

**Marshall County Planning & Zoning
STAFF REPORT
July 7, 2026**

GENERAL INFORMATION:

OWNER/APPLICANT: Tania Henning

REQUEST: The petitioner is asking to allow the deck to be 0 feet from the South property line, instead of the 7ft requirement; per the Marshall County Zoning Ordinance.

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)

REPORTED BY: E. Collins-Miles

COMMENTS/HISTORY:

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 a shed encroaching on the State Land lying to the South by 33.2'.
 - i. The shed was approved via variance on November 19, 2024.
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 to help shore up the existing retaining wall and to provide a seating area.
 - b. A letter was sent by the Zoning Director to the applicants in regard to the structure on 9/11/25.
 - i. Upon response from the applicant, an email was sent to Roy Lake State Park in regard to the structure.
 - c. 10/1/25 – The legal notice sent to the newspaper on 9/26/25 for publication was not included in the 10/1/25 issue.
 - i. Zoning Director rewrote legal notice to reflect new meeting dates and sent to the newspaper for publication the following week. Adjacent landowner letters were also updated and mailed again.
 - d. 10/17/25 – Zoning Director sent a follow up email to the State Park reminding of the updated meeting date.
 - e. 10/23/25 – Rebecca Hedlund, District Park Supervisor, called and stated she would not be able to attend the meeting, but stated they had some concerns regarding the retaining wall which extends into the State's property.

- f. Any further updates will be given as received, or disclosed at the hearing scheduled for 10/28/25.
 - g. 10/28/26 - A variance to the South property line was denied. The following motion was made; Board instructs that the deck will be moved or cut from the property line no less than 1 foot in order to be 6' from the property line, which will reflect other property line variances that have been granted in the past. The deck will be moved or cut no later than July 1, 2026. See file for full details.
 - h. **NEW 6/8/26** – An email asking for reconsideration of the motion made on 10/28/25 concerning the property line was received by Tania Henning. Proper noticing and adjacent landowner letters were sent according to guidelines set forth by the Zoning Ordinance.
3. 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.
4. 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.
5. **NEW** - An email, as well as a letter, was sent to Andrew Becker at andrew.becker@state.sd.us on 6/23/26 and 6/22/26, respectively.
 - a. ***A follow-up email containing the same letter was sent on 7/1/26.***
6. Marshall County Ordinance requires new structures to be placed a minimum of 7ft from a property or lot line.
7. No written comments or objections have been received prior to the writing of this staff report.
8. Staff Recommendation – **If the Board were to see no issue with this variance application and would consider this request to be a unique situation, a 7' variance to the property line setback would be recommended. Additionally, 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 property line variances to lake lots in the past, when the neighbors had no objections.
 - i. Similar property line variances allowed – 6' for D. & A. Viotor 6/24 (not the same type of structure), 5' for Dan Brake 6/23, 5' for K. Buck 5/12 and 7' for T. Glodrey (not the same type of structure)
 - b. The Board would consider approving other similar requests meeting the unique circumstances.
10. 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.

11. If the Board chooses to grant the variance, it must make findings pursuant to TITLE 19, Chapter 19.6 of the Zoning Ordinance.
12. Action Item – **If the Board were to see no issue with this variance application and would consider this request to be a unique situation, a 7' variance to the property line setback would be recommended. Additionally, 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 July 7, 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.

Tania Henning has requested a variance for an existing deck 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 allow the deck to be 0 feet from the South property line, instead of the 7ft requirement; per the Marshall County Zoning Ordinance.

Erin Collins-Miles
Planning & Zoning Administrator

Published once at the approximate cost of

For publication: June 24, 2026

1T (June 24)
**MARSHALL COUNTY
ZONING
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- APPLICATION FOR
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Published at an approximate cost of \$7.83 and can be viewed free of charge at www.sdpublicnotice.com.

MARSHALL COUNTY APPLICATION FOR VARIANCE

DATE: 6-16-26

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 8 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): Bay Lake SD

Reason: reapply for variance to allow an existing deck to remain in it's current location

Applicant Name: Tania Henning Phone: 701 308-0191
Address: PO Box 259, Milnor, ND 58060
Applicant Signature: Tania Henning
Owner Signature (if different than applicant): _____

For Internal Office Use Only:

Date Received: 6/16/26 Fees(non-refundable): \$150.00 Paid: YES NO

Inspection Report: See staff report

Date of Hearing by Planning and Zoning Commission: July 7, 2026

Action taken by Planning and Zoning Commission: _____

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

June 22, 2026

Dear Property Owner,

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

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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 6/22/26:

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
 - a. c/o Andrew Becker (Park Manager) – Andrew.Becker@state.sd.us
5. Gary Gangle – 11624 SD HWY 25 Lake City, SD 57247
6. John & Kelly Forman – 439086 Northside Dr., Lake City, SD 57247

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Sincerely,



Erin Collins-Miles
Planning and Zoning Director



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

911 Vander
Horck
PO Box 9
Britton, SD 57430

September 11, 2025

Tania Henning
324 2nd St.
Milnor, SD 58060

0' from State Park boundary/pin
20' from HW mark
15' from N prop pin

To whom this may concern,

I am aware that deck has been placed or constructed 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. 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 as no 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.

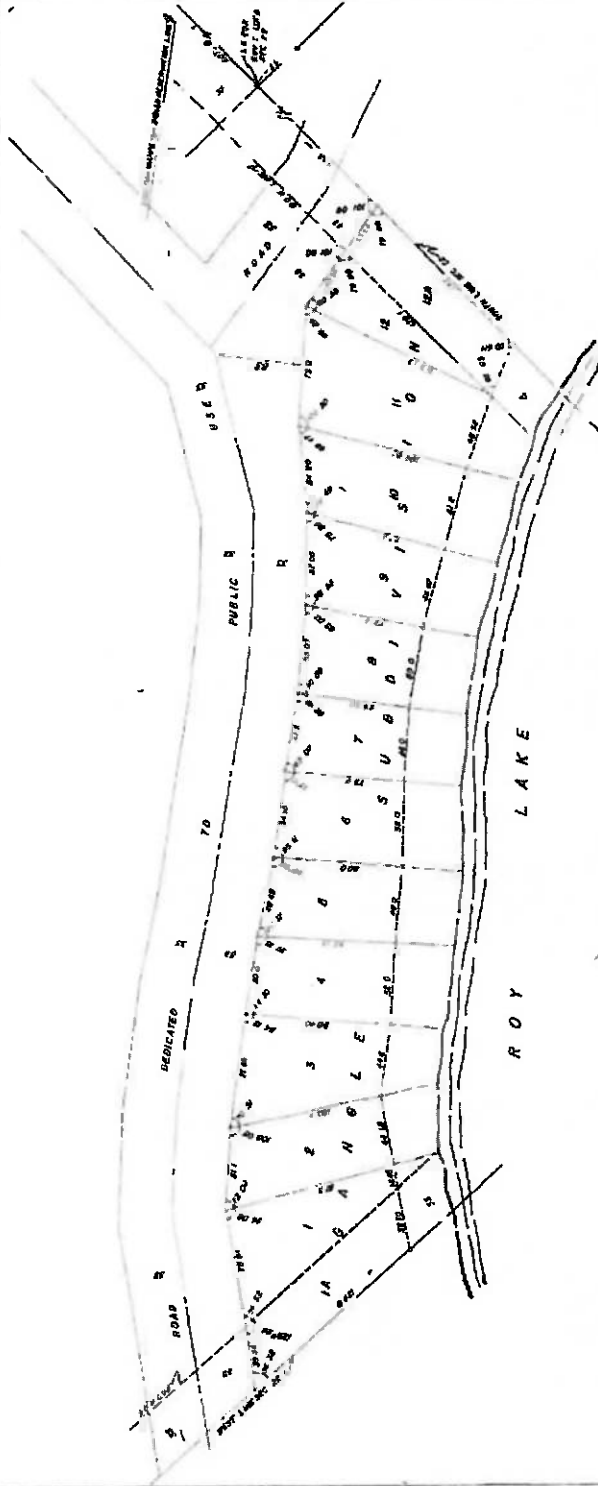
Please find the following document enclosed:
Building Permit Application

If you have any questions, please contact my office.

Sincerely,

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

 COPY



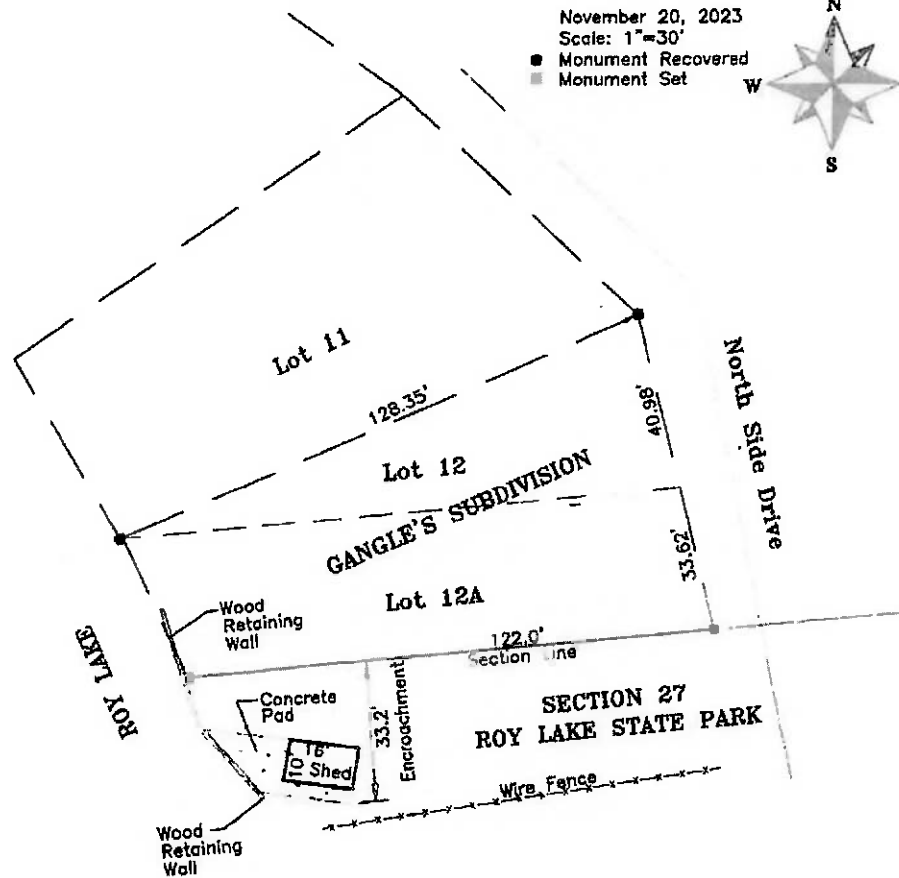
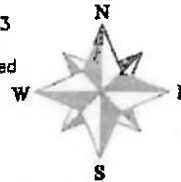
PLAT OF

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 T126N R35W
OF THE 5TH PM, MARSHALL COUNTY,
SOUTH DAKOTA

John E. Gangle
REG. PROF. ENR & LAND SURVEYOR
SCALE 1" = 40' MAY 11 1972
• ROWN PM

November 20, 2023
Scale: 1"=30'

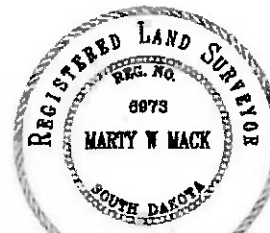
● Monument Recovered
■ Monument Set



MACK
Land Surveying LLC

Marty Mack
Registered Land Surveyor
Certified Federal Surveyor

Cell: (605) 844-3108 • Phone: (605) 878-2017
808 South Maple • Watertown, SD 57201



Roy Lake Property

From Tania Tergesen <taniatergesen@yahoo.com>

Date Mon 6/8/2026 4:31 PM

To Erin Collins-Miles <mczoning@venturecomm.net>

Marshall County Planning and Zoning Department, 439167 Northside Drive Lake City, SD 06/08/2026 Request for reconsideration of deck setback requirements. I am writing to respectfully request reconsideration of the decision requiring us to move our deck one foot away from State Park property line. We understand and appreciate the importance of property and boundaries and county regulations. However, we believe that requiring the relocation of the deck may create an unnecessary hardship while providing little practical benefit. The deck has been designed and been constructed in manner that does not interfere with the use, access, or enjoyment of the adjoining state park property. Moving the deck would involve significant expense and effort, and the one foot adjustment would have minimal impact on the surrounding area. We have made every effort to be responsible neighbors and to comply with applicable requirements throughout this process. We respectfully ask the county to review the circumstances of our situation and consider granting an exception, variance, or other accommodation that would allow the deck to remain in its current location. We are willing to meet with county officials, provide additional information or discuss any reasonable alternatives that may address the county's concerns. Thank you for your time, consideration, and service to our community. We appreciate the opportunity to present our request and hope for a favorable reconsideration. Sincerely, Tania Henning 701/308/0191. taniatergesen@yahoo.com.

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

October 28, 2025

Dan & Tania Henning
P.O. Box 259
Milnor, ND 58060

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 North Marshall Firehall meeting room on October 28, 2025, your application for a variance to the South Property line, per the Marshall County Zoning Ordinance; is hereby: **DENIED**. Your application for a variance to the high-water mark, per the Marshall County Zoning Ordinance; is hereby: **APPROVED**.

Please see below for respective details:

*Medhaug motioned; Kilker seconded to **approve** the requested 0' variance to the South property line setback. A roll call vote was taken; Bender – Nay, Luttrell – Nay, Kilker – Nay, Medhaug – Aye, Schuller - Aye. **Motion failed**. This variance request was denied due to the lot and situation being not so unique to necessitate the relaxation for the setback requirement, the granting of this variance would confer upon the applicant special privilege denied to others in the R-3 district, the Marshall County Zoning Ordinance was not followed as is written and the Board found that the structure could have been built further away from the property line. As a result, the Board instructs that the deck will be moved or cut from the property line no less than 1 foot in order to be 6' from the property line, which will reflect other property line variances that have been granted in the past. **The deck will be moved or cut no later than July 1, 2026.** The above motion was made per the Marshall County Zoning Ordinance, and also to adopt the facts and the recommended findings of the Planning Commission listed in the staff report.*

Medhaug motioned; Bender seconded to approve the requested 30' variance to the normal high-water mark setback. A roll call vote was taken; Bender – Aye, Luttrell – Aye, Kilker – Aye, Medhaug - Aye, Schuller - Aye. Motion carried. This motion was made noting that the average high-water mark setback in the area per

records is 25'. These findings pertaining to the high-water mark allow for the deck to remain as requested; per the Marshall County Zoning Ordinance, and to adopt the facts and the recommended findings of the Planning Commission listed in the staff report.

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

Sincerely,



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

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

May 12, 2026

Dan & Tania Henning
P.O. Box 259
Milnor, ND 58060

To whom this may concern,

Your variance to the South Property line variance was denied on October 28, 2025, as seen below. I am now in review of this project and the requirements set by the Board. Upon receipt of this letter, please review the timeframe in which the deck is required to be cut in order to comply with the Marshall County Zoning Ordinance. Failure to comply could result in further action being taken. *See below for further details:*

After review and county commissioner hearing held in the North Marshall Firehall meeting room on October 28, 2025, your application for a variance to the South Property line, per the Marshall County Zoning Ordinance; is hereby: **DENIED**. Your application for a variance to the high-water mark, per the Marshall County Zoning Ordinance; is hereby: **APPROVED**.

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

Sincerely,



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