

CITY OF MINNETRISTA



CITY COUNCIL CONSENT AGENDA ITEM

Subject: Application from Renee & Jeffrey Wirth for a rear yard setback variance at 4246 Creekside Way.

Prepared By: Nickolas Olson, Senior City Planner
Through: David Abel, Community Development Director

Meeting Date: September 9, 2026

Overview: Renee & Jeffrey Wirth (the “Applicants”) have made a request for a rear yard setback variance to reduce the required setback from 20 feet to 19.5 feet to allow for an existing deck and replacement footing locations to remain at 4246 Creekside Way; PUD: Planned Unit Development Zoning District; PID# 34-117-24-21-0051 (the “Property”).

Background: The Applicants received a deck permit back in April of 2021. An inspection for the footings was scheduled for and passed on May 5, 2021. No further inspections were scheduled or performed on this project. Fast-forwarded to this summer 2026 when the City was notified of work occurring on a retaining wall without a permit. The Applicants were replacing a failing retaining wall on the Property. As part of the replacement, the footings were going to be replaced as well as they had been compromised by the failing wall. When the City went out to inspect the work on the retaining wall, it was noticed that the deck hadn’t passed its final inspection, so the inspector looked at the deck and observed it to be larger than the approved building plans. City staff let the Applicants know of the issue and presented them with options to either provide proof that the deck complied with the setback requirement, fix the deck to the approved size, or apply for a setback variance in the event the larger deck did not meet the setback requirement. Upon having the Property surveyed, it was noted that the deck is at 19.5 from the rear property line and does not meet the required 20-foot rear yard setback. Knowing now that the deck encroaches into the setback, the Applicants had to either apply for a variance or fix the deck. The Applicants have appropriately applied for a variance, and the application materials have been attached for City Council review. The City Council should consider the standard variance criteria when reviewing the request and making a motion.

Variance Request: City Code Section 505.05 Subd. 9 allows the City to issue variances from the provisions of the zoning code. A variance is a modification or variation of the provisions of the zoning code as applied to a specific piece of. A variance is only permitted when:

- a. The variance is in harmony with the general purposes and intent of this ordinance.

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Section 505.03 Subd. 1 outlines the specific purpose and intent of the City's zoning ordinance. One of those purpose and intent is to protect the general health and safety of the inhabitants of the City. This is accomplished through the promotion of proper use of land and structures with reasonable standards to which buildings, structures, and land will conform to for the benefit of all.

b. The variance is consistent with the comprehensive plan.

The basic intent of the comprehensive planning process is to provide a well-founded and coordinated decision-making framework to guide both public and private development and community improvements. In this regard, the comprehensive plan represents the development framework to guide and direct future land development decisions within the City. The Land Use Plan is a narrative and graphic representation of the community's land use and growth management goals and policies that provides the background and rationale for land use designations as represented on the Proposed Land Use Map.

A variance may be granted when the applicant establishes there are practical difficulties in complying with this ordinance. Practical difficulties, as used in connection with granting a variance, means:

1. The property owner proposes to use the property in a reasonable manner not permitted by this ordinance.

This factor means that the landowner would like to use the property in a particular reasonable way, but cannot do so under the rules of the ordinance. It does not mean that the land cannot be put to any reasonable use whatsoever without the variance.

2. The plight of the landowner is due to circumstances unique to the property not created by the landowner.

The uniqueness generally relates to the physical characteristics of the particular piece of property, that is, to the land and not personal characteristics or preferences of the landowner. When considering the variance for a building to encroach or intrude into a setback, the focus of this factor is whether there is anything physically unique about the particular piece of property.

3. The variance would not alter the essential character of the locality.

Under this factor, consider whether the resulting structure will be out of scale, out of place, or otherwise inconsistent with the surrounding area.

When considering a variance request, the City Council should consider the above criteria. For a variance to be approved, it must satisfy all the criteria. If it fails even one of the above criteria, it should be denied. Upon review of the information provided by the Applicants, the request may satisfy most of the criteria. However, when it comes to unique circumstances not created by the landowner, it may be hard to argue the Applicants didn't create their own problem. They had an approved plan and survey showing compliance with the required building setbacks. During construction, the dimensions were not followed as approved and the deck was never further inspected by the City. Its reasonable

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to conclude that the Applicants created the difficulty by not following the approved plans, but one may also conclude the setback encroachment is minor in nature and the current need to properly fix the temporarily supported deck is appropriate. The City Council should consider these facts when determining if the Applicants have established there are practical difficulties in complying with this ordinance. Focus should not solely be on the plight of the landowner, but all the established variance criteria. Remember, all criteria need to be satisfied before a variance is approved.

Neighborhood Comments: Notices were sent out to all property owners within 500 feet of the subject property. To date, staff has not received any written comments or spoken to anyone regarding the request as a result of sending public notice.

Planning Commission Recommendation: The Applicants' request was presented to the Planning Commission at their August 24, 2026 meeting. At that meeting, the Planning Commission held the required public hearing. In addition to the Applicants speaking, there were a few residents who spoke in favor of the Applicants request. After hearing testimony in favor of the request and then discussing amongst themselves, the Planning Commission determined the request satisfied the variance criteria and they made a motion to recommend the City Council adopt a resolution approving the Applicants request, based on certain findings of fact and subject to conditions. Motion passed 5-0. Absent: Young, Taylor, Livermore, and Rognli.

Conclusion: The City Council should review the staff report and the recommendation of the Planning Commission. After review, the City Council should consider the entire record before it prior to making a motion. Along with making a motion, findings of fact should be established which support the motion.

Recommended Action: Based on the recommendation of the Planning Commission, the City Council should motion to adopt a resolution approving the requested rear yard setback variance at 4246 Creekside Way, based on certain findings of fact found in the attached resolution and subject to the following conditions:

1. Any required grading shall maintain existing drainage patterns or improve the existing drainage of the lot and adjacent lots;
2. The Applicants shall obtain all necessary permits and approvals from the City and other applicable entities with jurisdiction over the Property prior to any construction;
3. The Applicants are responsible for all fees incurred by the City in review of this application; and
4. The variance approval is valid for one year from the date of approval and will become void and expire unless a building permit has been issued for the site.

Attachments:

1. Location Map
2. Applicant's Narrative
3. Proposed Survey
4. Res. No. 97-26 Approving Setback Variance at 4246 Creekside Way

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4246 Creekside Way



1 in = 50 Ft

-  City Boundary
-  Address Labels
-  Parcels



VARIANCE REQUEST STATEMENT

Jeffrey and Renee Wirth
4246 Creekside Way
Minnetrista, MN 55331

Re: Rear Yard Setback Variance for Existing Residential Deck

A. Property Owners

The current property owners and applicants are Jeffrey Wirth and Renee Wirth.

B. Site Data

Address: 4246 Creekside Way, Minnetrista, Minnesota 55331.

Property Identification Number: 34-117-24-21-0051.

Legal Description: Lot 10, Block 8, Woodland Cove, Hennepin County, Minnesota.

The property contains approximately 9,527 square feet, or approximately 0.22 acres.

The existing use of the property is single-family residential. The property is improved with an existing single-family home, an existing rear-yard deck, and related residential improvements.

The current zoning is PUD / Residential.

C. Code Provision for Which Variance Is Requested

The applicants request a variance from the applicable rear-yard setback requirement for the property, including Minnetrista City Code § 505.15, Subd. 2 and/or the applicable setback standards governing the Woodland Cove property.

The requested variance relates only to the existing rear-yard deck and the replacement footing locations necessary to safely support that deck.

D. Description of Proposal and Requested Variance

The applicants request approval of a rear-yard setback variance for the existing residential deck at 4246 Creekside Way.

The existing deck has been in place for approximately five years and serves the rear of the existing single-family home. Based on the current survey information, the deck is approximately 19.5 feet from the rear property line at the closest point and approximately 20.0 feet from the rear property line at another point. As a result, the requested variance relates to an approximately 5–6 inch encroachment into the required rear-yard setback at the closest point.

The applicants are not requesting to expand the existing deck, increase the encroachment, or approve any additional rear-yard improvement as part of this application. The requested variance is limited to the existing residential deck and the replacement footing locations necessary to safely support that deck.

The purpose of the request is to allow the existing deck and replacement footing locations to remain without requiring removal, reduction, or reconstruction of the deck structure. The requested variance is narrow in scope. It would allow an existing residential improvement to remain in substantially its current location, while permitting the applicants to complete the replacement footing work necessary to safely support the deck.

E. Pre-Application Discussions and Background

The deck was originally constructed after the City issued Permit MB-21102 for the project. A footing inspection was completed, but the framing and final inspections were not completed and the permit was

not closed out.

In 2026, work at the property involving the retaining wall and replacement of the deck footings triggered renewed City review of the deck permit and setback issue. During that work, the prior deck footings were removed, and the deck became temporarily supported.

The City advised the applicants that the deck must be constructed consistent with the approved permit materials and that the City believed the existing deck and/or proposed replacement footing locations did not comply with the approved plans or applicable setback requirements. The applicants then obtained updated survey information to evaluate the City's concern.

The updated survey information shows that the deck is approximately 19.5 feet from the rear property line at the closest point and approximately 20.0 feet from the rear property line at another point. The resulting setback issue is therefore approximately 5–6 inches into a 20-foot rear-yard setback.

Since that time, the applicants and their counsel have communicated with City staff regarding the existing deck, the City's concerns, the current condition of the deck, the applicable setback issue, and the safest and most practical path forward.

The applicants understand the City's position that the deck must either comply with the approved plans and applicable setback requirements or receive appropriate variance relief. This application is being submitted to formally request that variance relief.

The applicants are seeking to resolve the matter through the City's established variance process. The request is not intended to expand the deck or disregard the City's requirements, but rather to address an existing condition involving a minor setback encroachment and to allow the deck to be safely supported.

F. Harmony With the General Purposes and Intent of the City Code and Comprehensive Plan

The requested variance is in harmony with the general purposes and intent of the Minnetrista City Code.

The property is used for single-family residential purposes, and the requested variance would not change that use. A rear-yard deck is a customary residential improvement associated with a single-family home. The variance would allow the existing residence to continue to have ordinary rear-yard outdoor living space while preserving the residential character of the property.

The requested relief is limited to a minor setback encroachment by an existing deck. The request does not involve a new commercial use, additional dwelling unit, increased residential density, or a substantial new structure. The applicants are not seeking to enlarge the deck or move it closer to the rear property line. The variance would simply allow the existing deck and necessary replacement footings to remain.

The request also supports the City Code's general health and safety purposes. The prior deck footings have been removed, and the deck is presently in a temporary support condition. Granting the variance would allow the applicants to complete the replacement footing work and safely support the existing deck rather than leaving the structure in a temporary or uncertain condition.

The request is also consistent with the residential character contemplated for the property and surrounding area. The property will remain a single-family residence, and the deck will remain an ordinary residential accessory improvement. Granting the variance would not change the use, intensity, or overall character of the property.

G. Practical Difficulties

The applicants have practical difficulties in complying with the strict application of the rear-yard setback requirement.

1. The Property Owner Proposes to Use the Property in a Reasonable Manner

The applicants propose to use the property in a reasonable manner.

The deck is an existing residential deck serving an existing single-family home. Maintaining a safe, usable rear-yard deck is a reasonable residential use of the property. The requested variance would not allow a new or unusual use of the property. It would allow an existing residential improvement to remain where it has been located for approximately five years.

The setback issue is very minor. The encroachment is approximately 5–6 inches into the required rear-yard setback at the closest point. In practical terms, the deck is already at or very near the required setback line. Requiring physical modification of the existing deck structure to correct a matter of inches would impose a significant burden relative to the limited nature of the encroachment.

The applicants are also not seeking to expand the deck or create a larger encroachment. The request is

limited to preserving the existing deck and permitting replacement footings to be installed so the deck can be safely supported.

Strict enforcement would require physical modification of the existing deck structure to correct a matter of inches. That work would be disproportionate to the scope of the encroachment, particularly because the deck is already constructed and the replacement footings are needed to safely support the structure.

2. The Practical Difficulty Is Due to Circumstances Unique to the Property and Existing Conditions

The practical difficulty arises from the existing built condition of the deck, the minor nature of the setback encroachment, the relationship between the deck and rear property line, and the current need to complete replacement footing work for safety.

The deck was constructed following issuance of a City permit, and a footing inspection was completed. The issue was not discovered as part of a request to enlarge the deck. It arose during later work to address other site conditions and replace compromised footings. At this point, the existing deck is already built, the prior footings have been removed, and the deck must be properly supported.

The rear-yard setback encroachment is minor and results from the existing placement of the deck relative to the rear property line. The survey information indicates that one portion of the deck is approximately 20.0 feet from the rear property line, while the closest point is approximately 19.5 feet from the rear property line. This creates an encroachment of only approximately 5–6 inches.

The deck is now in a temporary support condition because the prior footings have been removed. The applicants are seeking limited variance relief to allow the existing deck and replacement footing locations to remain so the structure can be properly supported.

Modification of the deck would not be a simple adjustment. The deck includes integrated components such as railings, heavy planters, and a water capture/drainage system. Reducing the deck by several inches would require removal and reworking of portions of the existing deck assembly and related components, while the deck is presently in a temporary support condition.

Strict compliance would therefore require modification, reduction, or partial reconstruction of an existing deck structure for a very small setback deviation. That work would be disproportionate to the nature of the encroachment and would create additional construction activity and delay while the deck remains in need of proper support.

The applicants are not asking the City to approve a broader deviation from the Code. They are asking for limited relief tailored to the existing condition and the practical need to safely support the deck.

3. The Variance Would Not Alter the Essential Character of the Locality

Granting the variance would not alter the essential character of the locality.

The deck already exists and has been part of the property for approximately five years. The requested variance would not introduce a new structure that is out of scale or out of character with the surrounding neighborhood. It would not change the property from residential to nonresidential use, add density, or create additional traffic.

The surrounding area is residential in character, and rear-yard decks are typical residential improvements. Allowing this existing deck to remain with a minor setback variance would be consistent with that character.

Because the request involves an approximately 5–6 inch encroachment by an existing deck, the practical effect on neighboring properties and the surrounding area is minimal. The variance would not materially change the appearance, use, or intensity of the property.

H. Request Is Not Based Exclusively on Increasing Property Value or Income Potential

The variance request is not based on a desire to increase the value or income potential of the property.

The applicants seek the variance for practical and safety-related reasons. The purpose of the request is to preserve and safely support an existing residential deck, avoid unnecessary removal or reconstruction for a minor setback issue, and bring the existing condition into an approved status through the proper City process.

The property will remain a single-family residential property. The request does not involve a rental use, commercial use, subdivision, additional dwelling unit, or any proposal intended to generate income.

Any incidental effect on property value is not the basis for the request. The basis for the request is the

minor nature of the encroachment, the existing condition of the deck, the need to safely complete replacement footing work, and the reasonableness of allowing an existing residential improvement to remain.

I. No Adverse Effects

Granting the requested variance will not adversely affect the health or safety of persons residing or working in the neighborhood.

To the contrary, granting the variance would allow the applicants to complete replacement footing work and safely support the existing deck. The deck is currently in a temporary support condition because the prior footings have been removed. Allowing the replacement footings to be completed would improve safety and resolve the current condition.

Granting the variance will not impair an adequate supply of light and air to adjacent properties. The request involves an existing open deck and a minor setback encroachment of approximately 5–6 inches. The variance would not authorize a substantial new building mass or structure that would affect light or air.

Granting the variance will not be injurious to property or improvements in the neighborhood. The property will remain single-family residential, and the existing deck will remain in substantially the same location and condition. The requested variance is limited and will not materially affect surrounding properties.

Granting the variance will not increase congestion on public streets. The request does not add a dwelling unit, increase occupancy, change the use of the property, or generate additional traffic.

Granting the variance will not endanger public safety. To the contrary, it will allow the applicants to complete the replacement footing work and safely support the existing deck. The prior footings have been removed, new footing locations have been prepared, and the deck has been temporarily supported while the setback issue is being addressed. Approving the variance would allow the applicants to resolve that temporary condition and complete the work necessary to stabilize the deck.

Granting the variance will not substantially diminish or impair property values within the neighborhood. The deck already exists, the encroachment is minor, and the property will remain residential in character. Approval would not create a visual, traffic, safety, or use impact that would diminish surrounding property values.

CONCLUSION

The applicants respectfully request approval of a rear-yard setback variance for the existing deck at 4246 Creekside Way.

The requested variance is limited to an approximately 5–6 inch setback encroachment involving an existing residential deck. The deck has been in place for approximately five years; the property will remain single-family residential, and the applicants are not seeking to expand the deck or increase the encroachment.

Granting the variance would allow the applicants to complete necessary replacement footing work, safely support the existing deck, and resolve the current condition through the City's formal variance process. The request is reasonable, consistent with the residential use of the property, and will not alter the essential character of the neighborhood or adversely affect surrounding properties.

For these reasons, the applicants respectfully request that the City approve the requested rear-yard setback variance.

Respectfully submitted,

Jeffrey Wirth, Applicant / Property Owner

Signature: Jeffrey Wirth
Date: 7-1-2026

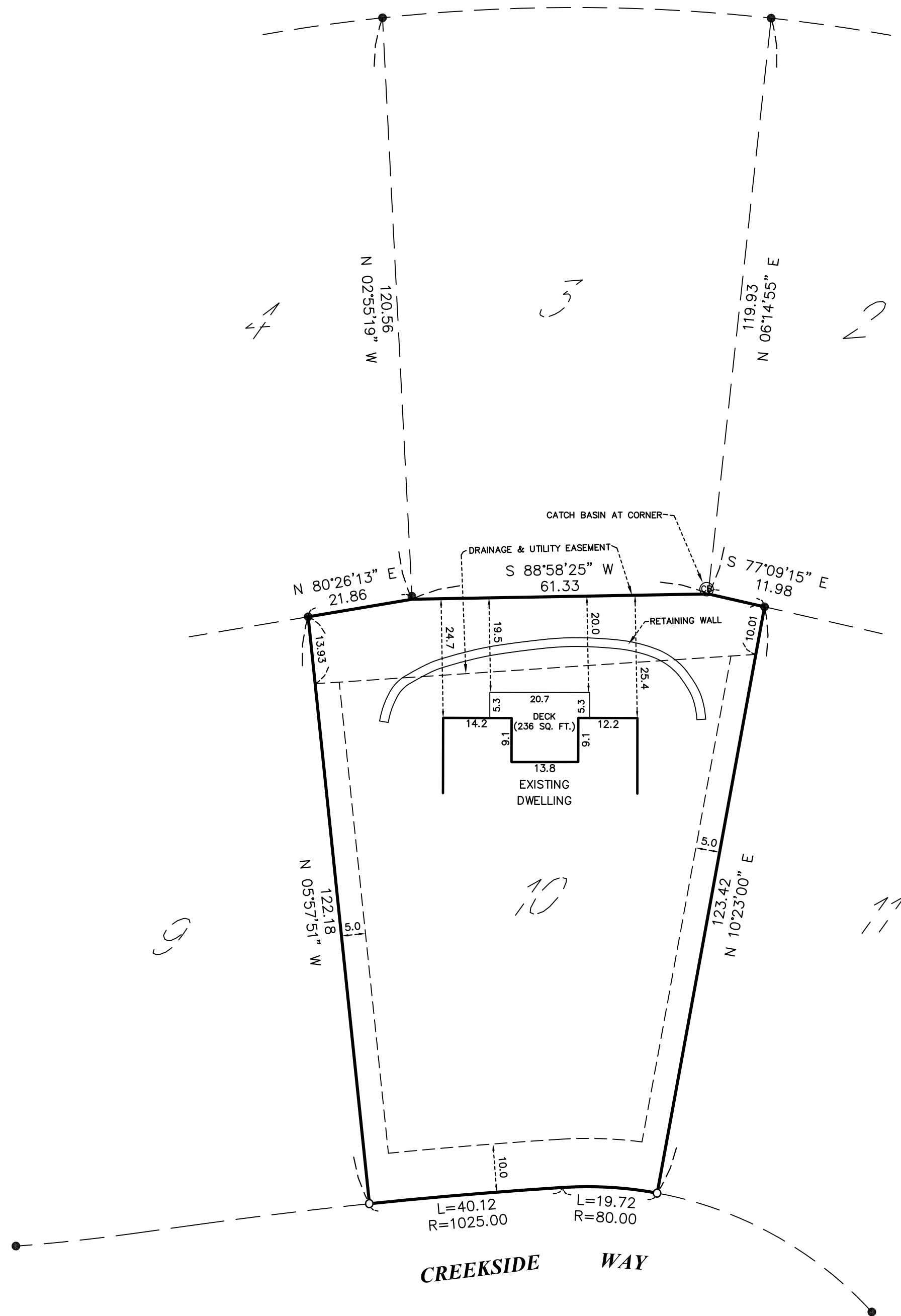
Renee Wirth, Applicant / Property Owner

Signature: Renee Wirth
Date: 7-1-2026

Lot 10, Block 8, WOODLAND COVE, Hennepin County, Minnesota.

1. Showing the length and direction of boundary lines of the legal description listed above. The scope of our services does not include determining what you own, which is a legal matter. Please check the legal description with your records or consult with competent legal counsel, if necessary, to make sure that it is correct and that any matters of record, such as easements, that you wish to be included on the survey have been shown.
2. Showing the location of observed existing improvements we deem necessary for the survey.
3. Setting survey markers or verifying existing survey markers to establish the corners of the property.
4. Existing building dimensions and setbacks measured to outside of siding or stucco.
5. This survey has been completed without the benefit of a current title commitment. There may be existing easements or other encumbrances that would be revealed by a current title commitment. Therefore, this survey does not purport to show any easements or encumbrances other than the ones shown hereon.

"●" Denotes iron survey marker, found, unless otherwise noted.
○ Denotes iron survey marker, set, MN Reg. No. 43503.



DATE	REVISION DESCRIPTION	DWG ORIENTATION	SCALE	CLIENT/JOB ADDRESS		I HEREBY CERTIFY THAT THIS PLAN, SURVEY OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.	DATE SURVEYED:	SHEET TITLE	SHEET NO.
				HOUSTON DROEL 4246 CREEKSIDE WAY MINNETRISTA, MN	Advance <i>Surveying & Engineering, Co.</i> 18202 Minnetonka Blvd, Suite 401 Deephaven, Minnesota 55391 Phone (952) 474-7964 Web: www.advsur.com	Wayne W. Preuks #43503 LICENSE NO. JUNE 3, 2026 DATE	JUNE 2, 2026	EXISTING SURVEY	S1
							DATE DRAFTED:	SHEET SIZE: 17 X 22	
							JUNE 3, 2026	DRAWING NUMBER	
								261094 BH	

RESOLUTION NO. 97-26

CITY OF MINNETRISTA

**RESOLUTION APPROVING A REAR YARD SETBACK VARIANCE FOR BRYCE
AND NATALIE QUINN FOR THE CONSTRUCTION OF A DECK AT 960 MAPLE
CREST DRIVE**

WHEREAS, the City of Minnetrista (the “City”) is a municipal corporation, organized and existing under the laws of the State of Minnesota; and

WHEREAS, the City Council of the City of Minnetrista has adopted zoning and subdivision regulations, per Chapter 5 of the Municipal Code, to promote the orderly, economic and safe development and utilization of land within the city; and

WHEREAS, Renee & Jeffrey Wirth (the “Applicants”) have made a request for a rear yard setback variance to reduce the required setback from 20 feet to 19.5 feet to allow for an existing deck and replacement footing locations to remain at 4246 Creekside Way (the “Property”) and which is legally described on Exhibit A attached hereto; and

WHEREAS, on August 24, 2026, the Minnetrista Planning Commission considered the requested rear yard setback variance, held a public hearing and, after consideration of the entire record before it, voted 5-0 in favor of recommending approval of the requested setback variance; and

WHEREAS, the Minnetrista City Council has reviewed the application, as submitted, and has made the following findings of fact:

1. The requested variance is in harmony with the purpose and intent of the City’s zoning ordinances because most of the deck complies with the setback requirements except for a small portion of one corner of the deck;
2. The requested variance is consistent with the City’s comprehensive plan because the Property is guided for long term Residential Low land use in the 2040 Minnetrista Comprehensive Plan. The proposed addition does not change the use from single family and is consistent with the long-term plan for the Property. In addition to simply complying with the Proposed Land Use Map, the proposed deck does not impede upon the general healthy, safety, and welfare of the surrounding residents;
3. The Applicants propose to use the Property in a reasonable manner because a deck is a reasonable inclusion on a walkout foundation home;
4. The requested variance is the result of unique circumstances not created by the landowner because of the existing built condition of the deck, the minor nature of the setback encroachment, the relationship between the deck and rear property line, and the current need to complete replacement footing work for safety; and
5. The requested variance will not alter the character of the locality because other homes in the neighborhood have decks which are similar size.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Minnetrista hereby approves the requested rear yard setback variance for an existing deck and replacement footing locations to remain at 4246 Creekside Way, subject to the following conditions:

1. Any required grading shall maintain existing drainage patterns or improve the existing drainage of the lot and adjacent lots;
2. The Applicants shall obtain all necessary permits and approvals from the City and other applicable entities with jurisdiction over the Property prior to any construction;
3. The Applicants are responsible for all fees incurred by the City in review of this application; and
4. The variance approval is valid for one year from the date of approval and will become void and expire unless a building permit has been issued for the site.

This resolution was adopted by the City Council of the City of Minnetrista on the 9th day of September, 2026 by a vote of ____ Ayes and ____ Nays.

Lisa Whalen, Mayor

ATTEST:

Ann Meyerhoff, City Clerk

EXHIBIT A

Legal Description of 4246 Creekside Way:

Lot 10, Block 8, WOODLAND COVE, Hennepin County, Minnesota.