

**Hamlin County Board of Adjustment Staff Report  
Monday March 27th, 2023 – 1PM**

**Issue #1 Conditional Use**

**Applicant/Owner:** DKO Properties LLC

**Property Description:** Lot 1E, the N 25' of Lot 1D, and Lot 4A Myklemyre's Subd in Lot 1D all of the Plat of Lots 1C, 1D, & 1E of Myklemyre's Subd, in Lot 1 Myklemyre's Subd in GL 3 & 4 in Section 30, Township 113 North, Range 52 West of the 5th P.M., Hamlin County, South Dakota.

**Action Item:** Conditional Use – Multiple Family Dwellings, including Condominiums (Section 3..07.05.06).

**Zoning Designation:** Lake Park 1

*(Make Motion to Approve the Request Subject to the Conditions in the Staff Report)*

Location:



**Specifics of Property/Request:**

1. The applicant is seeking to construct a 4-unit multiple-family condo. Each unit includes 4 bedrooms, 2-3 bath, 2-stall garage, and individual driveway. The applicant has stated they may place additional accessory garages on the front (roadside) portion of the lot for additional storage.

Ordinance/Board History regarding this request:

1. Entrance & exit to the property is currently through an easement that runs across the property to the south and connects directly to Highway 81. The applicant intends to remove that access point and utilize the public road of West Lake Drive to improve traffic flow in regards to the highway. West Lake Drive is a gravel road maintained by the Township. There is a 20' wide driveway dedicated to each unit for off-street parking.
  - a. There is not an option to create a new access directly to Highway 81 because the existing accesses already do not meet the minimum separation distance.
  - b. Since the units will be owner-occupied, it is expected that the amount of traffic will increase similar to if three more single-family homes were constructed.
2. The minimum lot requirements for multi-family dwellings are 10,000sqft and 100' in width. This lot has approx. 43,000sqft and is 125' in width.
  - a. The proposed location of the structure would meet all setbacks: 10' on side yard, 50' on rear yard (lakeside), and 30' on front yard (front yard).
3. Utilities for the property are serviced by Kingbrook rural water, rural electric, and the Lake Poinsett Sanitary Sewer District. The applicant is in discussion with the utility companies but will not know what specific additional capabilities are needed until construction plans are created. Garbage & refuse will be stored within each unit's garage.
4. The applicant intends to install landscaping but has not finalized a plan.
5. The applicant has stated no signs or flood lights will be placed on the property. The property will only have residential exterior lighting on the structure.
6. The proposed concept plan for the condos would meet all required yards and setbacks.
  - a. Whether the public right-of-way for West Lake Drive is extended or remain a private driveway maintained by the applicant, the proposed location will easily meet the setback of 30'.
  - b. The property is not currently located within the FEMA adopted floodplain. However, the proposed changes to the 100-year floodplain would place the entire property within the floodplain. All structures within the Lake Park District, regardless of being located in the floodplain, must be built 7' above the highwater mark.
  - c. Any new structures within the current floodplain must also utilize floodproofing materials and have a registered engineer or surveyor review any alteration to watercourse to limit adverse effects.
7. General Compatibility:
  - a. The properties to the north and directly adjacent to both sides of the site contain single-family residences,. However, two lots south of the property contains higher density residential in the form of a small campground (approx. 9 hook-ups) and what was previously Lake View Resort that also operates five camping spots.
  - b. It was brought to the attention of the zoning office that there is a restrictive covenant on the property limiting it to only single-family structures. This Board does not enforce private covenants or have the ability to argue their legality. This Board is only concerned with whether the request has met the requirements of the zoning ordinance in regard to a multi-family dwelling.
8. At the time of this report, staff has received several written comments in the form of letters and emails in opposition. The concerns primarily focus on increased traffic and vehicles, drainage impacts on surrounding properties from grading and elevation changes, and how this use would add to general overcrowding and atmosphere at Lake Poinsett.



*Staff Summary & Recommendation:*

The applicant has provided documentation of the ability to meet the requirements of the zoning ordinance in reference to the proposed Multi-family Dwelling, including Condos. The Board may attach conditions to this request provided there is a logical reason to do so. Any conditions recommended by staff are primarily references to conditions placed on similar requests.

**Board Action:** Conditional Use: Multi-family Dwelling, including Condos

The Board may: 1) Postpone the decision 2) Deny the Request 3) Approve the request with or without conditions.

If approved, staff recommends the conditions:

1. Grantor shall construct a multi-family dwelling in accordance with the plans submitted in the Conditional Use Permit application.
2. Grantor agrees that there will be a single ingress and egress access point onto West Lake Drive. The grantor will work with Norden Township to establish responsibilities for creation and maintenance of the road extension.
3. Grantor shall ensure that all units can be served by water, electricity, and are connected to the Lake Poinsett Sanitary Sewer District. In the event that the Lake Poinsett Sanitary Sewer District does not

have the capacity to serve the units, sealed holding shall be installed and operated until sanitary sewer can be provided.

4. Grantor shall submit a grading plan with the building permit application to ensure excavation, filling, and other grading activities will not cause drainage of the site to leave the property at a rate higher than the undeveloped flow rate.
5. Grantor shall submit a landscape or fence plan with the building permit application that provides adequate screening and buffering from neighboring properties.

**Issue #2 Variance**

**Applicant/Owner:** Clinton Dale & Renita Walters

**Property Description:** Lots 2 & 2A of Nelson’s Beach in Section 14, Township 113 North, Range 52 West of the 5th Prime Meridian, Hamlin County, South Dakota.

**Action Item:** Variance Request – Area Regulations – Side Yard Setbacks (Section 3.07.10).

**Zoning Designation:** Lake Park 1

*(Make Motion to Approve the Request Subject to the Conditions in the Staff Report)*

Location:



**Specifics of Property/Request:**

1. The applicant is seeking a reduced side yard setback to both side yards in order to construct a 30’x16’ addition and 10’x16’ deck on their existing residence.



Ordinance/Board History regarding this request:

1. The lakeside lot is only 50' in width and approximately 6,600sqft making it a non-conforming lot of record because it does not meet our minimum area requirements.
  - a. Because of this, the lot has approx. 2,000sqft of buildable area after setbacks are applied.
2. The existing residence is a non-conforming structure, extending 3' into both side yard setbacks. The intent is to build the addition in line with the existing structure.
3. The required side yard setback is 8'. The applicant is requesting a 3' variance on both sides.
  - a. The proposed addition would meet the front and rear yard setbacks and the elevation requirement.
  - b. However, a portion of the proposed addition will be located in the FEMA floodplain so an elevation certificate will be required when getting a building permit.
4. At the time of this report, staff received a phone call from both side adjoining landowners. Both have no opposition to the request.



Staff Summary & Recommendation:

The Board must determine whether the conditions on this property are peculiar enough that the literal interpretation of this ordinance will result in unnecessary and undue hardship.

**Board Action:** Variance: Reduced Side Yard Setbacks

The Board may: 1) Postpone the decision 2) Deny the Request 3) Approve the request with or without conditions.

The Board may choose to approve this variance based on the following:

- a. The variance will not be contrary to the public's interest.
- b. The configuration and the topography of this lot is unique and does not allow the applicant to use the property in a manner similar to neighboring properties.

The Board may choose to deny this variance based on the following:

- a. The configuration and topography of the lot is not so unique to necessitate any relaxation of the setback requirement.
- b. Therefore, the literal interpretation of this rule does not deprive the applicant of rights commonly enjoyed by other properties in this district.

If approved, staff does not have any recommended conditions.

### **Issue #3 Variance**

**Applicant/Owner:** Miranda Ribstein/John & Billie Jo Hurley

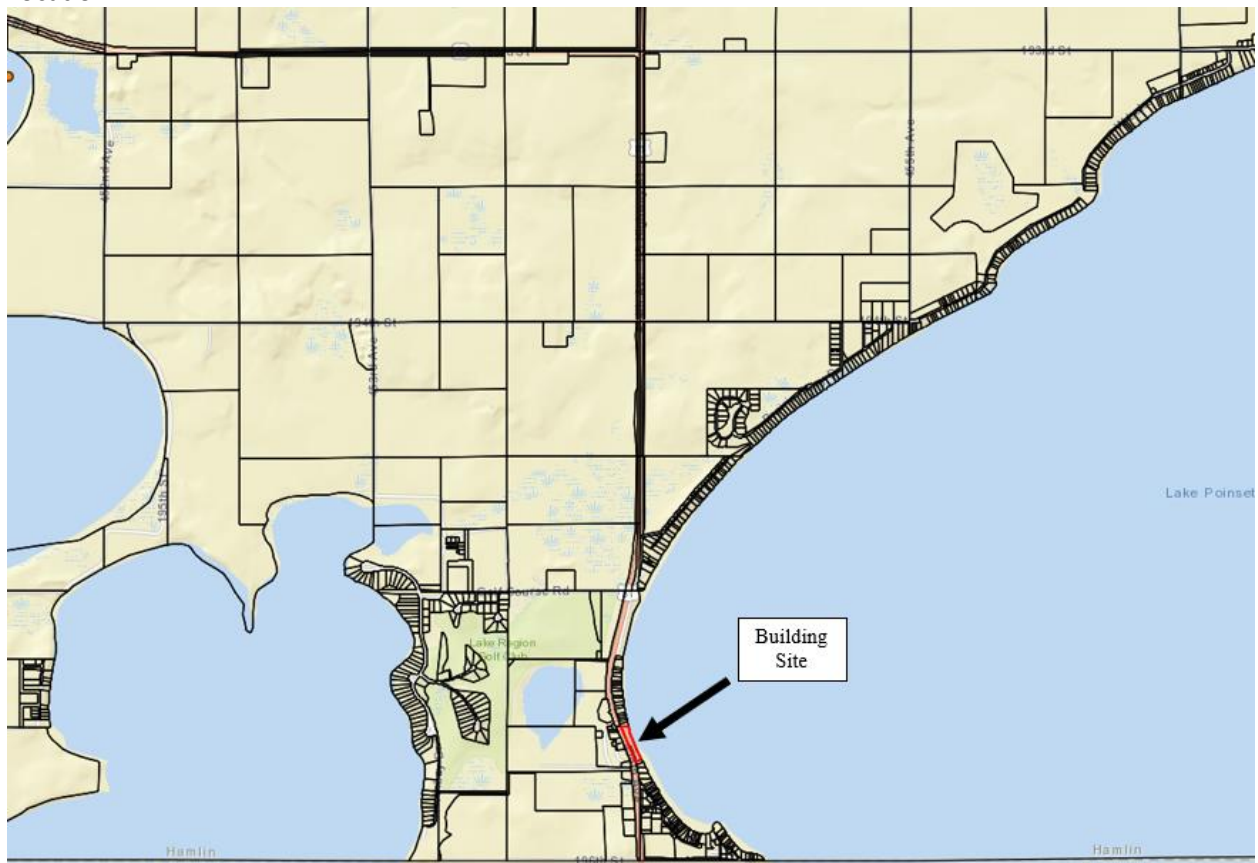
**Property Description:** Block 2 of Lake Pointset Estates Addition in Section 36, Township 113 North, Range 53 West of the 5th Prime Meridian, Hamlin County, South Dakota.

**Action Item:** Variance Request – Area Regulations – Front Yard (Roadside) Setback (Section 3.07.10).

**Zoning Designation:** Lake Park 1

*(Make Motion to Approve the Request Subject to the Conditions in the Staff Report)*

Location:



Specifics of Property/Request:

1. The applicant is seeking a reduced front yard (roadside) setback in order to construct an 8'x20' addition for a handicap accessible bathroom and cooler storage.

Ordinance/Board History regarding this request:

1. While the lakeside lot meets the minimum width and area requirements, the lot is approx. 70' in depth from Highway 81 to Lake Poinsett, leaving 10' of buildable depth after setbacks are applied.
2. The existing building is a non-conforming structure, extending 20' into the front yard setback. The intent is to build the addition in line with the existing structure on the north side.
  - a. It appears there is a camper hook-up near the proposed location of the addition. The applicant has not expressed whether that will be removed or not.
3. The required front yard (roadside) setback is 30'. The applicant is requesting a 20' variance.
  - a. The proposed addition would meet both side and rear yard setbacks and the elevation requirement.
4. At the time of this report, staff has not received any correspondence from adjoining landowners.



Staff Summary & Recommendation:

The Board must determine whether the conditions on this property are peculiar enough that the literal interpretation of this ordinance will result in unnecessary and undue hardship.



**Board Action:** Variance: Reduced Front (Roadside) Yard Setback

The Board may: 1) Postpone the decision 2) Deny the Request 3) Approve the request with or without conditions.

The Board may choose to approve this variance based on the following:

- a. The variance will not be contrary to the public's interest.
- b. The configuration and the topography of this lot is unique and does not allow the applicant to use the property in a manner similar to neighboring properties.

The Board may choose to deny this variance based on the following:

- a. The configuration and topography of the lot is not so unique to necessitate any relaxation of the setback requirement.
- b. Therefore, the literal interpretation of this rule does not deprive the applicant of rights commonly enjoyed by other properties in this district.

If approved, staff does not have any recommended conditions.

**Issue #4 Variance**

**Applicant/Owner:** Alan & Jeri Breck

**Property Description:** Lot 15 of F Gottschalk's Addition in Section 23, Township 113 North, Range 52 West of the 5th Prime Meridian, Hamlin County, South Dakota.

**Action Item:** Variance Request – Area Regulations – Rear Yard (Lakeside) Setback & Height (Section 3.07.10).

**Zoning Designation:** Lake Park 1

*(Make Motion to Approve the Request Subject to the Conditions in the Staff Report)*

Location:





Specifics of Property/Request:

1. The applicant is also seeking a reduced rear yard (lakeside) setback and variance to the height requirement in order to construct a new residence.

Ordinance/Board History regarding this request:

1. The lakeside lot meets the minimum area having just over 11,000 sqft but is only 53' in width making it a non-conforming lot of record.
  - a. In addition, this lot has significant elevation change of almost 20' most being at the rear end of the lot.
2. The required rear yard setback is 50' from the ordinary highwater mark. The applicant is requesting a 4.5' variance due to the elevation of the lowest floor level of the home.
  - a. The proposed addition would meet the front and rear yard setbacks and the elevation requirement.
3. Additionally, the maximum height of a single-family structure is 30'. Again because of the elevation change of the lot, the applicant is asking for a 3.5' variance to the height maximum.
  - a. The home will be 30' from the roadside and 37' from the lakeside. In this case, the zoning ordinance defines height as the average measured from the lowest floor to the peak of the structure based on the elevation within 50' of the structure.
4. At the time of this report, staff received a phone call from one adjoining landowners. The landowner was confused about the location of this lot.



Staff Summary & Recommendation:

The Board must determine whether the conditions on this property are peculiar enough that the literal interpretation of this ordinance will result in unnecessary and undue hardship.

**Board Action:** Variance: Reduced Rear Yard (Lakeside) Setback

The Board may: 1) Postpone the decision 2) Deny the Request 3) Approve the request with or without conditions.

The Board may choose to approve this variance based on the following:

- a. The variance will not be contrary to the public's interest.
- b. The configuration and the topography of this lot is unique and does not allow the applicant to use the property in a manner similar to neighboring properties.

The Board may choose to deny this variance based on the following:

- a. The configuration and topography of the lot is not so unique to necessitate any relaxation of the setback requirement.
- b. Therefore, the literal interpretation of this rule does not deprive the applicant of rights commonly enjoyed by other properties in this district.

If approved, staff does not have any recommended conditions.

**Hamlin County Planning Commission Staff Report**  
**Monday February 27th, 2023 – 1PM**

**Issue #1 Plat**

**Applicant/Owner:** Daniel & Robin Nefzger

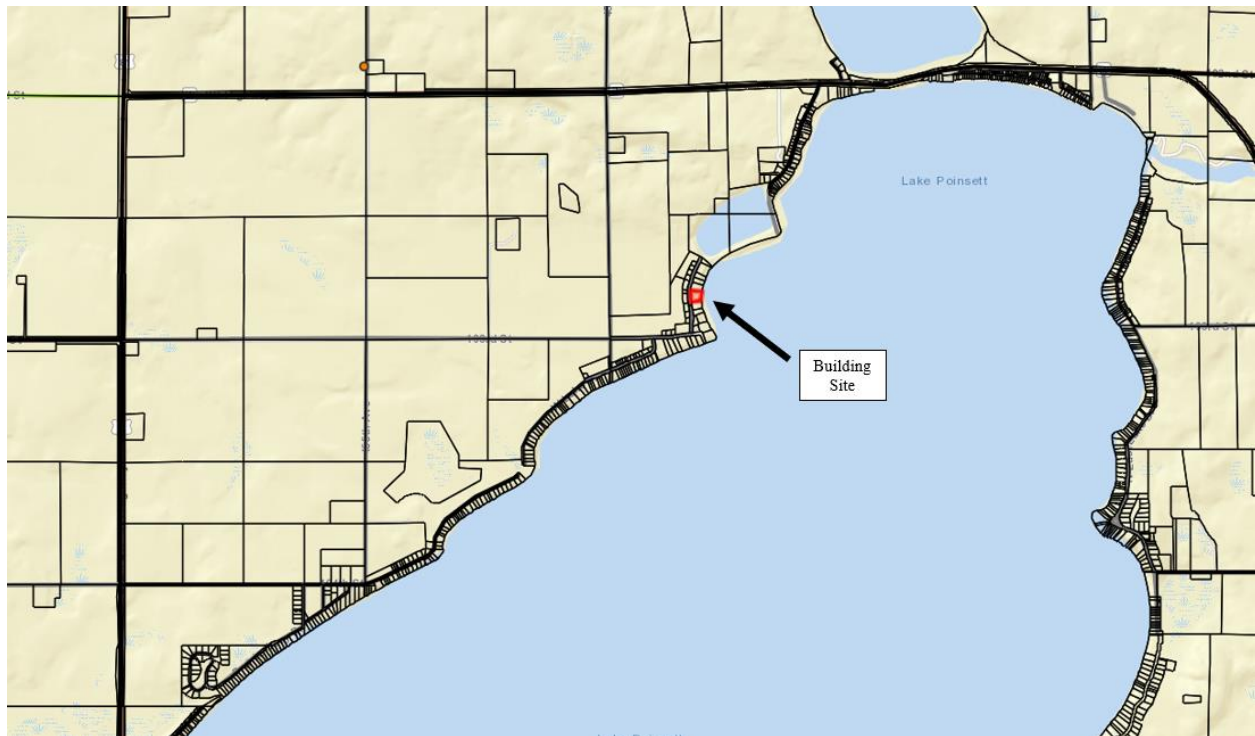
**Property Description:** Plat of D & R Second Addition Located in GL 4 and 5 of Section 16, Township 113 North, Range 52 West of the 5th Prime Meridian, Hamlin County, South Dakota.

**Action Item:** Plat Approval

**Zoning Designation:** Lake Park 1

*(Make Motion to Approve to County Commission)*

Location:





**Specifics of Property/Request:**

1. The applicant is seeking to plat off a new lot.
2. This meets the minimum area requirement and is 75' in width along the roadside.

**Staff Summary & Recommendation:**

The applicant has provided documentation of its ability to meet the requirements of the zoning ordinance. Staff recommends this plat be forwarded to the commissioners.

**Planning Commission Action:**

The Commission may: 1) Postpone the decision 2) Recommend conditional approval or denial to County Commission

