



ITEM REPORT  
PLANNING AND ZONING COMMISSION

Agenda Date: 7/8/2025  
Agenda Section: New Business

**TO:** Baxter Planning and Zoning Commission

**FROM:** Matthew Gindele, City Planner

**REQUEST:** **PUBLIC HEARING. Variance** to allow a deck within the required 100-foot setback to Perch Lake for property located at 6148 Highland Scenic Rd. (City file 2025-020)

**APPLICANT:** Mike and Deb Stoe  
R-1, Low Density Residential

**ZONING:**

**1. Application Request**

The applicant is proposing to construct a deck on the lakeside of an existing home and has requested a variance to allow it to be constructed within the 100-foot setback to the ordinary high-water mark (OHWM) of Perch Lake.

**2. Context**

Adjacent Land Use and Zoning

	Adjacent Land Use	Zoning
North	Perch Lake	N/A
East	Public Access/Single Family Homes	R-1, Low Density Residential
South	Single Family Homes	R-1, Low Density Residential
West	Single Family Homes	R-1, Low Density Residential

Characteristics of the Site

The subject property is lightly wooded with mature deciduous trees located along the side lot line and along the lake front. The property has frontage on Perch Lake which acts also acts as a wetland and FEMA floodplain. The property is mostly flat near the road with a mild slope toward the lake dropping approximately 12 feet in elevation. A modest sized home and attached garage are also located on property. The proposed development would not expand the impervious surface which is currently approximately 15 percent, which complies with the maximum 25 percent impervious surface requirement of the shoreland overlay district.

### 3. Analysis of Request

#### Variance

The applicant is proposing to construct a 28' x 8' deck that would extend 8' out from the house toward the lake. The deck design also has a small catwalk that extends along the horizontal plane parallel with the home to a staircase that continues along the same parallel plane so as to not encroach any closer to the lake than the main part of the deck. The home is currently located with an approximate 50-foot setback from the ordinary high-water mark (OHWM) to the lake (1,190.4) when Perch Lake has a required setback of 100 feet. This means the deck cannot possibly be constructed without a variance. Due to the curvature of the OHWM, the proposed deck would have an approximate setback of 44 feet from the OHWM.

Additionally, the applicant has stated that he tore off a previously existing deck in the same location approximately five years ago. The city does not have official documentation of the size of that deck but aerial imagery from 2019 indicates that the previously existing deck extended 8 feet out from the home. The proposed deck would not extend any further into the lake setback than the previously existing deck, however, it would expand the area of the deck within the lake setback.

The variance standards are established by Minnesota Statute §462.357, Subd. 6.2. The burden of proof is on the applicant to show that the variance standards have been met. Staff has reviewed the application for consistency with the variance standards, as follows:

*a) That there are practical difficulties in complying with the Zoning Ordinance.*

There are practical difficulties in complying with the Zoning Ordinance because the home was constructed well within the lake setback prior to current zoning standards so a deck cannot be constructed without a variance.

*b) That the conditions upon which a petition for a variation is based are unique to the parcel of land for which the variance is sought and were not created by the landowner.*

The conditions are unique to the parcel of the land and were not created by the landowner because the home is within the lake setback and was constructed prior to current zoning standards by a previous owner of the home.

*c) That the granting of the variation will not alter the essential character of the locality.*

The granting of this variance will not alter the essential character of the locality. Other homes and decks in the immediate area have also been constructed within the lake setback.

*d) The proposed variance would be in harmony with the general purposes and intent of the Ordinance.*

The variance would be in harmony with the general purposes and intent of the ordinance. Staff finds that, given the development pattern of the lot and neighborhood, the variance would meet the intent of the ordinance.

*e) The variance is consistent with the Comprehensive Plan.*

The comprehensive plan and zoning ordinance identify this property as a residential use where decks are a permitted use and are common to have.

### 4. Recommendation

Staff recommends approval of the variance, subject to the findings and conditions in the draft resolution.

**Attachments**

1. Draft Resolution 2025-058
2. Site Location Map
3. Site Plan
4. Construction Drawing