

# City of Lee's Summit

## Development Services Department

July 11, 2025

TO: Board of Zoning Adjustments  
FROM: Hector Soto, Jr., AICP, Senior Planner  
RE: **PUBLIC HEARING – Application #PL2025-149 – Variance to Unified Development Ordinance (UDO) Article 6, Section 6.040, Table 6-3, Rear Yard Setback – 4086 SW Lido Dr; Nancy and Paul Nunes, applicants**

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### Recommendation

The Development Services Department recommends **APPROVAL** of a 6'-6" variance to the minimum 25' rear setback requirement for an uncovered deck in the R-1 zoning district, to allow for a reconstructed uncovered deck to maintain an 18'-6" setback from the rear property line as shown on the plot plan upload July 11, 2025.

The Development Services Department recommends **APPROVAL** of a 10' variance to the minimum 30' rear setback requirement for a covered deck in the R-1 zoning district, to allow for a pergola on a portion of an uncovered deck to maintain a 20' setback from the rear property line as shown on the plot plan dated July 11, 2025.

### Request

**Variance Requested:** a non-use variance to the rear yard setback requirement for an uncovered deck with pergola

### Site Characteristics

**Location:** 4086 SW Lido Dr

**Zoning:** R-1 (Single-Family Residential)

**Property Owner:** Nancy and Paul Nunes

**Surrounding Zoning and Uses:**

**North:** R-1 – single-family residential

**South:** R-1 – common area tract and lake

**East:** R-1 – single-family residential

**West:** R-1 – common area tract and lake

### Background

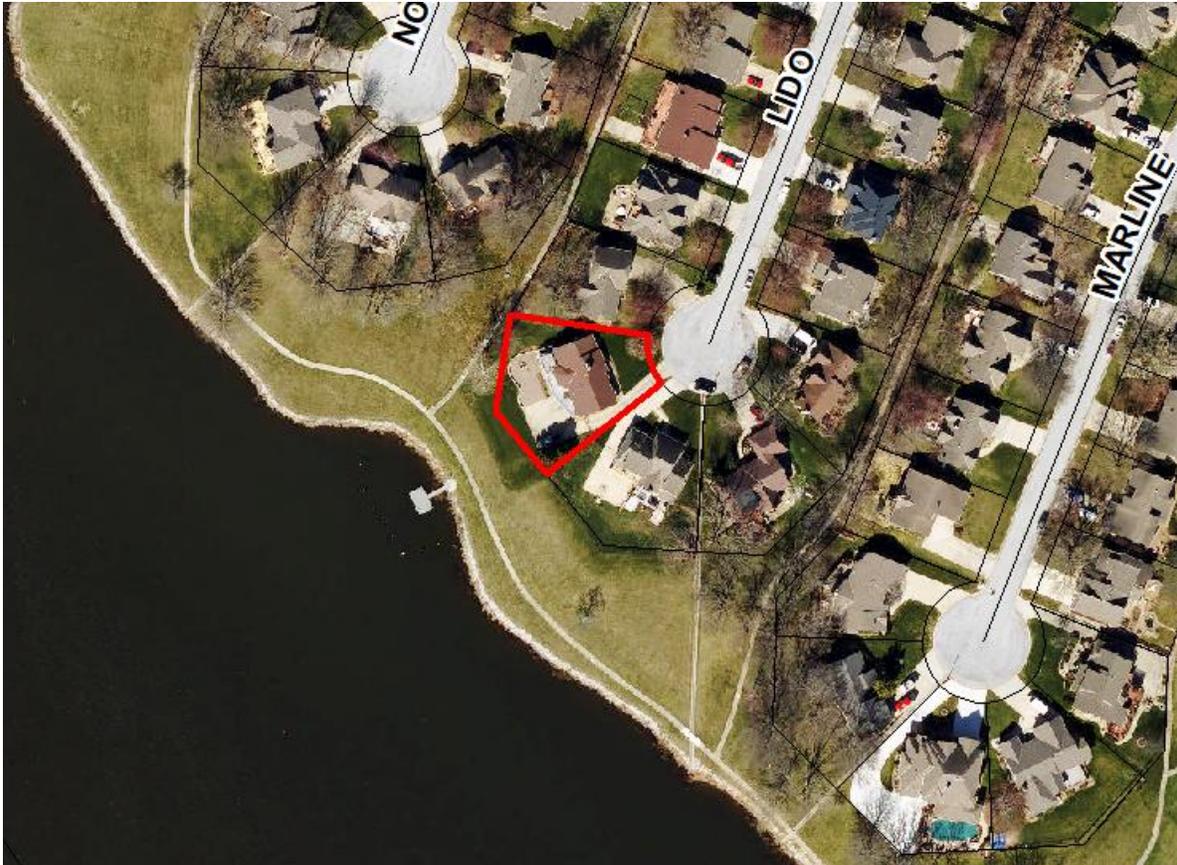
- August 8, 1977 – A building permit (Permit No. 77-477) was issued for construction of a single-family residence. The plot plan did not show any deck on the subject property. The existing attached deck was presumably constructed at the same time as the residence.

### Ordinance Requirement

**Rear Yard Setback Requirements.** The Unified Development Ordinance requires residences to maintain a minimum 30' setback from the rear property line in the R-1 zoning district (UDO Article 6, Section 6.040, Table 6-3). Uncovered, attached decks associated with single-family residences may encroach five (5) feet into a required rear yard, resulting in a 25' rear yard setback (UDO



The subject property sits along the shore of Raintree Lake. Common area and the lake are located to the west and south of the subject property. The nearest residence to the northwest of the property is located approximately 150' away across the treed common area tract. The nearest residence directly to the rear is located approximately 935' across the lake.



*Figure 3 – Subject property with abutting common area.*

**Request.** The applicants propose to replace the existing uncovered deck and former pergola with the same types of structures of identical dimensions, which at the closest point will be set back 18'6" (the uncovered deck) from the rear property line. The replacement pergola will be set back 20' from the rear property line.

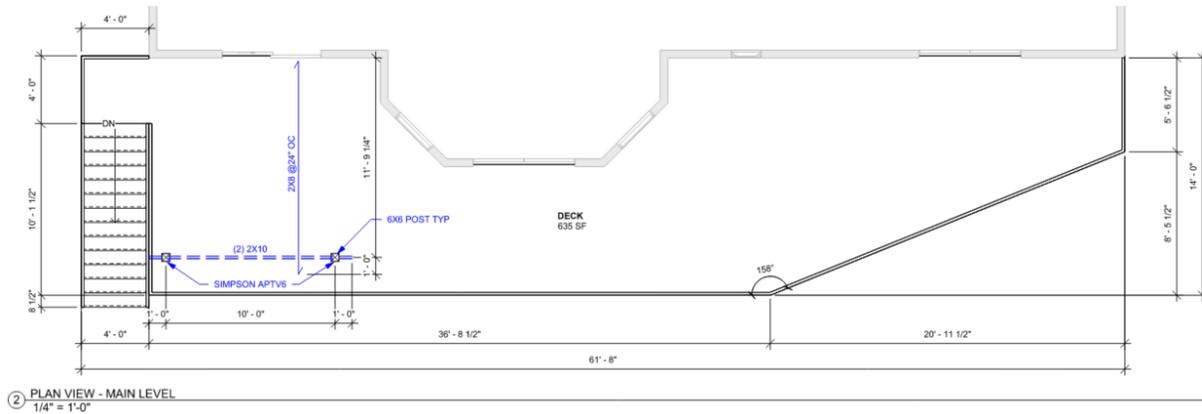


Figure 4 – Dimensioned plan view of proposed replacement deck.

## Analysis of Variance

With respect to all variances, the following is an evaluation of the criteria set forth in the Unified Development Ordinance Article 2, Sec. 2.530.B.3.:

*Criteria #1 – The granting of the variance will not adversely affect the rights of adjacent landowners or residents.*

Granting the requested variance will not adversely affect the rights of adjacent landowners or residents. The proposed replacement deck complies with the side yard setbacks. The setback encroachments are to the rear yard in the direction of the common area tract and lake. The proposed replacement deck maintains the same dimensions as the deck and pergola that have existed on the property since approximately 1977.

*Criteria #2 – The granting of the variance will not be opposed to the general spirit and intent of this Ordinance.*

The intent of setbacks is to maintain an expectation of privacy and separation between uses and structures in order to allow for the enjoyment of one’s property. The proposed encroachments are not toward the adjacent residences to the north, west or south. The encroachments are toward the common area and lake.

*Criteria #3 – The variance desired will not adversely affect the public health, safety or general welfare.*

Granting a variance to the rear yard setbacks in order to allow for a replacement deck and pergola that have existed on the subject property since 1977 will not create an increased risk in the health, safety, morals and general welfare.

*Criteria #4 – The variance requested arises from a condition that is unique to the property in question, is not ordinarily found in the same zoning district, and is not created by an action or actions of the landowner or the applicant.*

The need for a variance arises from the proposed replacement of an existing uncovered deck with pergola that has existed on the subject property since approximately 1977. The existing deck pre-dates ownership of the subject property by the applicants. The need for a variance was discovered at the time of building permit application review for the proposed replacement structures.

*Criteria #5 – Substantial justice will be done.*

Substantial justice would be done by granting a variance. The applicants propose to replace an existing uncovered deck and former pergola with structures of the same dimensions. The existing structures were constructed circa 1977, prior to the applicants taking ownership of the property. The applicants were unaware of the deck and pergola's non-compliance with setback requirements at the time they purchased the property. The proposed replacement structures do not increase any existing setback encroachments.

**Analysis of Non-Use Variance**

With respect to a non-use variance, the following is an evaluation of the criteria set forth in the Unified Development Ordinance Article 2, Sec. 2.530.B.2.:

*Criteria #1 – Whether practical difficulties exist that would make it impossible to carry out the strict letter of the Ordinance.*

It is not impossible to construct an uncovered deck with pergola on the subject property in accordance with current setback regulations. However, the subject property is a cul-de-sac lot with an irregular rear property boundary comprised of two angled property line segments. At its closest point, the existing residence is set back 30' from the rear property line segment that is located due west. Reconstruction of the existing deck and pergola to dimensions that comply with the applicable setbacks (25' for an uncovered deck and 30' rear yard setback for a covered deck [i.e., the pergola portion]) would yield a deck of reduced depth and functionality compared to the existing structure that has existed since approximately 1977 with no apparent negative impact on area properties.

In making such recommendation, the Staff has analyzed the following considerations set forth in the Unified Development Ordinance Article 2, Sec. 2.530.B.2.:

*Consideration #1 – How substantial the variation is, in relation to the requirement.*

The applicant requests a variance of 6'-6" to the minimum 25' rear yard setback for an uncovered deck, to allow an 18'-6" rear yard setback.

The applicant requests a variance of 10' to the minimum 30' rear yard setback for a covered deck, to allow a 20' rear yard setback for a pergola.

*Consideration #2 – If the variance is allowed, the effect of increased population density, if any, on available public facilities and services.*

Approval of the setback encroachments will not increase population and thus would have no effect on the available public facilities.

*Consideration #3 – Whether a substantial change will be produced in the character of the neighborhood or a substantial detriment to adjoining properties is created.*

Granting a variance will not change the character of the neighborhood or be a substantial detriment to adjoining properties. The proposed uncovered deck and pergola replace structures that have existed in the exact location and configuration on the subject property since approximately 1977.

*Consideration #4 – Whether the difficulty can be obviated by some method, feasible for the applicant to pursue, other than a variance.*

The need for a variance can be obviated by constructing a reconfigured uncovered deck and pergola, but the resulting structures will be of reduced functionality compared to the structures that have existed on the subject property for approximately 48 years.

*Consideration #5 – Whether, in view of the manner in which the difficulty arose and considering all of the above factors, the interests of justice will be served by allowing the variance.*

The applicants are not the original homeowners. The applicants were made aware that the existing structures did not meet setback requirements at the time that a building permit application was filed for the demolition and reconstruction of the existing uncovered deck and pergola. The interests of justice would be served by approving the variance requests by allowing for the reconstruction of structures that have existed without incident since approximately 1977.

*Consideration #6 – Conditions of the land in question, and not conditions personal to the landowner. Evidence of the applicant's personal financial hardship unrelated to any economic impact upon the land shall not be considered.*

The subject property backs up to common area and a lake. These conditions provide a buffer between the subject property and area properties in the direction of the encroachments to the west to ensure that separation and privacy are maintained.

Attachments:

1. Variance Application, uploaded June 19, 2024 – 7 pages
2. Plot Plan showing proposed replacement uncovered deck and pergola, uploaded July 11, 2025
3. Construction plans, uploaded July 11, 2025 – 10 pages
4. Copy of original plot plan approved on August 8, 1977
5. Location Map