

**Marshall County Planning & Zoning  
STAFF REPORT  
May 19, 2026**

**GENERAL INFORMATION:**

**OWNER/APPLICANT:** Anita Patterson

**REQUEST:** **The petitioner is asking to allow the structure to be 37 feet from the right-of-way line, instead of the 60-foot requirement, per the Marshall County Zoning Ordinance.**

**PROPERTY DESCRIPTION:** SE1/4 of Section 21, T127N, R59W

**SURROUNDING ZONING:** Agricultural (Ag)

**REPORTED BY:** E. Collins-Miles

**COMMENTS/HISTORY:**

1. According to property cards, the farm has been owned by the applicant since 1998.
  - a. There are several other buildings and structures located on the parcel.
  - b. The deck was completed prior to obtaining a building permit. A letter was sent via mail on 4/26/26 which included both building permit and variance applications enclosed in the envelope.
    - i. The applicant was unaware of permitting requirements.
2. Prior to the removal of the original deck, it was mentioned by the applicant that it was falling apart and needed to be replaced.
  - a. The new structure needed to be completed in a timely manner in order to ensure railings were constructed for safety and for ease of access to the home.
3. Site review indicated that the dwelling was historically established closer to the right-of-way than permitted under current setback standards prior to construction of the new deck.
  - a. The setback deficiency was further impacted by the recent acquisition of 25 additional feet of highway right-of-way along both sides of the roadway.
4. The road lying to the West of the structure in question is State Highway 10.
  - a. Per a more recent plat, the road is a span of 150'.
5. Any future expansion, structural modification, or site improvement that would further encroach on the setback requirement would require approval of a variance unless otherwise deemed acceptable by the Board.
6. 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.
7. No written comments or objections were received prior to the writing of this staff report.

**Staff Recommendation/Action Item – 23’ 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.**

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 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 – 35’ for B. Peters 3/15, 30’ for T. Nelson 5/16, 26’ for D. Larson 9/12 and 16’ for C. Fagerland 8/12.
    - ii. Note that all similar instances have varying permitted structures. All similar variances allowed reference State right-of-way setbacks.
  - b. The Board would consider approving other similar requests meeting the unique circumstances.
9. 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.
10. 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 – 23’ 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.**

NOTICE OF HEARING - APPLICATION FOR VARIANCE

Notice is hereby given that the Marshall County Planning & Zoning Board will meet on May 19, 2026 at 9:00 a.m. at the Marshall County Courthouse Commissioners Chambers, concerning the following application for variance from the Marshall County Zoning Ordinance.

Anita Patterson has requested a variance for an existing deck on the property described as the SE1/4 of Section 21, T127N, R59W. The petitioner is asking to allow the structure to be 37 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: May 6, 2026*

1T (May 6)

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Erin Collins-Miles - Planning & Zoning Administrator  
Published at an approximate cost of \$6.96 and can be viewed free of charge at [www.sdpublicnotices.com](http://www.sdpublicnotices.com).

MARSHALL COUNTY APPLICATION FOR VARIANCE

DATE: \_\_\_\_\_

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 112'-37' from Row 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): SE 1/4 Sec. 21, T127N, R59W

Reason: Replace deck damaged by snow and ice

Applicant Name: Anita Patterson Phone: 605-448-5512

Address: 41496 SD Hwy 10 Amherst, SD 57421

Applicant Signature: Anita Patterson

Owner Signature (if different than applicant): \_\_\_\_\_

For Internal Office Use Only:

Date Received: 4/29/26 Fees(non-refundable): \$150<sup>00</sup> Paid: YES NO

Inspection Report: See staff report

Date of Hearing by Planning and Zoning Commission: May 19, 2026

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

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

May 4, 2026

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

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Sincerely,



Erin Collins-Miles  
Planning and Zoning Director

**Sent to the following adjacent landowners on 5/4/26:**

1. Vicki Henschel – PO Box 65 Lake City, SD 57247
2. Mark & Kimberly Beck – PO Box 981 Britton, SD 57430
3. Michael Beck – 10952 412<sup>th</sup> Ave. Amherst, SD 57421
4. Darian & Andrea Kilker – 442721 North Shore Dr. Lake City, SD 57247
5. Kervin Olson – 705 11<sup>th</sup> Ave. Britton, SD 57430

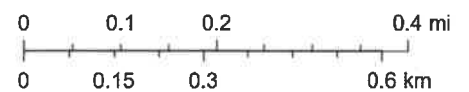
# MARSHALL COUNTY WEB VIEWER



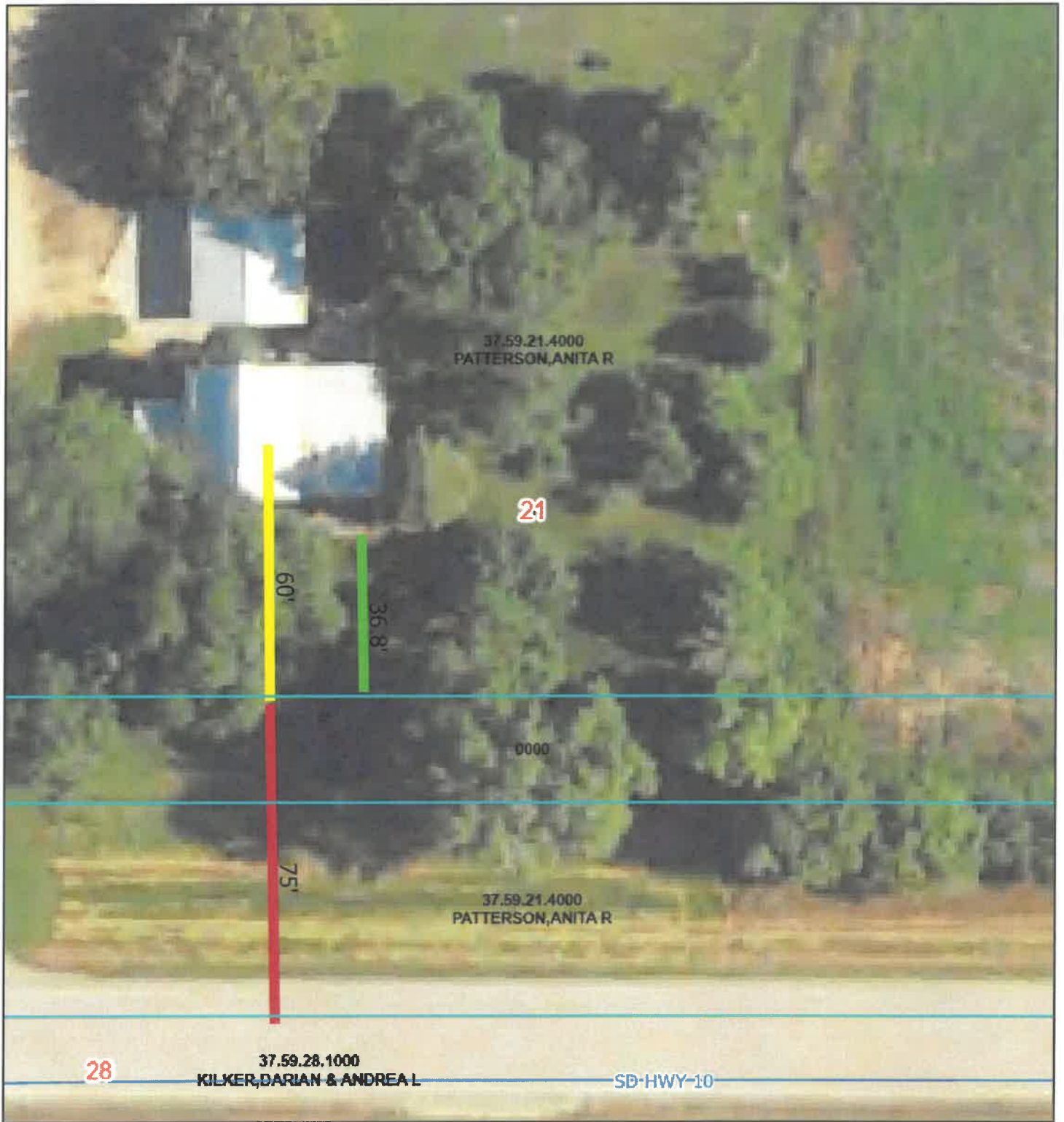
5/4/2026, 9:31:00 AM

1:18,056

- TOWNSHIPS
- SECTIONS
- PARCELS
- 

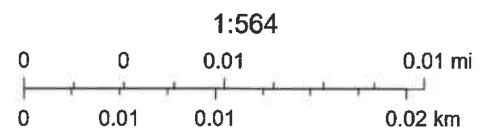


# MARSHALL COUNTY WEB VIEWER



5/1/2026, 3:08:01 PM

- TOWNSHIPS
- SECTIONS
- PARCELS



Parcel 22

# PLAT OF LOT H2

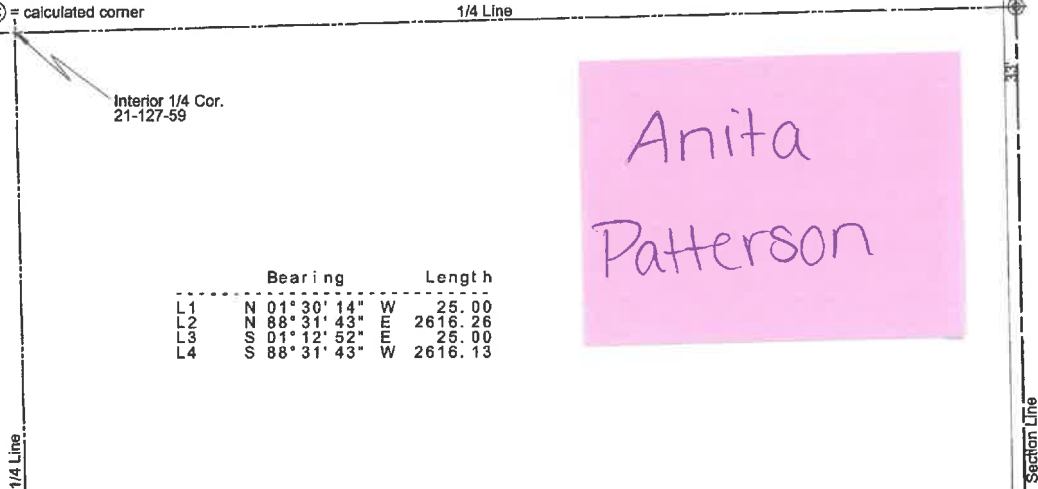
in the SE1/4 of Section 21 - Township 127 North - Range 59 West of the 5th P.M.

MARSHALL COUNTY, SOUTH DAKOTA  
Showing a parcel of land to be acquired for highway purposes  
Scale: 1 inch = 300 feet

- LEGEND**
- ☒ = existing right of way
  - = set R.O.W. corner
  - △ = set P.L.S.S. corner
  - ⊙ = calculated corner

Existing R.O.W.  
containing 3.06 ac  
133276 sq ft,  
more or less

E 1/4 Cor.  
21-127-59

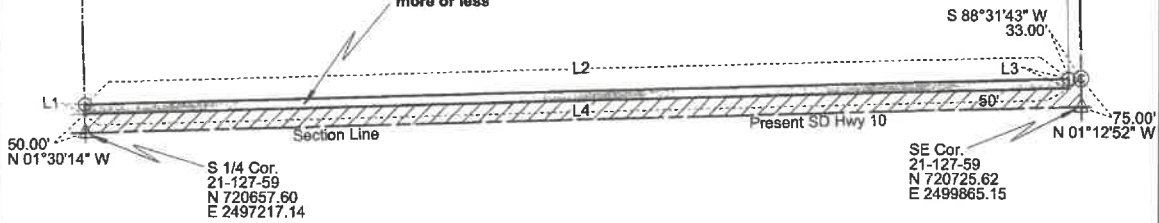


	Bearing	Length
L1	N 01° 30' 14" W	25.00
L2	N 88° 31' 43" E	2616.26
L3	S 01° 12' 52" E	25.00
L4	S 88° 31' 43" W	2616.13

Anita  
Patterson

SE1/4

Lot H2  
containing 1.50 ac  
65405 sq ft,  
more or less



Note 1: The coordinates, bearings, distances and areas shown on this plat are based on the South Dakota State Plane Coordinate System Grid North - North Zone NAD 83/11 epoch 2010.00 Geoid 12A SF = 0.99996370

Note 2: All monumentation will be set upon project completion.

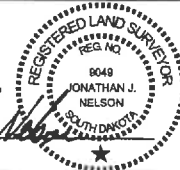
Drawn By Jonathan A Egge Date 11/15/2021  
Checked By Joe Distmeier Date 11/16/2021

## SURVEYOR'S CERTIFICATE

I, JONATHAN J. NELSON, Registered Land Surveyor, in and for the State of South Dakota, do hereby certify that as ordered by the South Dakota Department of Transportation the parcel of land as shown on this plat has been surveyed at my direction and under my control, and such parcel of land shall be hereafter known by the lot number designated herein. The location and dimensions of the parcel are shown on this plat.

In witness whereof, I have set my hand and seal this 10<sup>th</sup> day of October, A.D., 2023.

Jonathan J. Nelson  
Registered Land Surveyor  
Registration No. 9049



202472958

## OFFICE OF REGISTER OF DEEDS

State of South Dakota

County of Marshall ss

Filed for record the 3 day of June, A.D., 2024, at 9:00 A.M., and recorded in Books of Plats 4

on Page 42





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Erin Collins-Miles  
Planning & Zoning/E911/Drainage Director  
Phone: 448.7540  
Email: mczoning@venturecomm.net

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911 Vander  
Horck  
PO Box 9  
Britton, SD 57430

April 24, 2026

Anita Patterson  
41496 SD Hwy 10  
Amherst, SD 57421

To whom this may concern,

I am aware that a new deck has been constructed on the property described as SE1/4 EXC LOTS H1 & H2 HWY of Section 21, T127N, R59W; Parcel number 37.59.21.4000. I am writing to make you aware that construction or placement, or replacement 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, if applicable, please fill out the permit enclosed and contact my office as soon as possible 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**  
**Variance Application**

If you have any questions, please contact my office.

Sincerely,

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