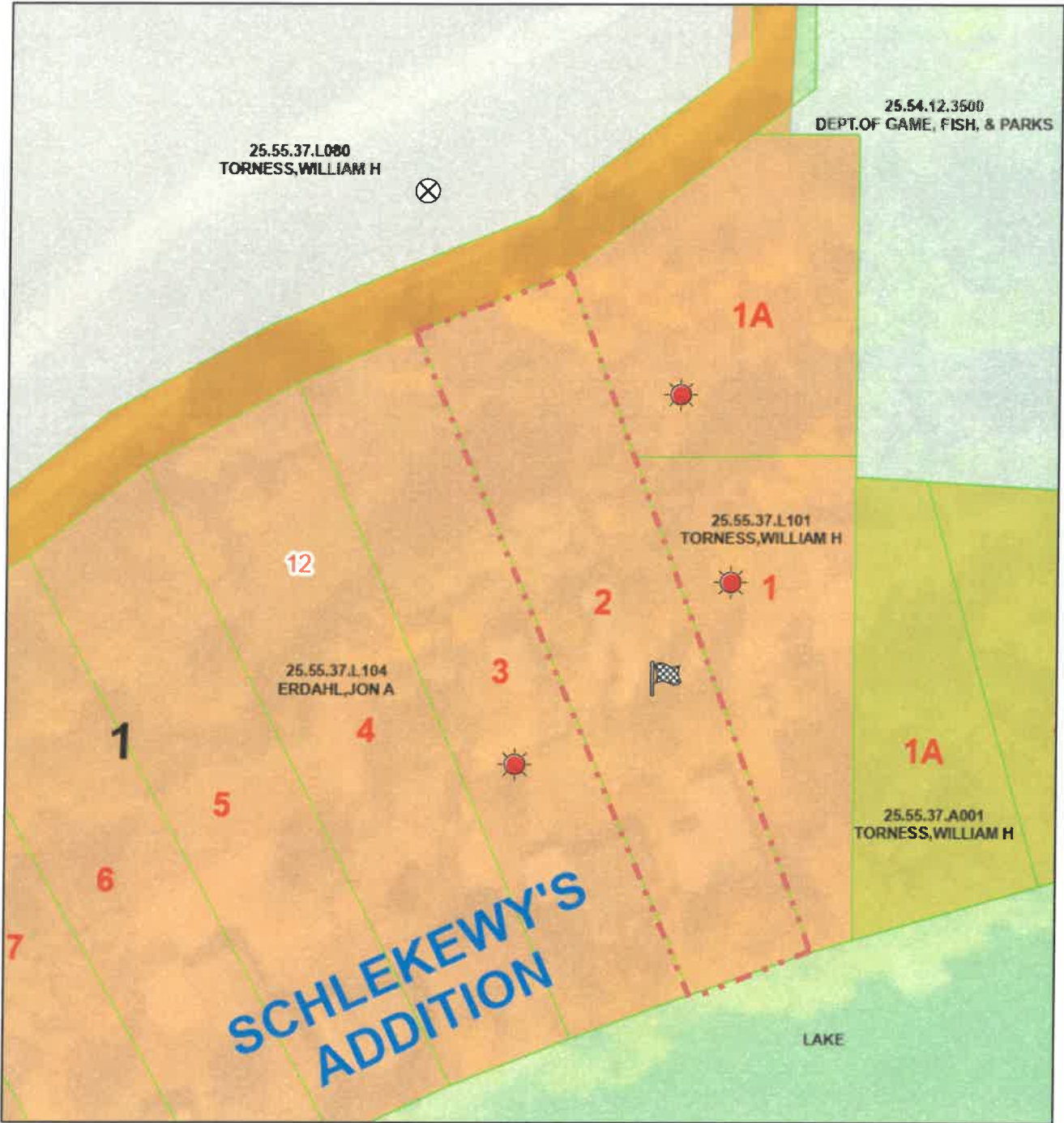
PARCELS

1:1,128





# MARSHALL COUNTY WEB VIEWER



8/21/2025, 3:18:54 PM

## ZONING

Agricultural District

Lake Front Residential District

## PLAT

ISENSEE'S 1ST SUBDIVISION

## SCHLEKEWY'S ADDITION

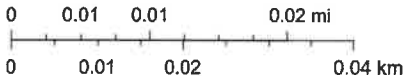
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TOWNSHIPS

SECTIONS

PARCELS

1:1,128



**Variance – Patricia Torness – Smith**













