AGENDA
BOARD OF APPEALS
January 22, 2020, at 6:30 pm
CITY COUNCIL CHAMBERS

6:30 PM CALL MEETING TO ORDER
Eric Amundsen, BOA Chair

ROLL CALL
Amy White, City Clerk

APPROVAL OF MINUTES
October 5, 2016 BOA meeting

AGENDA ITEM: Request for zoning variance by Amber Carlson, 1209 Emily Cir
Eric Amundsen, BOA Chair

READING OF THE PUBLIC HEARING NOTICE
Amy White, City Clerk

READING OF ANNOUNCEMENT OF PROCEEDINGS
Amy White, City Clerk

CITY STAFF REPORT
Sam Wessel, Planner

PUBLIC HEARING
- BOA Chair Eric Amundsen opens public hearing
- City Clerk Amy White swears in all persons wishing to speak
- BOA Chair Eric Amundsen closes Public Hearing when no one wishes to speak further

DISCUSSION BY BOARD OF APPEALS MEMBERS
- Motion by BOA Member
- Motion restated by BOA Chair Eric Amundsen for record along with name of BOA member moving and BOA member seconding said motion
- Discussion by BOA
- BOA Chair Eric Amundsen states for record what a “yes” vote means and what a “no” vote means
- BOA members complete written vote by writing their name and their yes or no response
- City Clerk Amy White counts and states voting results

ORDER OF DETERMINATION
Sam Wessel, Planner

ADJOURN
Post: City Hall, Library, Police Department, January 17, 2020
Board of Appeals Minutes
Wednesday, October 5, 2016
Council Chambers – City Hall
Paige Olson
276-1000-60-000

The meeting was called to order by Chairperson Eric Amundsen 6:00 pm.

Roll call:
Members present: Gary Horvath, Morris Marsolek, Jeanette Leonard, Andrew Brown

Others present: Tony Steiner, City Planner; Amy Peterson, Assistant Community Development Director; Paige Olson, Neil Anderson, Diane Wolfe, Rick Toston, Brandon Perry, Jessica Gray, Demond Gray, John Means

Hecht read the Public Hearing Notice that was published in the September 22, 2016 River Falls Journal.

This public hearing is being held at the request of Paige Olson to request a variance to the setback requirements of Municipal Code 17.124 Shoreland-Wetland Protection Regulations, as well as the setback requirements in Municipal code 17.28.050 – Multi-Family Residence District.

Hecht read the Zoning Board Announcement of Proceedings.

Amy Peterson gave the Board a brief overview of the request. The two variances requested are area variances. The first one is the more than 150’ of the city shoreland regulation and the 2nd one is requesting a two foot variance into the 20’ front yard setback. Facts to consider during determination are; is this an unnecessary hardship, what is the purpose of the zoning restriction, what is the zoning restriction effect on the property, what are the short term, long term and cumulative effects on the neighborhood and is there harm to the public interest. The Board may also postpone action for up to 14 days if more time is needed to make the determination. City Code 17.124.001 addresses the finding of fact. Chapter NR 115 of WI State Statute sets the shoerland setback at 75’ and the city has the setback of a class three river at 125’. All building additions proposed are fully included in the 75’ setback. Peterson added information about the high water mark and expansion to the primary structure. Ms. Olson is proposing two rain gardens to mitigate water runoff. These gardens have been approved by the City Civil Engineer.

The city will provide the DNR with the Board’s decision and the DNR can appeal the decision if they feel the City is not following regulations. NR 115 does not hold in the city, but would if it were in the township and includes no building expansion along the river.

Chairperson Amundsen opened the Public Hearing at 6:13 pm.

Hecht swore in Diane Wolfe, neighbor to the Olson property.
She has no objections to what Paige is proposing. It will not affect her property. She is in favor of her improving her property.

Hecht swore in Neil Anderson, Architect for the property owner.
Mr. Anderson stated the house is 120 years old and was moved onto that property in the 1960’s and was purchased by Paige in 2000. The lot is not a normal city lot configuration. The zoning laws have changed since she purchased the property. She has always intended to expand the business, to do so
she needs to make it handicap accessible, update the stair steps, enlarge the living room and bedroom, and provide an outdoor area. He stated the house is not parallel with the river and that the addition on the river side was kept at 10’ so that it was not closer to the river than the 25’ part of the existing structure is, her front yard is the back yard of the home in front of her. Paige will put in two rain gardens to collect the rain water from the additions and existing house even though she would not be required too. We did contact the DNR and have not heard back from them. The river is the hardship because of how the house sets on the lot. We understand that the river needs to be protected.

During Board Member discussion;
Peterson added that in 2004 City Ordinance setbacks changed from 75’ to 125’ and if there are steep slopes additional feet are added to make the setback 175’.
Brown questioned erosion control.
Marsolek questioned the river setback.
Amundsen asked about the DNR challenge to the Boards decision.
Leonard felt the request is really for four variances with each one having its own unique circumstances.
Anderson added that it is really two requests the front yard and the river side.
Peterson pointed out that they can be approved or denied singly or as one, contingencies could be placed on the decision if the Board decides there is a hardship.
Brown wanted to clarify that 17.124 did not exist in 2000. Peterson stated that prior to 2004 the setback was 75’. He asked about the 25’ and Horvath stated that currently a portion of the structure is 25’ from the high water mark.

Hecht swore in Paige Olson, property owner.
Ms. Olson stated this is her 17th summer as the owner of this property. Her main reason for the additions is to make her building handicap accessible and to make the stair steps safer for her guests. The business has increased and she needs to make the building accessible to be able to accommodate guests with wheelchairs and walkers. She has guests from all over the world and is honored to host them on the Kinnickinnic River.

With no one else wishing to speak Amundsen closed the public hearing at 6:48 pm.

Motion by Leonard to look at each request individually; motion failed for lack of a second.
Motion by Horvath, 2nd by Marsolek to approve variance as requested.
Board discussion;
Horvath stated he has been a river advocate for many years and is concerned with the structure being within the 75’ setback. The storm water rain gardens are good.
Brown stated he would like to see the business succeed and is concerned that the property was purchased knowing what the setback was and does appreciate the difficulty this setback causes. He has to vote no.
Amundsen noted that Ms. Olson did speak at the time of the proposed ordinance and stated than it would have an effect on her business.
Leonard stated she had a tour of the property and agrees the improvements need to be made to make the building accessible, but is not in favor of expansion on the river side.

Leonard moved to amend the main motion to remove item #4, west side variance. With a lack of a second, motion failed.

Amundsen explained that a yes vote will approve the request and a no vote will deny the request.
Members voted by writing down their name and vote.
Hecht read the votes that showed:
Amundsen (yes), Leonard (yes), Marsolek (yes), Brown (no), Horvath (no)
This variance did not receive the four (4) yes voted needed for approval and is denied.

Respectfully submitted

[Signature]

Lu Ann Hecht, City Clerk
Chairperson Eric Amundsen called this portion of the meeting to order at 7:00 pm.

Roll call:
Members present; Gary Horvath, Morris Marsolek, Jeanette Leonard, Andrew Brown

Others present: Tony Steiner, City Planner; Amy Peterson, Assistant Community Development Director; Rick Toston, Brandon Perry, Jessica Gray, Demond Gray, John Means

Hecht read the Public Hearing Notice that was published in the September 22, 2016 River Falls Journal.

This public hearing is being held at the request of Randy Cudd to request a variance to the rear yard setback in the (R1) single Family Zoning District. The applicant is seeking a variance to section 17.20.060 (Height, Area, and Setback Requirements).

Hecht read the Zoning Board Announcement of Proceedings.

Tony Steiner gave a brief overview of the variance request and showed pictures of the property. He handed out a copy of a conditional plan approval for the building permit dated November 15, 2015 and sent to Mason Joiner Homes, LLC, from David Hovel, City Building Inspector. The variance is to use 6 feet of the 25’ setback making the setback 19’. The land to the back of the lot is city owned and is a detention pond.

Brown questioned why if the deck plan was submitted in November of 2015 and was denied they still went ahead with the building plan. City Engineering Dept. approved the grading for a walk-out home.

Chairperson Amundsen opened the Public Hearing at 7:10 pm.

Hecht swore in Rick Toston, Mason Joiner Homes, LLC representing Randy Cudd. Mr. Toston stated this lot was marked for sale as a walk-out. He and Cudd built the spec home. Surveying showed that grading had to been done for the driveway to meet the 15% sloop. They had to drop the garage eight inches and pushed the house back five feet, which would put the deck into the setback.

Morris asked about just pushing some of the dirt. Toston said they had to keep the house at a certain elevation. We would have had to bring in 4 feet of dirt in order to have a look-out home. The street was to low by about a foot and a half.

The house has been sold and they will be closing on the 14th of October. The buyers are under the assumption the variance would be granted.

With no one else wishing to speak Amundsen closed the Public Hearing at 7:15

Motion by Marsolek, 2nd by Leonard to approve the variance as requested. Board discussed the property, the pond, and the effect on neighbors.
Amundsen explained that a yes would approve the request and a no vote would deny the request and asked each member to vote by writing their decision and name on a paper.

Hecht read the votes that showed:
Amundsen (yes), Leonard (yes), Marsolek (yes), Brown (no), Horvath (no)
This variance did not receive the four (4) yes voted needed for approval and is denied.

Respectfully submitted

[Signature]
Lu Ann Hecht, City Clerk
Chairperson Eric Amundsen called this portion of the meeting to order at 7:18 pm.

Roll call:
Members present; Gary Horvath, Morris Marsolek, Jeanette Leonard, Andrew Brown

Others present: Tony Steiner, City Planner; Amy Peterson, Assistant Community Development Director; Rick Toston, Brandon Perry, Jessica LaFleur-Gray, Demond Gray, John Means

Hecht read the Public Hearing Notice that was published in the September 22, 2016 River Falls Journal.

This public hearing is being held at the request of Jessica LaFleur-Gray and Demond Gray to request a variance to the rear yard setback in the (R1) Single Family Zoning District. The applicant is seeking a variance to section 17.20.060 (Height, Area, and Setback Requirements).

Hecht read the Zoning Board Announcement of Proceedings.

Tony Steiner gave a brief overview of the variance request and showed pictures of the property. He handed out a copy of a conditional plan approval for the building permit dated October 16, 2015 and sent to Oevering Homes, LLC, from David Hovel, City Building Inspector. It was noted that a deck was not shown on the approval plans. The letter also stated that a future deck would require a building permit and inspections, and the maximum the deck may be built out from the house is approximately 3 feet, it must meet the setback requirement of 25’ from the rear property line. The applicant is seeking an 11’ 4” variance to reduce the rear yard setback from 25’ to 13’ 8” to accommodate a deck. The land to the back of the lot is city owned and is a detention pond.

Chairperson Amundsen opened the Public Hearing at 7:25 pm.

Hecht swore in Brandon Perry, Oevering Homes, LLC, representing Jessica LaFleur-Gray.
Mr. Perry thanked the Board for the opportunity to appear. The Gray’s first looked at the lot across the street. After the surveyor and excavator looked at the lot, it was determined that a walkout could not be built there.

The excavator and surveyor determined a walkout was achievable on this lot (210 Glenmeadow). Moving forward to stake out the lot it was determined that with the grading and elevation the house would have to be pushed back on the lot to achieve the allowable driveway grade per City Ordinance. The City Engineer approved the lot for a walkout.

The lot was purchased before the deck was talked about. When it was realized that the deck would encroach into the setback, the home was built and the owners planned on requesting a variance hoping the city would grant the request. C & J Builders were not contacted about this issue.

Leonard asked how far the end of the deck would be from the house. Perry replied 14’.

Hecht swore in Rick Toston.
He suggested the Board look at the issues of the grading plan. A house should have been able to be built, but the lot and the street was not graded properly. Their grade was adjusted to the lowest level it could be. If this lot would have been regraded the lot he bought would have been affected.

Hecht swore in Jessica LaFleur-Gray.
Ms. LaFleur-Gray talked about this being their dream home. They could not build on the lot they had purchased so they traded that one for this lot. They started building in October and were notified by email from Oranzo of Oevering Homes on October 30, 2016 of the setback and their need to file for a variance. Since that time they have had discussions with Perry on alternative deck locations. Perry suggested having the deck on the side of the house, but the Gray's felt that would disrupt the flow inside the home.

Hecht swore in John Means.
He explained that the pond is behind the homes and that farm land that cannot be built on for many years is behind the pond.

With no one else wishing to speak Amundsen closed the Public Hearing at 7:34.

Motion by Leonard, 2nd by Marsolek to approve variance as requested.
Board discussion included the property and road elevation and the builder.

Amundsen explained that a yes vote would approve the request and a no vote would deny the request and asked each member vote by writing their decision and name on a paper.

Hecht read the votes they showed:
Amundsen (yes), Leonard (yes), Marsolek (yes), Brown (no), Horvath (no)
This variance did not receive the four (4) yes voted needed for approval, and is denied.

Motion by Marsolek, 2nd by Brown to adjourn at 7:45.

Respectfully submitted

[Signature]
Lu Ann Hecht, City Clerk
BOARD OF APPEALS  
January 22, 2020, 6:30 p.m.

STAFF REPORT

ITEM: Board of Appeals, Amber Carlson, 1209 Emily Circle, River Falls, WI, 54022

REQUEST: Dimensional variance to encroach on the minimum side setback requirement in Sections 17.08.010(C)6e and 17.20.060(G) of the City’s municipal code

LOCATION: 1209 Emily Circle, River Falls, WI, 54022

LEGAL: Lot 20 Rolling Hills Addition together with and subject to Party Wall Agreement Per DOC #410183, located in the NE¼ of the NE¼ of Section 2, T27N, R19W, City of River Falls, Pierce County, Wisconsin.

PIN: 276-01326-0520

APPLICANT: Amber Carlson

AGENT: Justin Kleidosty, Infinity Decks

OWNER: Amber Carlson

CITY STAFF: Sam Wessel, Planner  
David Hovel, Building Inspector  
Amy Peterson, Development Services Director  
Brandy Howe, Senior Planner

PURPOSE
A public hearing is being held at the request of Amber Carlson to request an area variance to the side yard setback in the (R1) Single Family Zoning District.

BACKGROUND
Amber Carlson owns a twin home unit at 1209 Emily Circle, a corner lot in the Rolling Hills subdivision that is zoned R1 Single Family Low Density Residential, as are all of the adjacent properties. In May 2019, it was brought to staff’s attention that the existing attached deck had been replaced by a new, enlarged deck (see Figure 1 on page 4). This work occurred without a building permit. David Hovel, Building Inspector, issued a letter to Ms. Carlson requiring her to apply for a retroactive building permit. Carlson’s contractor, Justin Kleidosty of Infinity Decks, applied for a permit on her behalf on August 19, 2019. Upon inspection of the deck, Hovel found it to encroach on the minimum side yard setback.
Staff discussed the variance option with the applicant, stating that while it was an option, it was not recommended by staff because it would be difficult to provide the evidence of hardship as is required by Section 17.104.30(E) of the Municipal Code.

ANALYSIS
Tables 1 and 2, below list zoning district standards and pertinent dimensional data related to the subject property. As indicated, the lot width is 54.4 feet wide and the structure (house footprint) is 36.5 feet wide. The lot width less the structure leaves 17.9 feet of side yard remaining, which only provides room for a deck to extend 2.9-feet from the structure.

Table 1: Zoning District Standards

<table>
<thead>
<tr>
<th>Zoning Standards</th>
<th>1209 Emily Circle</th>
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</thead>
<tbody>
<tr>
<td>Minimum Lot Size</td>
<td>3,750 SQ FT</td>
</tr>
<tr>
<td>Min. Front Yard Setback</td>
<td>20 FT</td>
</tr>
<tr>
<td>Min. Side Yard Setback</td>
<td>5 FT</td>
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<tr>
<td>Min. Side Yard Setback (corner lot)</td>
<td>15 FT</td>
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Table 2: Dimensional Facts

<table>
<thead>
<tr>
<th>Area Measured</th>
<th>Measurement</th>
<th>Source</th>
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</thead>
<tbody>
<tr>
<td>Lot size</td>
<td>7,956 SQ FT</td>
<td>Rolling Hills Plat</td>
</tr>
<tr>
<td>Lot width</td>
<td>54.4 FT</td>
<td>Rolling Hills Plat</td>
</tr>
<tr>
<td>Structure width (measured north to south)*</td>
<td>36.5 FT</td>
<td>River Falls GIS data</td>
</tr>
<tr>
<td>Dimension of new deck</td>
<td>12' x 18'</td>
<td>Applicant/Building Inspector</td>
</tr>
<tr>
<td>Dimension of former deck</td>
<td>12' x 10'</td>
<td>Applicant/Contractor</td>
</tr>
<tr>
<td>Dimension of former deck</td>
<td>8' x 8'</td>
<td>City Assessor</td>
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</tbody>
</table>

*Note that this is an estimate to the best of staff’s knowledge based on GIS data – only a survey of the property prepared by a licensed surveyor will provide the dimensions with 100% accuracy.

NEIGHBORHOOD/PUBLIC COMMENTS
A public hearing notice was published in the January 9, 2020 edition of the Star Observer. Public hearing notices were mailed to property owners within 300 feet of the subject property on January 10, 2020. The meeting agenda was posted at City of River Falls Public Library, Public Safety Building, and City Hall on January 17, 2020.

Staff received one email from a concerned resident on January 13, 2020, that stated that the new deck is much larger than the previous deck, and that a crew tore down the old deck and put up the new deck in one day without a building permit. The resident indicated that all other residents are required to obtain a building permit and adhere to zoning setbacks, therefore a variance should not be granted since standard procedures were violated.

CONDITIONS UNDER WHICH A VARIANCE MAY BE GRANTED
Section 17.104.030(E) of the Municipal Zoning Code authorizes the Board of Appeals to grant a variance subject to the following conditions.

1. That because of the particular physical surroundings, shape or topographical conditions of the specific parcel of land involved a particular hardship to the owner would result as distinguished from a mere inconvenience if the strict letter of the regulations were carried out.
2. That there are exceptional or extraordinary circumstances or conditions applying to the land or building which do not apply generally to land or buildings in the same zone classification.
3. That the purpose of the variance is not based exclusively upon a desire to increase the value or the income potential of the parcel of land.
4. That granting of the variance is necessary for the preservation and employment of substantial property rights of the petitioner and the alleged difficulty or hardship is caused by this chapter and has not been created by any person having an interest in the parcel of land.
5. That granting of such variance will not, under the circumstances of this particular case, materially affect adversely the health and safety of persons residing or working in a neighborhood of the property of the applicant and will not, under the circumstances of this particular case, be materially detrimental to the public welfare or injurious to the property or improvements in such neighborhood.

The Board must apply the above-listed conditions and make a decision based on those criteria. To grant a variance, a favorable vote of a majority of the quorum is necessary. The motion regarding action should be very specific with regard to the action being taken.

STAFF RECOMMENDATION
The Board of Appeals is a quasi-judicial body, i.e. functions in many respects like a court. Staff makes no comments or recommendations prior to the hearing that may prejudice a decision by the Board. Staff will be available at the public hearing to answer questions that may aid the Board in their decision. Staff can assist the Board with drafting of the language once the decision has been made.

BOARD OF APPEALS OPTIONS
The Board must determine based on the finding of facts and conclusions of law whether the area variance request does or does not meet the three tests: Physical limitations of the property, harm the public interest and unnecessary hardship. These tests are described further below and in the Conclusions of Law form. Attached you will find a form regarding conclusions of law. It is the responsibility of Board members to complete this form and return it to staff at the end of the meeting.

1. Deny the requested variance – Deck must come into compliance with zoning setback (i.e. it is made smaller or removed altogether).
2. Grant the requested variance – deck remains as is.
3. Grant the requested variance subject to conditions/mitigation
4. Table the request and require the applicant to provide a survey of the lot and structure prepared by a licensed professional

ATTACHMENTS
1. Board of Appeals Application
2. City of River Falls Zoning Ordinance Section 17.08(C): General requirements for decks
3. River Falls Municipal Code Section 17.20.050: Height, area, and setback requirements (R1 single family)
4. City of River Falls Zoning Ordinance Section 17.104.030: Board of Appeals
5. Conclusions of Law Form (To be completed by Board Members at the meeting.)
6. Public hearing notice, January 9, 2020
Figure 1. Photo of new deck submitted by Kleidosty, deck contractor, on 9-17-2019.
Planning and Zoning Application

<table>
<thead>
<tr>
<th>APPLICANT NAME</th>
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<tbody>
<tr>
<td>Amber M. Carlson</td>
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<table>
<thead>
<tr>
<th>APPLICANT EMAIL</th>
<th>APPLICANT PHONE</th>
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<tbody>
<tr>
<td><a href="mailto:Amber.carlson.am@gmail.com">Amber.carlson.am@gmail.com</a></td>
<td>715-338-6703</td>
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<tr>
<th>PROJECT LOCATION/ADDRESS</th>
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<tbody>
<tr>
<td>1209 Emily Circle, River Falls, WI 54022</td>
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<thead>
<tr>
<th>APPLICANT AGENT NAME (CONTRACTOR/CONSULTANT/ETC.)</th>
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<tr>
<td>Justin Kleidosty, Infinity Decks</td>
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<tr>
<th>PROPERTY OWNER NAME, ADDRESS, EMAIL, PHONE</th>
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| Amber M. Carlson  
1209 Emily Circle  
River Falls, WI 54022  
Amber.carlson.am@gmail.com |

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<thead>
<tr>
<th>REQUEST FOR</th>
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<tbody>
<tr>
<td>O Appeal</td>
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<tr>
<td>O Annexation</td>
</tr>
<tr>
<td>O Certified Survey Map (CSM)</td>
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<td>O Preliminary Plat</td>
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<tr>
<td>O Final Plat</td>
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<tr>
<td>O Replat</td>
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<tr>
<td>O Rezoning (Zoning Map Amendment)</td>
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<td>O Plan Amendments</td>
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<td>O Development Review</td>
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<tr>
<td>O PUD General Development Plan</td>
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<tr>
<td>O PUD Specific Implementation Plan</td>
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<tr>
<td>O Parking Lot / Driveway</td>
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<tr>
<td>O Right-of-Way Vacation</td>
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<td>O Special Use Permit</td>
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<td>O Variance</td>
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<tr>
<th>ATTACH LEGAL DESCRIPTION OF PROPERTY</th>
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<tr>
<td>Required for all annexations, CSMs, rezoning, right-of-way vacation.</td>
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<tr>
<th>NARRATIVE DESCRIPTION OF REQUEST (ATTACH AS SEPARATE SHEET)</th>
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<table>
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<tr>
<th>APPLICANT SIGNATURE</th>
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<tbody>
<tr>
<td>Amber M. Carlson</td>
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<table>
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<tr>
<th>FOR INTERNAL USE ONLY</th>
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<td>CHECK#</td>
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<td>RECEIPT#</td>
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<th>PRINT</th>
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<tr>
<td>Amber M. Carlson 10/30/19</td>
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<td>10/30/19</td>
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Revised: October 18, 2017
October 27, 2019

To Whom it May Concern:

In May of 2018, I was given Justin Kleidosty from Infinity decks to help me replace some boards on my deck. He was a friend of some people that knew my husband Jeff Carlson when he was alive. After removing the first few boards it became clear that we could not save any of it. It was a safety hazard and on top of rotting boards it was not really connected to the house. It was at this point Justin and I decided to take it down and make it bigger. At this time, we did not know we needed a building permit as the posts stayed the exact same size. As you will see in pictures, I am on a corner lot. Rules are different that I have to be 15 feet from the sidewalk. If I was next to my neighbor, I would only have to be 5 feet. After the deck was finished my family and friends spent many nights enjoying the deck in remembrance of my husband. Almost 14 months later I received a letter from the city saying that I did not get a permit. I immediately called and met with Dave Hovel, paid him for the deck permit. Then met with him. He found a few fixes and Justin came out within a few days and fixed them. If you look at the pictures my deck is unique as it is in the air. The part of the deck we have been asked to cut off it the overhang that you can clearly see. If you look at my yard, I have spent money as a tribute to my husband and the father of my children. Everything from the landscaping to the plants are all things Jeff loved. The deck was built as a place for my children since he is buried up by his family over an hour away. Jeff had a very traumatic death. He fell onto a fish tank when the children and I were out of town and bled to death was his official cause of death at 44 years old. I have spent almost 3 years rebuilding and taking our children to therapy. My 12-year-old who would have been 9 at the time of Jeff's death is really starting this year to understand her dad's passing. She has been cutting and on medication. When told that we may have to cut down part of “daddy’s deck” she cried
and brought it up to her therapist. Cutting down this deck would traumatically affect my children. I have spoke with neighbors and I can’t find one who thinks that we should make any changes to it. Having it up for over a year, we had no issues with it inferring with snow or visibility. I am coming to you today to plead that you grant my family a variance for our deck. Also, with the frost and thaw of the sidewalk, it further back when it was built. Thank you for meeting with us to discuss what can be done to save our deck. I am going to attach information of Jeff incase anyone was interested in looking into our tragic situation further.

Sincerely,

Amber Mae Carlson


https://bakken-young.com/jeffrey-carlson-11282016/
17.08.010 - Lot and building regulations.

C. General Provisions

6. [Decks.] For purposes of this chapter, a deck shall be subject to the following.
   a. No deck shall occupy more than thirty (30) percent of the area of a required yard.
   b. A deck shall have the same front yard setback requirements as the principal building and shall not be allowed to encroach upon the front yard setback.
   c. No deck shall be closer than fifteen (15) feet from the rear lot line.
   d. No deck shall be closer than five feet from the side lot line.
   e. **No deck shall be closer than fifteen (15) feet from the side lot line on a corner lot.**
   f. No deck shall encroach on a recorded easement.

A deck, gazebo or screen porch that is intended to be integrated into the principal structure by a roof extension, walls, or other improvements that partially or fully enclose it, shall be subject to the setback and yard requirements of the principal building.

17.20.050 - Height, area and setback requirements (single-family).

A. Minimum lot area: Seven thousand five hundred (7,500) square feet, except that lots of record with less than seven thousand five hundred (7,500) square feet or less than seventy-five (75) feet wide shall have a minimum of five thousand (5,000) square feet and fifty (50) feet.

B. Maximum building height: Thirty-five (35) feet.

C. Minimum lot width: Seventy-five (75) feet, except as referred to in subsection A of this section.

D. Minimum front yard: Twenty (20) feet.

E. Minimum rear yard: Twenty-five (25) feet, except that accessory buildings shall not be closer than five feet to rear lot line.

F. Minimum side yard (interior lot): Five feet.

G. **Minimum side yard (corner lot): Fifteen (15) feet.**

H. Average Structures Setbacks. Along streets designated as local streets on the city's official map, a new principal structure or addition to a principal structure (excluding garage or carport) may encroach upon the minimum front yard setback for its lot if there is a principal structure on a lot adjoining it or principal structures on both lots on either side of it having setbacks less than the minimum setback line. Averaging of setback shall be calculated as follows:

1. If one principal structure on an adjoining lot is located within the minimum setback line, the setback for the new principal structure or addition to a principal structure shall be the average of the distance between the standard setback line and the location of the front of the adjoining principal structure.
2. When principal structures are on lots on either side and within the minimum setback line, the setback for the new principal structure or addition to a principal structure shall be the average of the distance between front of both adjoining principal structures.

17.104.030 - Board of appeals.

A. How Constituted. The board of appeals shall consist of five members appointed by the mayor, subject to confirmation by the council, for terms of three years pursuant to Section 62.23(7), Wis. Stats.

B. The members shall serve with compensation as provided in Section 2.08.060 and shall be removable by the mayor for cause upon written charges and after public hearing. The board of appeals shall make and file in the office of the city clerk its own rules of procedure consistent with the statutes. The minutes of proceedings and hearings before the board and all variances granted by it shall be filed promptly at the office of the city clerk and shall be open for public inspection during office hours. The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision or determination
appealed from or to decide in favor of the applicant on any matter on which it is required to pass or to effect a variance. A concurring vote of a majority of the quorum is sufficient if the decision of the board is advisory or upholds the zoning administrator's decision. The grounds of every such determination shall be stated and recorded.

C. Alternate Members. The mayor may appoint, for staggered three year terms, two alternate members to the board of appeals. Annually, the mayor shall designate one of the alternate members as first alternate and the other as second alternate. The first alternate shall act with full power only when a member of the board refuses to act because of interest or is absent. The second alternate shall so act only when the first alternate so refuses or is absent, or when more than one member of the board so refuses or is absent.

D. Powers and Duties. The board of appeals shall have the following duties, powers and responsibilities:

1. To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by an administrative officer in the enforcement of the zoning code.

2. To hear requests for variances from the literal provisions of this title in instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration, and to grant such variances only when it is demonstrated that such actions will be in keeping with the spirit and intent of this chapter. The board of appeals may not permit as a variance any use that is not permitted under this title for property in the zone where the affected person's land is located. The board of appeals may impose conditions in the granting of variances to ensure compliance with the variance and to protect the adjacent properties.

E. The board of appeals may grant a variance subject to the following conditions:

1. That because of the particular physical surroundings, shape or topographical conditions of the specific parcel of land involved a particular hardship to the owner would result as distinguished from a mere inconvenience if the strict letter of the regulation were carried out;

2. That there are exceptional or extraordinary circumstances or conditions applying to the land or building which do not apply generally to land or building in the same zone classification;

3. That the purpose of the variance is not based exclusively upon a desire to increase the value or the income potential of the parcel of land;

4. That granting of the variance is necessary for the preservation and employment of substantial property rights of the petitioner and the alleged difficulty or hardship is caused by this chapter and has not been created by any person having an interest in the parcel of land;

5. That granting of such variance will not, under the circumstances of this particular case, materially affect adversely the health and safety of persons residing or working in a neighborhood of the property of the applicant and will not, under the circumstances of this particular case, be materially detrimental to the public welfare or injurious to the property or improvements in such neighborhood.

F. The following procedures shall be applicable in making an appeal to the board of appeals:

1. Any person appealing to the board of appeals shall make written application providing such information as is necessary to the city clerk and make a payment of a fee. The fee will be set from time to time by resolution of the city council.

2. The board of appeals shall hold a public hearing on the appeal. Notice of the hearing shall be published in the official newspaper at least ten (10) days before the hearing. Due notice shall also be sent to the parties in interest.

3. The board of appeals after review of the application and within fourteen (14) days after the hearing shall make a decision on the appeals.

4. In granting an appeal or a variance under the provisions of this section the board of appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of the regulations or provisions to which the appeal or variance is granted as to the public health, safety, comfort, convenience and general welfare.
CONCLUSIONS OF LAW

Based on the above findings of fact the Board concludes that:

Variance – The variance (does/does not) meet all three of the following tests:

A. The hardship (is/is not) due to physical limitations of the property rather than the circumstances of the appellant because:

___________________________________________________________________
___________________________________________________________________
___________________________________________________________________
___________________________________________________________________

B. The variance (will/will not) harm the public interest because:

___________________________________________________________________
___________________________________________________________________
___________________________________________________________________
___________________________________________________________________

C. Unnecessary hardship

An applicant may not claim unnecessary hardship because of conditions which are self-imposed or created by a prior owner (for example, excavating a pond on a vacant lot and then arguing that there is no suitable location for a home). Courts have also determined that economic or financial hardship does not justify a variance. When determining whether unnecessary hardship exists, the property as a whole is considered rather than a portion of the parcel. The property owner bears the burden of proving unnecessary hardship.

For an area variance, unnecessary hardship exists when compliance would unreasonably prevent the owner from using the property for a permitted purpose (leaving the property owner without any use that is permitted for the property) or would render conformity with such restrictions unnecessarily burdensome. The board of adjustment must consider the purpose of the zoning restriction, the zoning restriction's effect on the property, and the short-term, long-term and cumulative effects of a variance on the neighborhood, the community and on the public interests. This standard reflects the new Ziervogel and Waushara County decisions.
Application/petition: Amber Carlson, 1209 Emily Cir, 1-22-2020

D. Unnecessary hardship (is/is not) present because:

___________________________________________________________

___________________________________________________________________

______________________________________________________________

___________________________________________________________________

Section 17.104.030 of the City of River Falls Municipal Code:

E. The board of appeals may grant a variance subject to the following conditions:

1. That because of the particular physical surroundings, shape or topographical conditions of the specific parcel of land involved a particular hardship to the owner would result as distinguished from a mere inconvenience if the strict letter of the regulation were carried out;

2. That there are exceptional or extraordinary circumstances or conditions applying to the land or building which do not apply generally to land or building in the same zone classification;

3. That the purpose of the variance is not based exclusively upon a desire to increase the value or the income potential of the parcel of land;

4. That granting of the variance is necessary for the preservation and employment of substantial property rights of the petitioner and the alleged difficulty or hardship is caused by this chapter and has not been created by any person having an interest in the parcel of land;

5. That granting of such variance will not, under the circumstances of this particular case, materially affect adversely the health and safety of persons residing or working in a neighborhood of the property of the applicant and will not, under the circumstances of this particular case, be materially detrimental to the public welfare or injurious to the property or improvements in such neighborhood.
CITY OF RIVER FALLS, WISCONSIN
NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Board of Appeals of the City of River Falls will hold a public hearing on Wednesday, January 22, 2020 at 6:30 p.m., at the City Hall Council Chambers, 222 Lewis Street, River Falls, WI 54022, to consider the following:

A REQUEST FOR VARIANCE for Amber Carlson, 1209 Emily Cir. The request for variance is for the corner lot side setback requirement of 15 feet from the property line required in the R-1 Single Family Low Density Residential Zoning District in the City of River Falls. The proposed variance is requested to accommodate an existing deck that enranges on the required setback. This land is described as follows:

Lot 20 Rolling Hills Addition together with and subject to party wall agreement per document #410183 (1199 W Maple St or 1209 Emily Cr) (7956 sq ft).

All interested persons will be given an opportunity to be heard. The application for variance is available for public inspection in the Office of the City Clerk, City Hall at 222 Lewis Street, or on the City's website (www.rfcity.org) under the "agenda center" corresponding to the meeting date listed above.

Dated this 9th day of January 2020

Amy White, City Clerk