



**PLANNING AND ZONING**  
**Cerro Gordo County Courthouse**

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**SPECIAL EXCEPTION STAFF REPORT**

**SUMMARY OF REQUEST**

**Case No.:** 23-21

**Hearing Date:** September 26, 2023

**Staff Contact:** Michelle Rush, Zoning Assistant

**Applicant**

Ron Laudenburg (Meints Construction)  
801 6<sup>th</sup> Avenue S  
Clear Lake, IA 50428

**Owner**

Todd D & Terri J Maxwell  
2408 71<sup>st</sup> Street  
Urbandale, IA 50322

**Property Address:** 4816 Abbott Drive

**Brief Legal Description:** Lot 7, Block 2, PM Park

**Zoning:** R-3 Single Family Residential

**Background**

The applicant proposes to construct a 26'x12' deck on the rear side of the existing house to replace the existing dilapidated balcony (See Figure 1). The proposed deck will be constructed at the same level as the existing balcony and be supported by two posts at the corners, which is 10' from the rear house line. It will have a 2' overhang from the support posts with the edge roughly even to the rear edge of the patio (retaining wall) (See Figures 2 & 3).

SPECIAL EXCEPTION REQUEST*		
Structure	Request(s)	Requirement(s)
Deck	19' rear yard setback	30' rear yard setback (11.6-C)

\*See Figures 2-5

**FINDINGS OF FACT**

1. Todd D. and Terri J. Maxwell are the owners of the subject property.
2. Ron Laudenburg (Meints Construction) is apply for special exception on behalf of the owners.
3. The property is zoned R-3 Single Family Residential.
4. The proposed deck is 19' from the rear lot line (high water mark of Clear Lake).
5. A 30' rear yard setback is required in the R-3 District.
6. The application was filed September 5, 2023 with the Planning and Zoning Office.

## ANALYSIS

The Board of Adjustment is provided the power to grant special exception under Section 24.4(A)(2) of the Zoning Ordinance. The Board may grant special exception to bulk standards of the ordinance if, in its judgement, the standards established in Section 24.4(A)(2)(a) are met. In its review, the Board may attach certain conditions to any special exception granted in order to observe the spirit of the Zoning Ordinance and Comprehensive Plan and mitigate any potential impacts that may directly result from the requested special exception.

### **Discussion of Standards of Review**

***Strict compliance with the standards governing setback, frontage, height, or other bulk provisions of this ordinance would result in a practical difficulty upon the owner of such property and only where such exception does not exceed 50 percent of the particular limitation or number in question.***

There is no feasible location for a deck around the existing house except on the rear side. The proposed deck is 19' from the rear lot line (high water mark), which is further from the rear lot line than 50 percent of the requirement. The standard appears to be met.

***The exception relates entirely to a permitted use (principal, special, or accessory) classified by applicable district regulations, or to a permitted sign or off-street parking or loading areas accessory to such a permitted use.***

The proposed deck is considered as a part of the house under the Zoning Ordinance, which is a principal permitted use in the R-3 District. The standard appears to be met.

***The practical difficulty is due to circumstances specific to the property and prohibits the use of the subject property in a manner reasonably similar to that of other property in the same district.***

With the existing circumstances of the lake lot and location of the house, the only feasible location for a replacement deck is on the rear side of the house, and the existing balcony is a clear safety hazard. Similar decks or balconies are a regular feature on lake lots along the south shore. The proposed deck will not be significantly closer to the shoreline than any other properties within the vicinity. The standard appears to be met.

***A grant of the special exception applied for, or a lesser relaxation of the restriction than applied for, is reasonably necessary due to practical difficulties related to the land in question and would do substantial justice to an applicant as well as to other property owners in the locality.***

Narrow lots and limited development space is a regular occurrence for lake lots in the South Shore neighborhoods, especially PM Park. By the time a house is constructed, there are limitations to how and where features such as patios and decks can be built on such lots to be built within the requirements of the ordinance. As it is with most lake lots, usually a variance from the strict limitation of the rear yard setback from the lake is necessary to get full enjoyment of the lake, especially due to the steep banks along most of the shoreline. This is true of the subject property. The standard appears to be met.

***Such practical difficulties cannot be overcome by any feasible alternative means other than an exception.***

There is no alternate feasible location for the proposed deck on the property. The standard appears to be met.

***Relief can be granted in a manner that will not alter the essential character of the locality.***

Similar decks and patios are a regular feature in the neighborhood. The standard appears to be met.

#### **Discussion of Potential Impacts to Immediate Area**

The proposed deck is unlikely to impact neighbors' views in a significant way. The shoreline has a convex shape within the area, and the subject property sits at or near the southernmost point of the curve of the shoreline. All of the buildings and structures to the west are all further north to the rear line of the proposed deck (See Figure 2). The adjacent neighbor to the east has a patio that is setback a few feet further from the shore than the proposed deck (See Figure 3). The proposed deck will be open and supported by two posts at the corners. As long as the proposed deck is constructed as proposed, this should not significantly block the lake view for said neighbor.

#### **Staff Conclusions and Recommendation**

All standards of review appear to be met. Staff recommends approval as recommended.

<b>BOARD DECISION</b>
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The Board of Adjustment may consider the following alternatives:

#### **Alternatives**

1. Grant the requested special exception subject to any condition as deemed necessary by the Board.
2. Grant relief less or different from the requested special exception.
3. Deny the requested special exception.

The following motions are provided for the Board's consideration:

#### **Provided motion of approval:**

- I move to adopt the staff report as the Board's findings and to approve the special exception as requested by Ron Meints (Meints Construction) on behalf of Todd and Terri Maxwell, subject to the following conditions:
  1. All construction shall comply with the site plan submitted with the application.
  2. No construction shall begin until a Zoning Permit has been issued by the Planning and Zoning Office.

Provided motion of denial:

- I move to adopt the staff report as the Board's findings and to deny the special exception as requested by Ron Meints (Meints Construction) on behalf of Todd and Terri Maxwell for the following reasons:  
[STATE REASONS FOR DENIAL]

<b>EXHIBITS</b>
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- Exhibit 1: Figures
- Exhibit 2: Special Exception Application
- Exhibit 3: Site plan
- Exhibit 4: Aerial photo of site



**Figure 1**

Looking at the location of the proposed deck



September 8, 2023, J. Robbins

**Figure 2**

Looking west along the edge of the patio

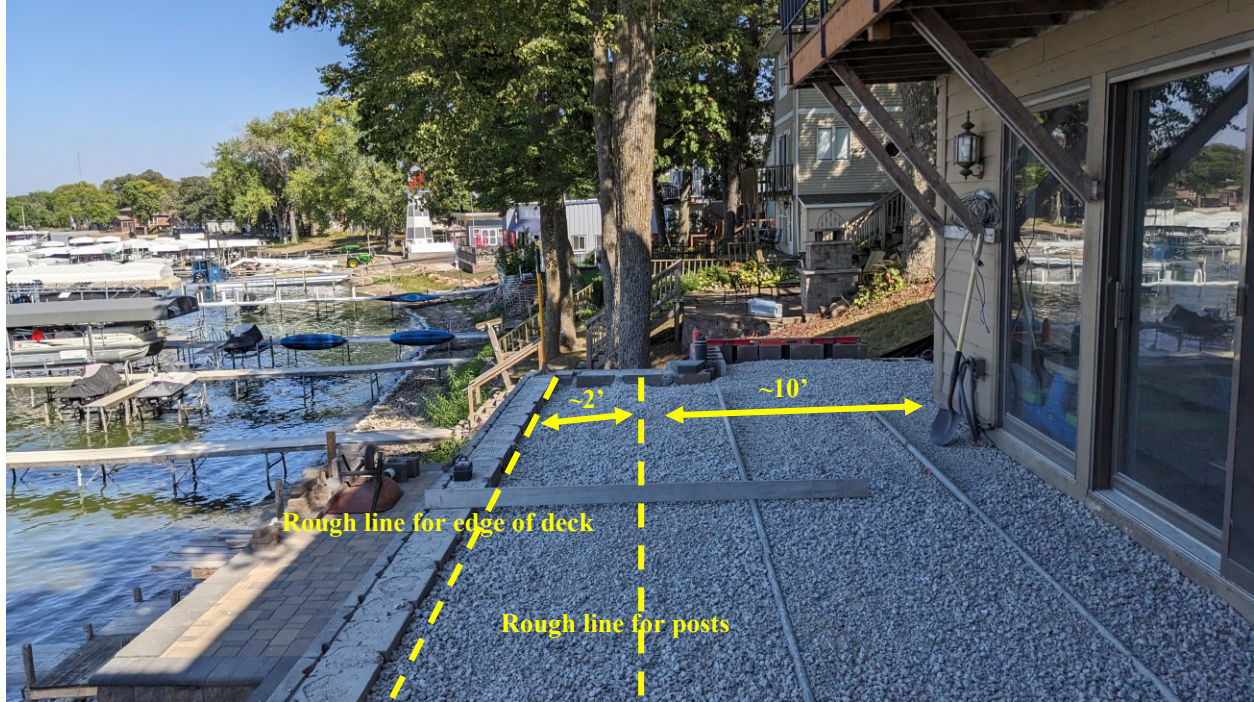


September 8, 2023, J. Robbins



**Figure 3**

Looking east along the edge of the patio



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**Figure 4**

Looking west along the rear lot line



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**Figure 5**

Looking east along the rear lot line



September 8, 2023, J. Robbins

SPECIAL EXCEPTION APPEAL

APPLICATION

Date Filed 9-5-23

Date Set for Hearing 9-26-23

Case Number: 23-21

Applicant Name: Ron Lundenburg - Maints Const. Bldgs Phone: 601-357-4987 E-Mail: ron@maintenanceconstruction.com

Mailing Address: 801 10th Ave So. Clear Lake, Ia. 50428

Property Owner Name: Todd & Terri Maxwell Phone: 515-238-9000 E-Mail:

Property Owner Address: 2408 71st St. Urbandale, Ia 50322

Property Description (Not to be used on legal documents): Parcel # 052242700700 Township CL

Property Address: 4816 Abbott Dr. Zoning: R-3

Brief Legal Description: L7 BIKZ PM PARK

Project Description

Decision Date:

Construction of a deck on lake side of house 24' x 12'

Special Exception(s) Requested (As cited on results from denied Zoning Permit Application)

R-3 Zoning Requires 30' Setback, we would be at 19' to front.

Criteria Justifying Special Exception under Standards for Review (You may add more details in the Additional Information)

This structure would be built equal to or shorter than the current structure on the west side. There is a public approach stair on the east side. There is a patio below the intended structure, intent to match depth. The distance from high water mark would not exceed 50% of governing setback limitation.

I am the [ ] Owner [ ] Contract Purchaser [X] Other (Explain) Contractor requested by owner to build deck of the property affected.

I, the applicant, being duly sworn, depose and say that I am the owner, or that I am authorized and empowered to make affidavit for the owner, who makes the accompanying application; that the application and plan are true and contain a correct description of the proposed building, lot, work, and use to which the structure is to be placed if a special exception is granted. The Planning & Zoning staff is also given permission to enter the above property in reviewing this Application.

Applicant Signature Ron Lundenburg

Date 9-5-23



THURSTON LAM BERSON

TODD M. SPICER

PAWELL

Garage

Landing

UPPER LEVEL PATIOS  
9x16  
100 sq ft

High  
Patio

Low  
Patio

House

GRASS  
AREA

Patio  
9x15  
207 sq ft

LOWER LEVEL PATIOS  
FINISH WITH SLABS  
20x15

PERM  
AREA

TREE

11 x 26 Patio  
Proposed Deck Above  
Same Footprint

Retaining Wall

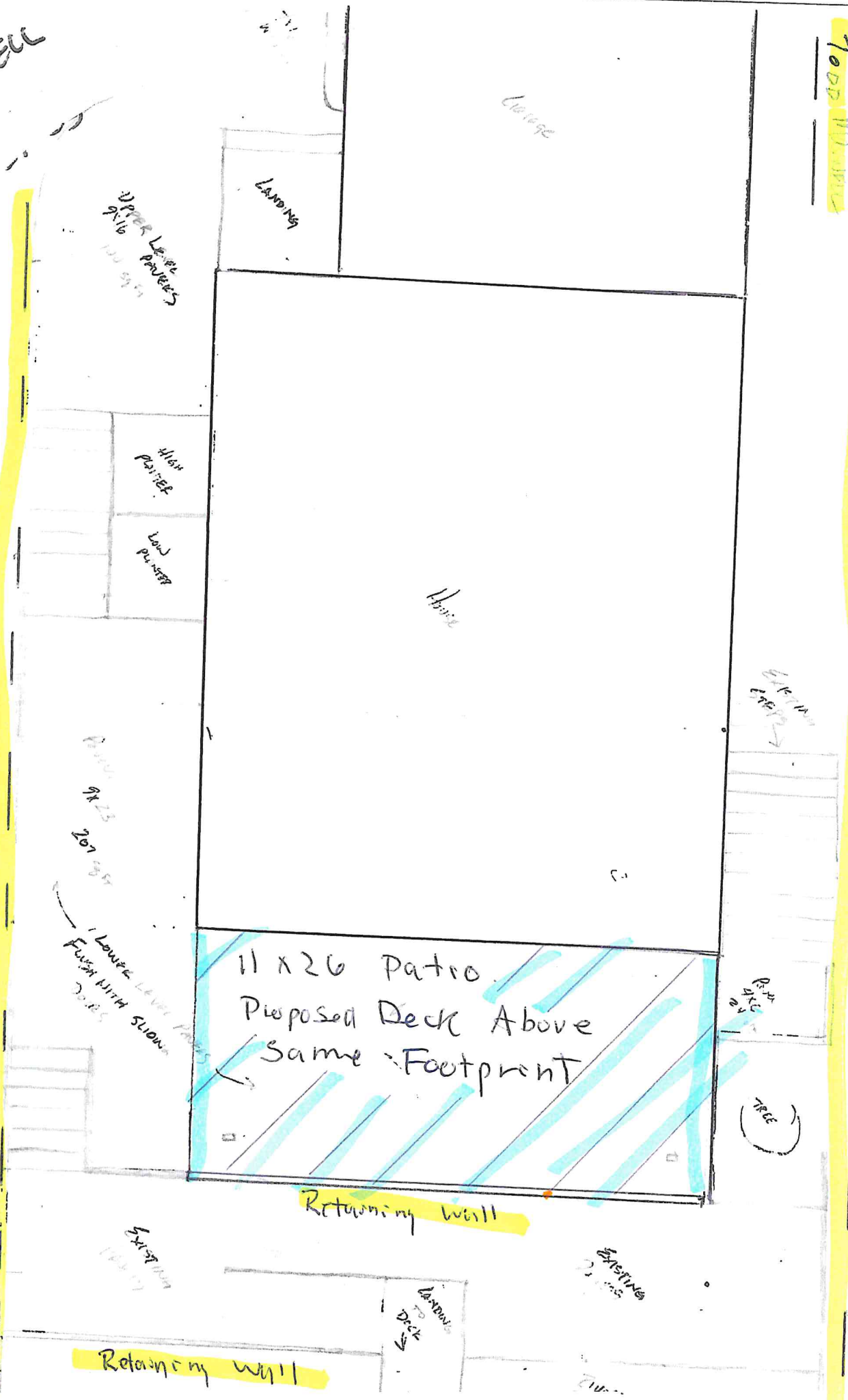
EXISTING  
LANDING

EXISTING  
LANDING

LANDING  
TO  
DECK

Retaining Wall

PERM  
AREA







22

ABBOTT DR

LEROY ST