



Agenda Item 2016-034

City of Diamondhead

5000 Diamondhead Circle, Diamondhead, MS 39525

Phone: (228) 222-4626

FAX: (228) 222-4390

www.diamondhead.ms.gov

TO: Mayor, City Council and City Manager

FROM: Ronald R. Jones, Building Official *Ronald*

DATE: February 25, 2016

SUBJECT: Recommendation of Planning & Zoning Commission-
Landmark Contractors; Case File Number 2016-00017

At its meeting on Tuesday, February 24, 2016, the Planning & Zoning Commission by a 5-0 vote (Malley rescued himself) **denied** the variance as petitioned by Landmark Contractors.

Landmark Contractors, LLC represented by Janene Malley has filed an application requesting a variance from the Zoning Ordinance (Article 4.6.5 E.) to encroach within the 20' required front yard setback along Apaki Place by 3'7/8" for the construction of a single family home. The zoning district is R-2.

The property address is 796 Apaki Place. The tax parcel number is 067R-1-36-145.000. The legal description is Diamondhead Phase 2, Unit 5, Block 7, Lot 85. The property is located north of and east of and adjacent to Apaki Place (corner lot) and west of Diamondhead Drive East. The case file number is 201600017.

The staff report and application are attached. If you have any questions or comments, please advise.

Attachments



City of Diamondhead

5000 Diamondhead Circle, Diamondhead, MS 39525

Phone: (228) 222.4626

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STAFF REPORT TO CITY COUNCIL

DATE: February 25, 2016

CASE FILE NUMBER: 2016-00017

APPLICANT: Landmark Contractors represented by Janene Malley

PROPERTY OWNER: Landmark Contractors

TAX PARCEL NUMBER: 067R-1-36-145.000

PHYSICAL STREET ADDRESS: 796 Apaki Place

LEGAL DESCRIPTION: Diamondhead Phase 2, Unit 5, Block 7, Lot 85

ZONING DISTRICT: R-2 Medium Density Single Family

TYPE OF APPLICATION: Variance

NATURE OF REQUEST: Landmark Contractors, LLC represented by Janene Malley has filed an application requesting a variance from the Zoning Ordinance (Article 4.6.5 E.) to encroach within the 20' required front yard setback along Apaki Place by 3'7/8" for the construction of a single family home.

DATE OF PUBLIC HEARING BEFORE PLANNING COMMISSION: February 24, 2016

RECOMMENDATION TO CITY COUNCIL: To **deny** the variance as petitioned; Commissioners voted 0 ayes and 5 nays with 1 absent (Miller) (Malley rescued himself).

Article **2.6.7**
Legislative
Disposition

- A. The action by the Planning Commission related to variance applications shall be a recommendation to the Mayor and City Council. The Mayor and City Council shall examine all such applications, reports, and recommendations transmitted to it and shall take further action as it deems necessary and desirable to approve, disapprove, modify, or remand to the Planning Commission for further considerations. No land or structure for which the application for variance has been denied shall be considered again for the same

variance request for at least one (1) year from the date such application was denied.

- B. The owner, agent, or lessee of property that requested a variance and subsequently was granted said variance by the Mayor and City Council must secure a building permit or certificate of zoning compliance within one (1) year of the variance being granted, or said variance will expire.

ATTACHMENTS: Application

Letters of Objections dated 2-10-16 and 2-23-16

Commissioner Bower moved, seconded by Commissioner Bice, to approve the variance in the matter of Case File Number 2016-00010 as requested.

A roll call vote was taken as follows:

Ayes: Bice, Smith, Hensley, Bower and Malley. Nays: Garrison. Absent: Miller.

MOTION CARRIED

At this time Chairman Malley recused himself from the meeting, as he is represented in the next two agenda items. Case File Number 2016-00017 and case File Number 2016-00018. Chairman Malley exited the room at 5:53 p.m.CST. Commissioner Hensley presided as Chairman.

CASE FILE NUMBER 2016-00017

Landmark Contractors, LLC represented by David Malley has filed an application requesting a variance from the Zoning Ordinance (Article 4.6.5 E.) to encroach within the 20' required front yard setback along Apaki Place by 3'7/8" for the construction of a single family home. In the application another variance is requested from the Zoning Ordinance (Article 9.8J) to encroach within the 20' required front yard setback along Apaki Place by 3' for the construction of a 6' wooden privacy fence. The zoning district is R-2.

The property address is 796 Apaki Place. The tax parcel number is 067R-1-36-145.000. The legal description is Diamondhead Phase 2, Unit 5, Block 7, Lot 85. The property is located north of and east of and adjacent to Apaki Place (corner lot) and west of Diamondhead Drive East. The case file number is 2016-00017.

Janene Malley with Landmark Contractors presented proposed variance request and answered questions from the commissioners. Ms. Malley also stated that the variance to construct a 6' wooden privacy fence within the required front yard setback was withdrawn.

Vice-Chairman Hensley called for public comments on the matter with the following addressing the commission:

Norman Parker, Penny Crawford and Norris Crawford spoke in opposition to the proposed variance.

Smith moved, seconded by Garrison to decline variance in the matter of Case File Number 2016-00017.

A roll call vote was taken as follows:

- Ayes: Bice, Garrison, Smith, Hensley, and Bower. Nays: None. Recuse: Malley Absent: Miller.

MOTION CARRIED

CASE FILE NUMBER 2016-00018

Ms. Dorothy Mysing represented by David and Janene Malley with Landmark Contractors has filed an application requesting a variance from the Zoning Ordinance (Article 4.6.5 E.) to build a deck within 8.1' of the west property line. The required side yard setback is 10'. The zoning district is R-2.

The property address is 6816 Hilo Street. The tax parcel number is 131B-0-01-182 000. The legal description is Diamondhead Phase 2, Unit 3, Block 4, Lot 19. The property is east of and adjacent to Hilo Street and southeast of Oahu Street. The case file number is 201600018

At this time Chairman Malley remains absent from the room..

Janene Malley of Landmark Contractors presented on behalf of Ms. Dorothy Mysing for the proposed variance request and answered questions from the commissioners.

Vice Chairman Hensley called for public comments on the matter with none presented.

Commissioner Bower moved, seconded by Commissioner Bice, to approve the variance with clarification from Ron Jones, Building Official in the matter of Case File Number 2016-00018 as requested. Mr. Jones clarified that a roof will be constructed over the existing deck.

A roll call vote was taken as follows:

- Ayes: Bice, Hensley, and Bower. Nays: Smith and Garrison. Recuse: Malley Absent: Miller.

MOTION CARRIED

Chairman Malley re-enters the meeting at 6:22 p.m. CST

8. Unfinished Business Open Public Comments to Non-Agenda items –None

City of Diamondhead
5000 Diamondhead Circle
Diamondhead, MS 39525



Office 228-222-4626
Fax 228-222-4390
www.Diamondhead.ms.gov

APPLICATION FOR VARIANCE

CASE NO. 2016 00017

DATE 1-20-16

APPLICANT: Landmark Contractors, LLC

APPLICANT'S ADDRESS: 1079 Tina Ladner Vic Faye Rd.
Pass Christian, MS 39571

APPLICANT'S TELEPHONE: (HOME) 228-669-4444 (WORK) 228-255-0403

PROPERTY OWNER: Landmark Contractors, LLC

MAILING ADDRESS: SAME AS ABOVE

TELEPHONE NUMBER: (HOME) SAME (WORK) _____

TAX ROLL PARCEL NUMBER: 067R-1-36-145.000

STREET ADDRESS OR LEGAL DESCRIPTION OF PROPERTY: _____

796 Apaki Pl., Diamondhead, MS 39525

STATE PURPOSE OF VARIANCE: (FRONT/SIDE/REAR/LOT SIZE/PARKING/BUILDING

COVERAGE) (SIGNAGE - SIZE - HEIGHT) To encroach within the 20' required FVSB

along ~~the~~ Apaki Place by 3' 7/8" for the construction of a new single
family home as well as a 6' wooden privacy fence.

ZONING DISTRICT R-2

REQUIRED ITEMS:

- A.** A statement describing the variance request and the reasons why it complies with the criteria for variances provided in Section 2.6.5, specifically...
THE CONDITIONS FOR GRANTING A VARIANCE:
- ①** DO THE SPECIAL CONDITIONS AND/OR CIRCUMSTANCES EXIST WHICH AFFECT ONLY THE LAND OR STRUCTURE IN QUESTION AND NO OTHER SURROUNDING OR SIMILAR PROPERTIES?
 - ②** WOULD LITERAL INTERPRETATION OF THE ZONING ORDINANCE DEPRIVE THE OWNER/APPLICANT OF RIGHTS COMMONLY ENJOYED BY OTHER PROPERTIES IN THE SAME ZONING DISTRICT?
 - ③** ARE THE SPECIAL CONDITIONS OR CIRCUMSTANCES NOT CAUSED BY THE OWNER/APPLICANT?
 - ④** WOULD THE REQUESTED VARIANCE NOT GIVE THE OWNER/APPLICANT ANY SPECIAL PRIVILEGES OR RIGHTS NOT SHARED BY OWNERS OF SIMILAR PROPERTIES?
- B.** The property address and the name and mailing address of the owner of each lot within 300 feet of the subject property and a map with parcels keyed to the ownership and address data.
- C.** Site plans, preliminary building elevation, preliminary improvement plans, or other maps or drawings, sufficiently dimensioned as required to illustrate the following, to the extent related to the variance application:
- i. Existing and proposed location and arrangement of uses on the site, and on abutting sites within 100 feet.
 - ii. Existing and proposed site improvements, buildings, and other structures on the site, and any off-site improvements related to or necessitated by the proposed use. Building elevations shall be sufficient to indicate the general height, bulk, scale, and architectural character.
 - iii. Existing and proposed topography, grading, landscaping, and screening, irrigation facilities, and erosion control measures.
 - iv. Existing and proposed parking, loading, and traffic and pedestrian circulation features, both on the site and any off-site facilities or improvement related to or necessitated by the proposed use.
 - v. The Zoning Administrator may request additional information necessary to enable a complete analysis and evaluation of the variance request, and determination as to whether the circumstances prescribed for the granting of a variance exist.
 - vi. A fee established by the City Council shall accompany the application. A single application may include request for variances from more than one regulation applicable to the same site, or for similar variances on two or more adjacent parcels with similar characteristics.
- D.** Payment of fee for Variance Request: \$500.00 as per Ordinance 2012-020

STATEMENT OF UNDERSTANDING

As the applicant or owner/s for the requested Variance in the City of Diamondhead, I (we) understand the following:

The application fee of \$500.00 must be paid prior to the acceptance of the application. Further, that if the application is withdrawn for any reason that the application fee is forfeited to the City of Diamondhead.

As the applicant or owner/s, I (we), or the designated representative, must be present at the public hearing.

That all information provided with this application is true and correct to the best of my knowledge.

That this application represents only property owned by me (us) and that any other adjoining property owners must apply for a Variance on his own behalf.

That all required attachments have been provided to the City of Diamondhead.

That additional information may be required by the Planning Commission prior to final disposition.

The City Council will not accept new case evidence once the recommendation has been made by the Planning Commission. If new evidence needs to be presented, the applicant will need to request that the matter be referred back to the Planning Commission for review.

The Public Hearing will be held on Feb. 23, 2016 at 5:30 p.m. in the Council Chambers of the Diamondhead City Hall.

If a continuance of the hearing is necessary at my (our) request, the request must be made to the Zoning Official a minimum of seven (7) days prior to the hearing. If such request is not made in writing, I understand that a new application must be filed and an application fee paid to the City.

If the application is denied by the City Council, a new application for the subject property may not be submitted for one (1) year from the date of denial.

Janene L Malley
Signature of Applicant

Signature of Property Owner

_____ For Official Use Only _____

- \$500.00
- Copy of Deed, Lease or Contract
- Site Plan
- Parking Spaces
- List of Property Owners

- Application Signed
- Written Project Description
- Drainage Plan NA()
- Notarized Statement NA ()

796 Apaki Place

Upon purchasing this lot, I had a survey completed. The survey indicated that there is an error on the county plat map. The lot is actually 4' narrower than what the county records indicated. I am requesting a variance which would allow for the house and 6' privacy fence to encroach approximately 3' into the side street 20' setback.

- 1. Do the special conditions and/or circumstances exist which affect only the land or structure in question and no other surrounding or similar properties?**

Yes. The circumstances affect only this property from the street side and not on a side with an adjacent neighbor.

- 2. Would literal interpretation of the zoning ordinance deprive the owner/applicant of rights commonly enjoyed by other properties in the same zoning district?**

No.

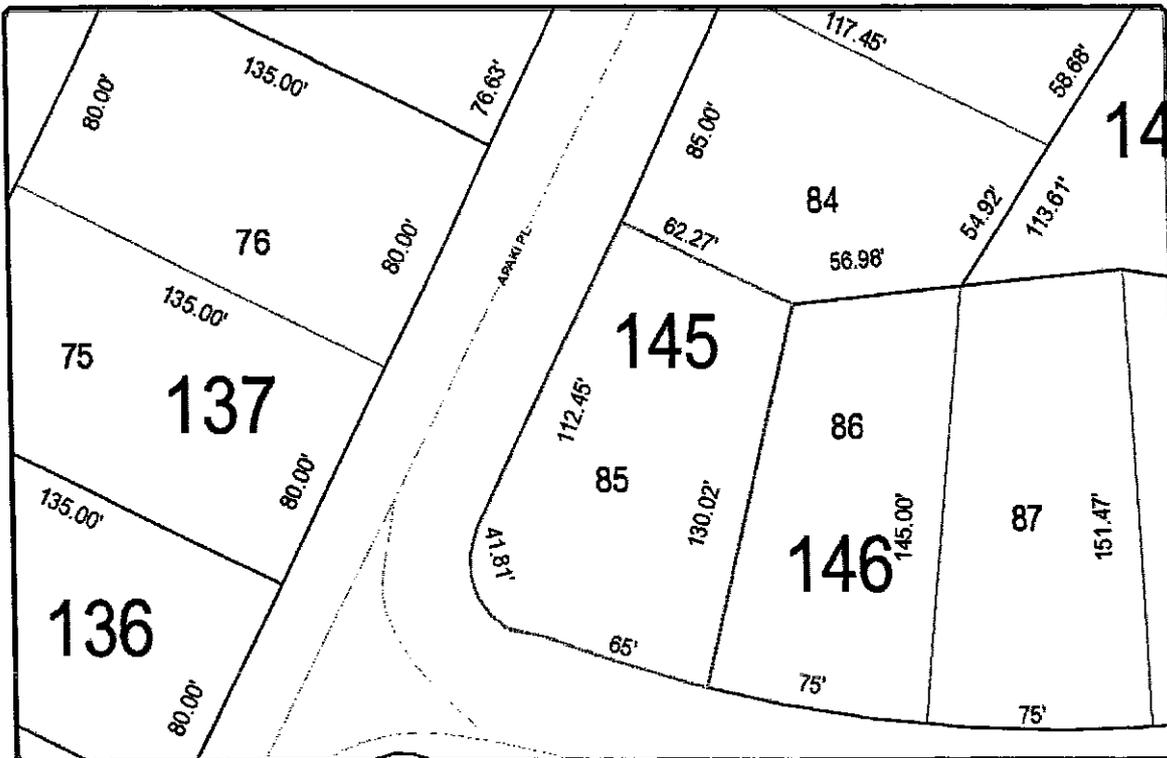
- 3. Are the special conditions or circumstances not caused by the owner/applicant?**

Yes, they are not caused by the owner/applicant. They are caused by Hancock County Plat Maps.

- 4. Would the requested variance not give the owner/applicant any special privileges or rights not shared by owners of similar properties?**

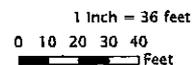
No.

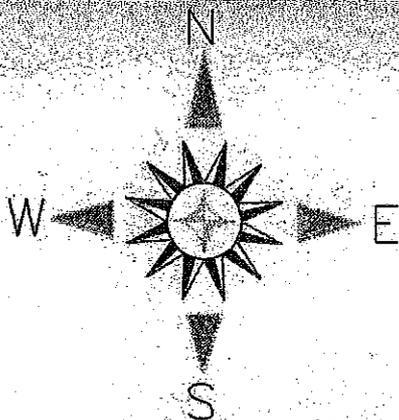
Geoportal Map



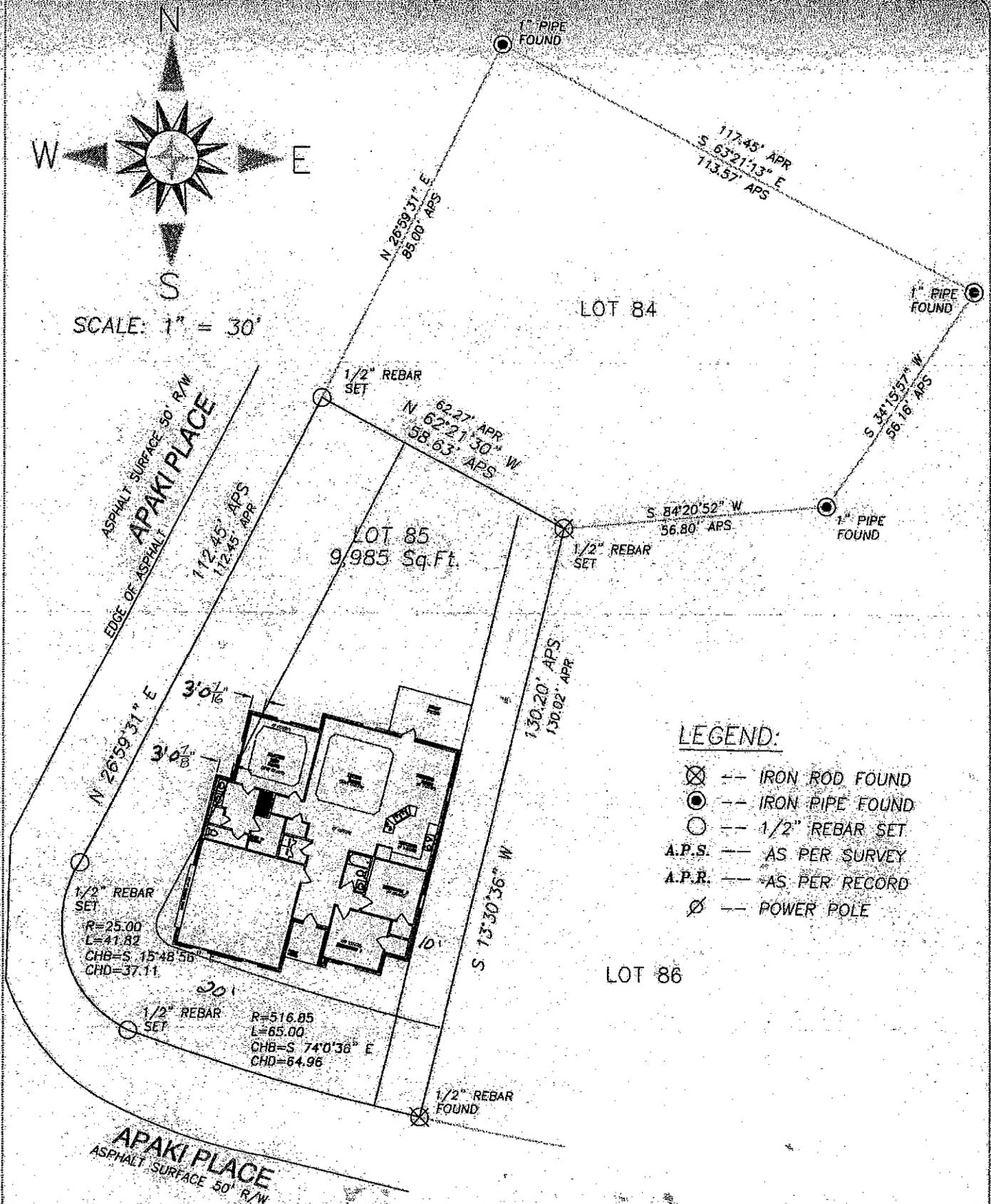
DISCLAIMER: Any user of this map product accepts its faults and assumes all responsibility for the use thereof, and further agrees to hold Hancock County harmless from and against any damage, loss or liability arising from any use of the map product. Users are cautioned to consider carefully the provisional nature of the maps and data before using it for decisions that concern personal or public safety or the conduct of business that involves monetary or operational consequences. Conclusions drawn from, or actions undertaken, on the basis of such maps and data, are the sole responsibility of the user.

January 26, 2016





SCALE: 1" = 30'



LEGEND:

- ⊗ -- IRON ROD FOUND
- -- IRON PIPE FOUND
- -- 1/2" REBAR SET
- A.P.S. -- AS PER SURVEY
- A.P.R. -- AS PER RECORD
- ⊘ -- POWER POLE

A survey of Lot 85, Block 7, Diamondhead Subdivision, Unit 5, Phase 2, City of Diamondhead, Hancock County, Mississippi.

Note: This parcel is located in Zone "X" of the flood hazard boundary and flood insurance rate map. Map No: 28045C0263D, Effective Date 10/16/09.

Note: This Survey "Class B" was made in accordance with the "Standards of Practice for Surveying in the State of Mississippi, August 1, 2015".

Note: Bearings are based on Geodetic by GPS Observations on control points.

City of Diamondhead, MS
Planning and Zoning Commission Members
5000 Diamondhead Circle
Diamondhead, MS 39525-3260

February 10, 2016

RE: Variance Application Request by Landmark Contractors, LLC
Diamondhead Phase 2, Unit 5, Block 7, Lot 85
796 Apaki Place
Case file No. 201600017

The undersigned property owners express our objection to the referenced variance request in its entirety. That request is for a reduction in the required building and fence setbacks along Apaki Place. We, the neighbors, are opposed to allowing a house to partially intrude 3+ feet into the 20 foot required setback and we are especially opposed to the allowance of a 6 foot wooden fence to intrude 3 feet into that same setback requirement. The city building setback requirements were established to maintain the esthetics and property values in our city. Approval of this variance would clearly violate those intentions and would serve to benefit the builder only.

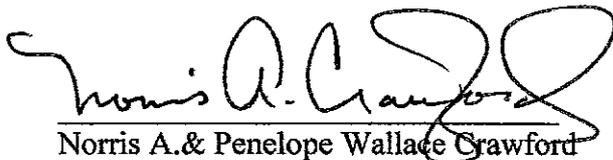
We are not opposed to building of the proposed house on the property, but rather to the proposed placement of the house on the property. Other options are available that would be more esthetically pleasing to the neighborhood.

On January 29, 2016, Mr. Crawford met with the builder/property owner, David Malley of Landmark Contractors, LLC, to express our objections to his variance request and to discuss with him our suggestion as to an acceptable placement of the building. That suggestion is to simply move the house 3'-7/8" toward the other side property line. That property line adjoins a lot which is conjoined with the neighboring house and on which another house cannot be built (see the attached plats of the adjoining lots). Movement in this manner would still allow approximately 7 feet clearance (setback) between the proposed new house and the adjoining property. Otherwise, the house plan can be revised to fit the house within the legal setback requirements. We believe that Mr. Malley was aware of this variance issue before he purchased the lot as the seller told Mr. Crawford about the purchaser's concern for the need of a variance before the act of sale.

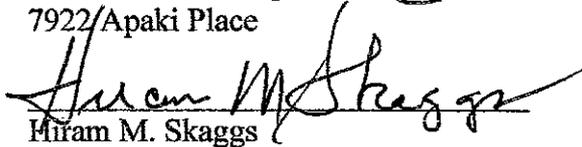
Mr. Malley says that any change in location of the planned house would require that he revise his variance application and delay any approval of his plans by at least one month. He did not seem to be in agreement with our suggestion due to this delay and would need to discuss it with his intended buyer. He assured Mr. Crawford that he would get back to him on this issue and let him know his buyer's position. More than a week has passed with no contact from him.

Any delay for the builder seems to be insignificant to us when you consider that his requested variance will diminish the property value of our homes and the esthetics of our neighborhood for our lifetimes.

This seems to be a simple issue with a simple solution. We therefore request that our objections be seriously considered and that you deny the variance request in its entirety.


Norris A. & Penelope Wallace Crawford
7922 Apaki Place



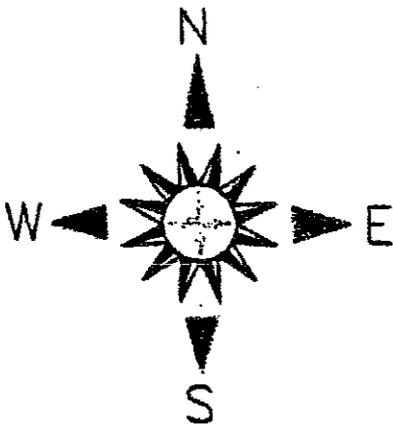

Miram M. Skaggs
7910 Apaki Place


Arthur D. & Angelle T. Webb
7914 Apaki Place

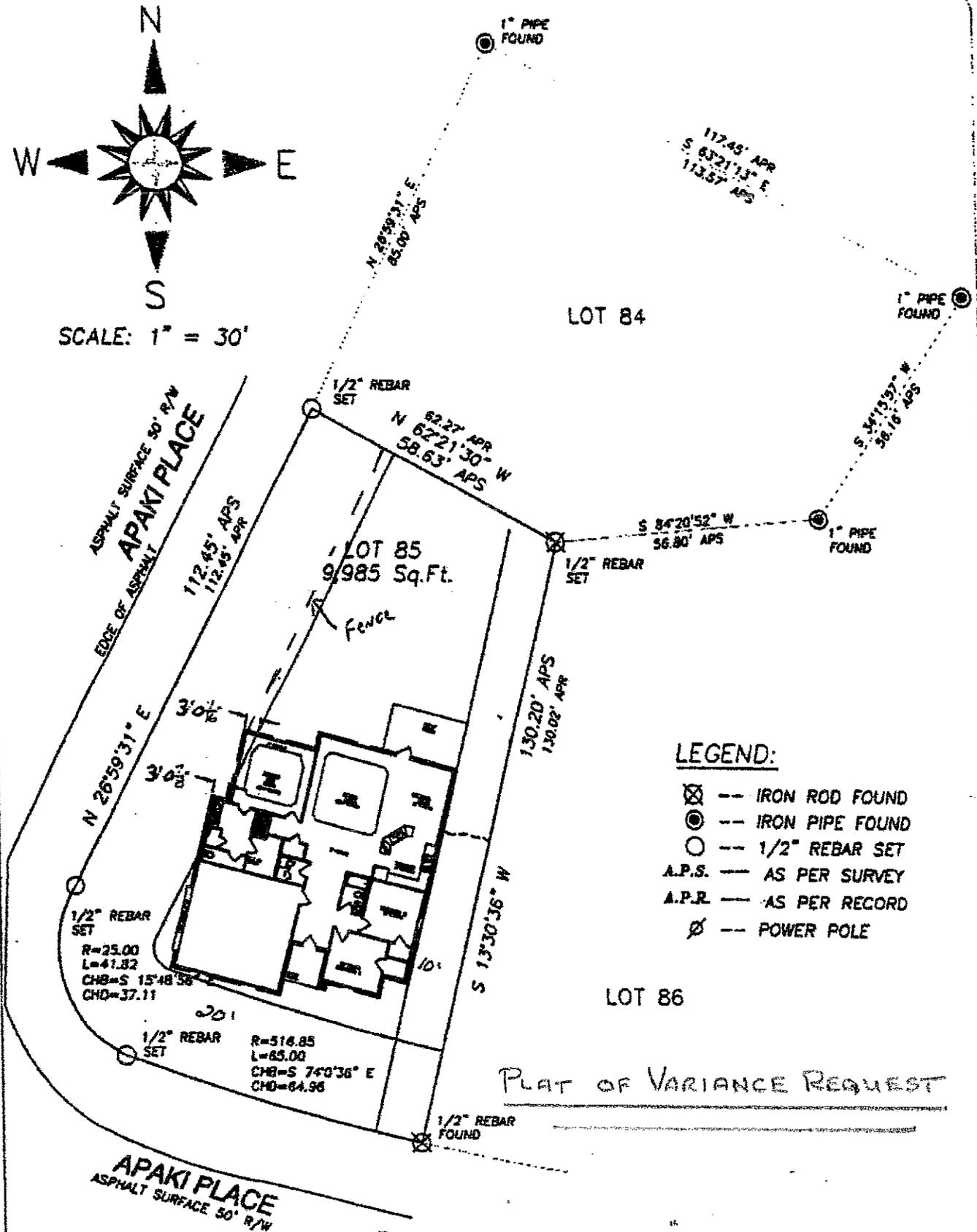


Enc.: (1) Plat of Variance Request
(2) Plats of Adjoining Lots (2)

cc: Thomas E. Schafer, IV, Mayor
Earnie Knobloch, Councilmember at Large
Joseph G. Lopez, Councilmember Ward 1
Tom Woolbright, Councilmember Ward 2
Thomas A. Sislow, Councilmember Ward 3
R.L. Rech, Councilmember Ward 4



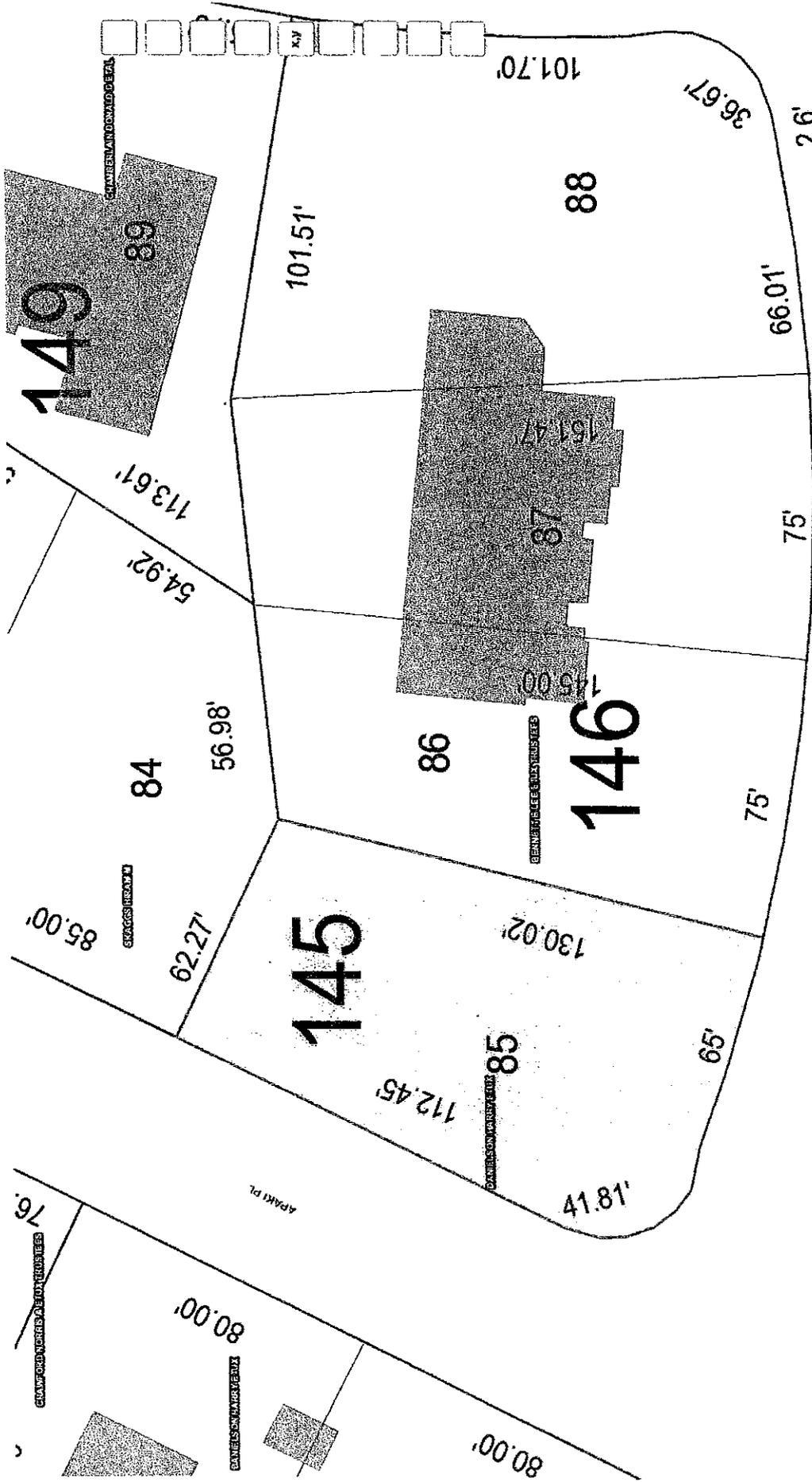
SCALE: 1" = 30'



A survey of Lot 85, Block 7, Diamondhead Subdivision, Unit 5, Phase 2, City of Diamondhead, Hancock County, Mississippi.

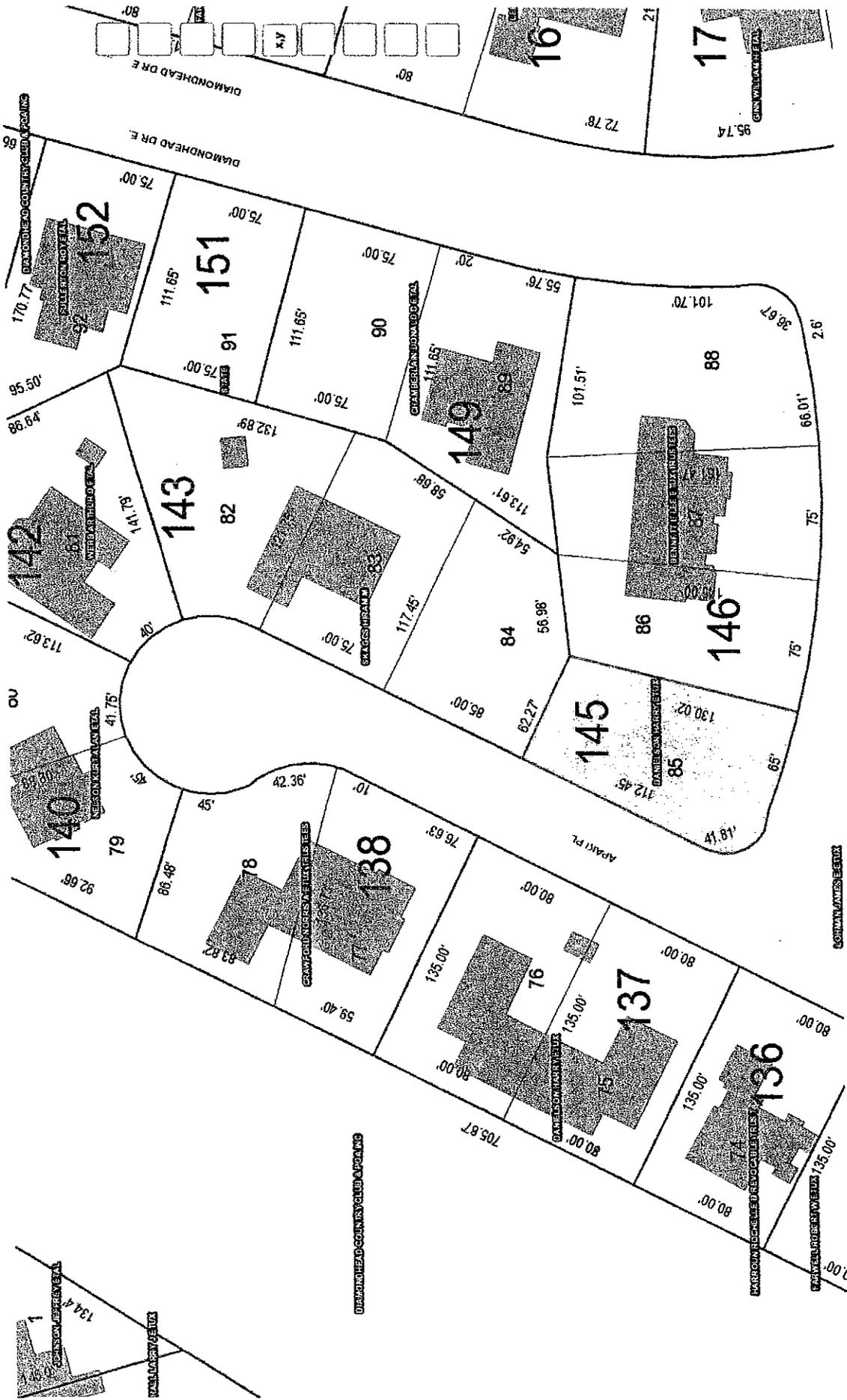
Note: This parcel is located in Zone "X" of the flood hazard boundary and flood insurance rate map. Map No: 28045C0263D, Effective Date 10/16/09.

Note: This Survey "Class B" was made in accordance with the "Standards of Practice for Surveying in the State of Mississippi, August 1, 2015".



PLAT OF ADJOINING LOTS (1)





PLAT OF ADJOINING LOTS (NEIGHBORHOOD)



City of Diamondhead, MS
Planning and Zoning Commission Members
5000 Diamondhead Circle
Diamondhead, MS 39525-3260

February 23, 2016

RE: Variance Application Request by Landmark Contractors, LLC
Diamondhead Phase 2, Unit 5, Block 7, Lot 85
796 Apaki Place
Case file No. 201600017

My name is Penny Crawford. I live with my husband, Norris, at 7922 Apaki Place. We purchased our lots and built our home in 2005.

Tonight I speak for my family and two of our neighbors on Apaki Place in response to the application for variances on Lot #85 on Apaki Place. This lot was recently purchased by David Malley with the intention of building a home on the property. To do that, Mr. Malley has applied for two variances; one for the placement of a fence 3 feet within the legal setback and one for placement of two corners of the home 3 plus feet into the same legal set back, both along Apaki Place. We spoke to Mr. Malley as soon as we received your notification letter. He explained why he needed these variances. We suggested a different option: moving the house closer to the other side of the property where the change in set back would not be noticed.

We have provided the members of the Planning and Zoning Commission with a letter documenting our objections, including signatures of two other property owners, a plat of the variance and an explanation of our suggestion for the other option. We were dismayed to find out that the rules of the Commission will not allow the neighbors to discuss their opinions of the request for a variance with any of the Commission members outside of this meeting. Therefore we hope that all the commission members have read our letter.

Our primary reason for objection to the variance is the potential impact on our property values and neighborhood esthetics. The Planning and Zoning Commission established certain set backs and minimum square footage restrictions in order to protect the property values and visual esthetics of the City of Diamondhead. If every person availed themselves of variances, this City would look like a cobbled together mess.

A few days ago, Mr. Malley came to our home to make an alternate proposal. He offered to withdraw the application for the fence variance. This would be a good step in the direction of maintaining the esthetic view on Apaki Place. He was adamant that he needs the variance for the corners of the house to be able to build a home of approximately 1900 square feet instead of the minimum allowed by the City of 1400 square feet. Of course, we want the home to be the larger size to fit into the neighborhood and to support our property values.

Since the average size of homes on Apaki Place is over 2300 square feet, a significantly smaller home would be out of place. Mr. Malley stated that if he could not build the larger home as requested on the variance that he would build a smaller one in the range of 1400 to 1500 square ft. He did not seem to think that he could, or he was unwilling to, redesign a larger house to fit within the zoning rules. He also stated that the neighbor on the opposite side property line was in objection to his moving the house in that direction as we had previously suggested.

Given those options, we reluctantly withdraw our objection to the variance request for the house to intrude into the city zoning mandated 20 foot set back on Apaki Place. We believe that this variance should only be approved to allow the house to be built specifically as depicted on the survey plat that was included with the variance application.

We still adamantly object to any variance that would allow any fence to be built within the mandated 20 foot set back along Apaki Place.

Respectfully yours,

A handwritten signature in cursive script that reads "Penelope Crawford 'Bunny'". The signature is written in black ink and is positioned below the typed name.

Penelope Crawford

(Also acting on behalf of Hiram Skaggs, Doyle & Angelle Webb and my husband, Norris Crawford)



Agenda Item 2016-035

City of Diamondhead

5000 Diamondhead Circle, Diamondhead, MS 39525

Phone: (228) 222-4626

FAX: (228) 222-4390

www.diamondhead.ms.gov

TO: Mayor, City Council and City Manager

FROM: Ronald R. Jones, Building Official *Ronald*

DATE: February 25, 2016

SUBJECT: Recommendation of Planning & Zoning Commission-
Landmark Contractors; Case File Number 2016-00018

At its meeting on Tuesday, February 24, 2016, the Planning & Zoning Commission by a 3-2 vote (Malley rescued himself) to approve the variance as petitioned by Landmark Contractors.

Ms. Dorothy Mysing represented by Janene Malley with Landmark Contractors has filed an application requesting a variance from the Zoning Ordinance (Article 4.6.5 E.) to build a roof over an existing deck within 8.1' of the west property line. The required side yard setback is 10'. The zoning district is R-2.

The property address is 6816 Hilo Street. The tax parcel number is 131B-0-01-182.000. The legal description is Diamondhead Phase 2, Unit 3, Block 4, Lot 19. The property is east of and adjacent to Hilo Street and southeast of Oahu Street. The case file number is 201600018.

The staff report and application are attached. If you have any questions or comments, please advise.

Attachments



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STAFF REPORT TO CITY COUNCIL

DATE: February 25, 2016

CASE FILE NUMBER: 2016-00018

APPLICANT: Landmark Contractors represented by Janene Malley

PROPERTY OWNER: Ms. Dorothy Mysing

TAX PARCEL NUMBER: 131B-0-01-182.000

PHYSICAL STREET ADDRESS: 6816 Hilo Street

LEGAL DESCRIPTION: Diamondhead Phase 2, Unit 3, Block 4, Lot 19

ZONING DISTRICT: R-2 Medium Density Single Family

TYPE OF APPLICATION: Variance

NATURE OF REQUEST: Ms. Dorothy Mysing represented by Janene Malley with Landmark Contractors has filed an application requesting a variance from the Zoning Ordinance (Article 4.6.5 E.) to build a roof over an existing deck within 8.1' of the west property line. The required side yard setback is 10'. The zoning district is R-2.

DATE OF PUBLIC HEARING BEFORE PLANNING COMMISSION: February 24, 2016

RECOMMENDATION TO CITY COUNCIL: To approve the variance as petitioned; Commissioners voted 3 ayes and 2 nays with 1 absent (Miller) (Malley rescued himself).

Article **2.6.7**
Legislative
Disposition

- A. The action by the Planning Commission related to variance applications shall be a recommendation to the Mayor and City Council. The Mayor and City Council shall examine all such applications, reports, and recommendations transmitted to it and shall take further action as it deems necessary and desirable to approve, disapprove, modify, or remand to the Planning Commission for further considerations. No land or structure for which the application for variance has been denied shall be considered again for the same

variance request for at least one (1) year from the date such application was denied.

- B. The owner, agent, or lessee of property that requested a variance and subsequently was granted said variance by the Mayor and City Council must secure a building permit or certificate of zoning compliance within one (1) year of the variance being granted, or said variance will expire.

ATTACHMENTS: Application

Smith moved, seconded by Garrison to decline variance in the matter of Case File Number 2016-00017.

A roll call vote was taken as follows:

- Ayes: Bice, Garrison, Smith, Hensley, and Bower. Nays: None. Recuse: Malley Absent: Miller.

MOTION CARRIED

CASE FILE NUMBER 2016-00018

Ms. Dorothy Mysing represented by David and Janene Malley with Landmark Contractors has filed an application requesting a variance from the Zoning Ordinance (Article 4:6.5 E.) to build a deck within 8.1' of the west property line. The required side yard setback is 10'. The zoning district is R-2.

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Janene Malley of Landmark Contractors presented on behalf of Ms. Dorothy Mysing for the proposed variance request and answered questions from the commissioners.

Vice Chairman Hensley called for public comments on the matter with none presented.

Commissioner Bower moved, seconded by Commissioner Bice, to approve the variance with clarification from Ron Jones, Building Official in the matter of Case File Number 2016-00018 as requested. Mr. Jones clarified that a roof will be constructed over the existing deck.

A roll call vote was taken as follows:

- Ayes: Bice, Hensley and Bower. Nays: Smith and Garrison. Recuse: Malley Absent: Miller.

MOTION CARRIED

Chairman Malley re-enters the meeting at 6:22 p.m. CST

8. Unfinished Business Open Public Comments to Non-Agenda items –None

City of Diamondhead
5000 Diamondhead Circle
Diamondhead, MS 39525



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www.Diamondhead.ms.gov

APPLICATION FOR VARIANCE REQUEST

CASE NO. 2016 00018

DATE 1-20-16

APPLICANT: Dorothy Mysing

APPLICANT'S ADDRESS: 6816 Hilo St, Diamondhead, MS 39525

APPLICANT'S TELEPHONE: (HOME) 228-254-5035 (WORK) _____

PROPERTY OWNER: SAME AS ABOVE

MAILING ADDRESS: _____

TELEPHONE NUMBER: (HOME) _____ (WORK) _____

TAX ROLL PARCEL NUMBER: 131B-0-01-182.000

STREET ADDRESS OR LEGAL DESCRIPTION OF PROPERTY: 6816 Hilo St,

Diamondhead, MS 39525

STATE PURPOSE OF VARIANCE: (FRONT/SIDE/REAR/LOT SIZE/PARKING/BUILDING

COVERAGE) (SIGNAGE - SIZE - HEIGHT) To build a deck within 8.1' of the west property line. The required SVSB is 10'.

ZONING DISTRICT R-2

REQUIRED ITEMS:

- A. A statement describing the variance request and the reasons why it complies with the criteria for variances provided in Section 2.6.5, specifically...
- THE CONDITIONS FOR GRANTING A VARIANCE:**
1. DO THE SPECIAL CONDITIONS AND/OR CIRCUMSTANCES EXIST WHICH AFFECT ONLY THE LAND OR STRUCTURE IN QUESTION AND NO OTHER SURROUNDING OR SIMILAR PROPERTIES?
 2. WOULD LITERAL INTERPRETATION OF THE ZONING ORDINANCE DEPRIVE THE OWNER/APPLICANT OF RIGHTS COMMONLY ENJOYED BY OTHER PROPERTIES IN THE SAME ZONING DISTRICT?
 3. ARE THE SPECIAL CONDITIONS OR CIRCUMSTANCES NOT CAUSED BY THE OWNER/APPLICANT?
 4. WOULD THE REQUESTED VARIANCE NOT GIVE THE OWNER/APPLICANT ANY SPECIAL PRIVILEGES OR RIGHTS NOT SHARED BY OWNERS OF SIMILAR PROPERTIES?
- B. The property address and the name and mailing address of the owner of each lot within 300 feet of the subject property and a map with parcels keyed to the ownership and address data.
- C. Site plans, preliminary building elevation, preliminary improvement plans, or other maps or drawings, sufficiently dimensioned as required to illustrate the following, to the extent related to the variance application:
- i. Existing and proposed location and arrangement of uses on the site, and on abutting sites within 100 feet.
 - ii. Existing and proposed site improvements, buildings, and other structures on the site, and any off-site improvements related to or necessitated by the proposed use. Building elevations shall be sufficient to indicate the general height, bulk, scale, and architectural character.
 - iii. Existing and proposed topography, grading, landscaping, and screening, irrigation facilities, and erosion control measures.
 - iv. Existing and proposed parking, loading, and traffic and pedestrian circulation features, both on the site and any off-site facilities or improvement related to or necessitated by the proposed use.
 - v. The Zoning Administrator may request additional information necessary to enable a complete analysis and evaluation of the variance request, and determination as to whether the circumstances prescribed for the granting of a variance exist.
 - vi. A fee established by the City Council shall accompany the application. A single application may include request for variances from more than one regulation applicable to the same site, or for similar variances on two or more adjacent parcels with similar characteristics.
- D. Payment of fee for Variance Request: \$500.00 as per Ordinance 2012-020

STATEMENT OF UNDERSTANDING

As the applicant or owner/s for the requested Variance in the City of Diamondhead, I (we) understand the following:

The application fee of \$500.00 must be paid prior to the acceptance of the application. Further, that if the application is withdrawn for any reason that the application fee is forfeited to the City of Diamondhead.

As the applicant or owner/s, I (we), or the designated representative, must be present at the public hearing.

That all information provided with this application is true and correct to the best of my knowledge.

That this application represents only property owned by me (us) and that any other adjoining property owners must apply for a Variance on his own behalf.

That all required attachments have been provided to the City of Diamondhead.

That additional information may be required by the Planning Commission prior to final disposition.

The City Council will not accept new case evidence once the recommendation has been made by the Planning Commission. If new evidence needs to be presented, the applicant will need to request that the matter be referred back to the Planning Commission for review.

The Public Hearing will be held on Feb. 23, 2016 at 5:30 p.m. in the Council Chambers of the Diamondhead City Hall.

If a continuance of the hearing is necessary at my (our) request, the request must be made to the Zoning Official a minimum of seven (7) days prior to the hearing. If such request is not made in writing, I understand that a new application must be filed and an application fee paid to the City.

If the application is denied by the City Council, a new application for the subject property may not be submitted for one (1) year from the date of denial.

Donalby Mysing
Signature of Applicant

Donalby Mysing
Signature of Property Owner

_____ For Official Use Only _____

- \$500.00
- Copy of Deed, Lease or Contract
- Site Plan
- Parking Spaces
- List of Property Owners

- Application Signed
- Written Project Description
- Drainage Plan NA ()
- Notarized Statement NA ()

6816 Hilo Street

Cover portion of existing deck with roof which is approximately 8.1 feet.

- 1. Do the special conditions and/or circumstances exist which affect only the land or structure in question and no other surrounding or similar properties?**

Yes. It comes within 8.1 feet from the adjacent property line which is owned by the same owner.

- 2. Would literal interpretation of the zoning ordinance deprive the owner/applicant of rights commonly enjoyed by other properties in the same zoning district?**

No.

- 3. Are the special conditions or circumstances not caused by the owner/applicant?**

Yes.

- 4. Would the requested variance not give the owner/applicant any special privileges or rights not shared by owners of similar properties?**

No.

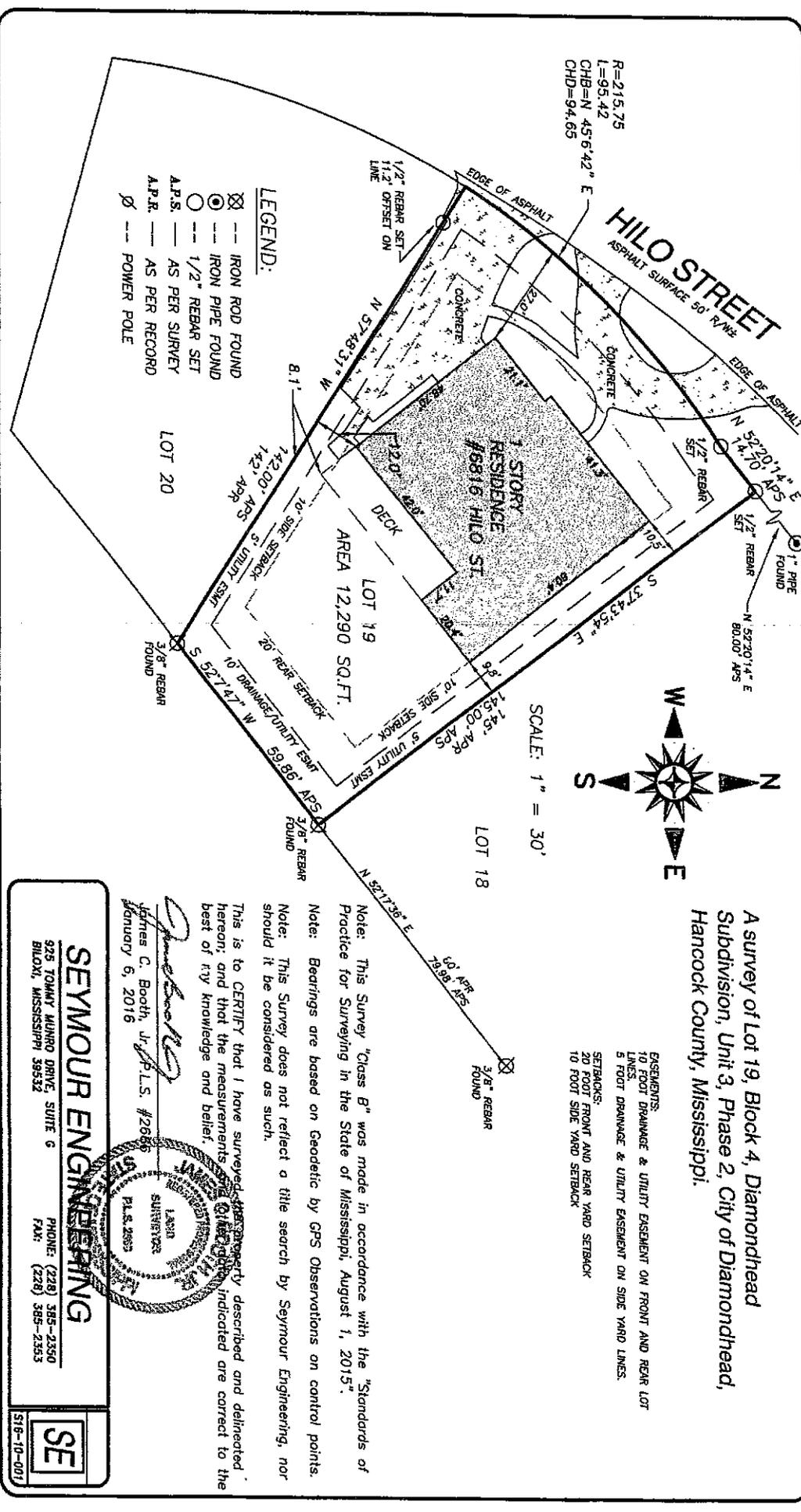
January 22, 2016

To Whom It May Concern,

David and Janene Malley with Landmark Contractors, LLC will be representing me concerning the variance for covering my back deck at 6816 Hilo Street.

Thank You,

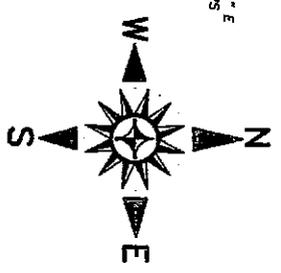

Dorothy Mysing



A survey of Lot 19, Block 4, Diamondhead
 Subdivision, Unit 3, Phase 2, City of Diamondhead,
 Hancock County, Mississippi.

- EASEMENTS:
 10 FOOT DRAINAGE & UTILITY EASEMENT ON FRONT AND REAR LOT LINES
 5 FOOT DRAINAGE & UTILITY EASEMENT ON SIDE YARD LINES
- SETBACKS:
 20 FOOT FRONT AND REAR YARD SETBACK
 10 FOOT SIDE YARD SETBACK

SCALE: 1" = 30'



LEGEND:

- ⊗ IRON ROD FOUND
- ⊙ IRON PIPE FOUND
- 1/2" REBAR SET
- A.P.S. AS PER SURVEY
- A.P.R. AS PER RECORD
- ∅ --- POWER POLE

Note: This Survey "Class B" was made in accordance with the "Standards of Practice for Surveying in the State of Mississippi, August 1, 2015".

Note: Bearings are based on Geodetic by GPS Observations on control points. Note: This Survey does not reflect a title search by Seymour Engineering, nor should it be considered as such.

This is to CERTIFY that I have surveyed the property described and delineated hereon; and that the measurements and calculations indicated are correct to the best of my knowledge and belief.

James C. Booth, Jr.
 James C. Booth, Jr. P.L.S. #26865
 January 6, 2016



SEYMOUR ENGINEERING

525 TOMMY MUNRO DRIVE, SUITE 6
 BILOXI, MISSISSIPPI 39532

PHONE: (228) 385-2330
 FAX: (228) 385-2353

SE

516-10-001



Agenda Item 2016-036

City of Diamondhead

5000 Diamondhead Circle, Diamondhead, MS 39525

Phone: (228) 222-4626

FAX: (228) 222-4390

www.diamondhead.ms.gov

TO: Mayor, City Council and City Manager

FROM: Ronald R. Jones, Building Official *Ronald*

DATE: February 25, 2016

SUBJECT: Recommendation of Planning & Zoning Commission-
Diamondhead Fire Protection District; Case File Number 2016-00010

At its meeting on Tuesday, February 24, 2016, the Planning & Zoning Commission by a 5-1 vote **approved** the variance as petitioned by Diamondhead Fire Protection District.

The Diamondhead Fire Protection District represented by Chief Jerry Dubuisson has filed an application requesting a variance from the Zoning Ordinance (Article 8.2.2) to allow the reduction of the required number of parking spaces from 10 to 7.

The property address is 4440 Kalani Drive. The tax parcel number is 131E-1-13-007.002. The property is located east of and adjacent to Kalani Drive and south of Diamondhead Drive East.

The staff report and application are attached. If you have any questions or comments, please advise.

Attachments



City of Diamondhead

5000 Diamondhead Circle, Diamondhead, MS 39525

Phone: (228) 222-4626

FAX: (228) 222-4390

www.diamondhead.ms.gov

STAFF REPORT TO CITY COUNCIL

DATE: February 25, 2016

CASE FILE NUMBER: 2016-00010

APPLICANT: Diamondhead Fire Protection District

PROPERTY OWNER: Diamondhead Fire Protection District represented by Chief Jerry Dubuisson

TAX PARCEL NUMBER: 131E-1-13-007.002

PHYSICAL STREET ADDRESS: 4440 Kalani Drive

LEGAL DESCRIPTION:

ZONING DISTRICT: C-1 General Commercial

TYPE OF APPLICATION: Variance

NATURE OF REQUEST: The Diamondhead Fire Protection District represented by Chief Jerry Dubuisson has filed an application requesting a variance from the Zoning Ordinance (Article 8.2.2) to allow the reduction of the required number of parking spaces from 10 to 7.

DATE OF PUBLIC HEARING BEFORE PLANNING COMMISSION: February 24, 2016

RECOMMENDATION TO CITY COUNCIL: To approve the variance as petitioned; Commissioners voted 5 ayes and 1 nays with 1 absent (Miller).

Article **2.6.7**
Legislative
Disposition

- A. The action by the Planning Commission related to variance applications shall be a recommendation to the Mayor and City Council. The Mayor and City Council shall examine all such applications, reports, and recommendations transmitted to it and shall take further action as it deems necessary and desirable to approve, disapprove, modify, or remand to the Planning Commission for further considerations. No land or structure for which the application for variance has been denied shall be considered again for the same

variance request for at least one (1) year from the date such application was denied.

- B. The owner, agent, or lessee of property that requested a variance and subsequently was granted said variance by the Mayor and City Council must secure a building permit or certificate of zoning compliance within one (1) year of the variance being granted, or said variance will expire.

ATTACHMENTS: Application

7. New Business –

Case File Number 2016-00008

Chairman Malley explained this Case File has been postponed until the March 22, 2016 meeting and advised that anyone who would like to speak at that meeting should be there. Chairman Malley also made a concession to hear public comments for those who cannot be at the March meeting and at this time Commissioner Hensley exited the room at 5:36 p.m. CST. for the proceeding comments:

Reid Parker, lives at #3 Whispering Branch, which is directly across the street from proposed project spoke in opposition of the JCE Properties proposal.

C.J. Longanecker addressed the commission in regards to POA legal authority to give road to City of Diamondhead and the legal authority for the City of Diamondhead to accept.

Harold Bevan spoke in opposition of the JCE Properties proposal.

Chairman Malley called for other public comments on the matter with none presented. At this time Commissioner Hensley re-entered the meeting at 5:42 p.m. CST.

• CASE FILE NUMBER 2016-00010

The Diamondhead Fire Protection District represented by Chief Jerry Dubuisson has filed an application requesting a variance from the Zoning Ordinance (Article 8.2.2) to allow the reduction of the required number of parking spaces from 10 to 7.

The property address is 4440 Kalani Drive. The tax parcel number is 131E-1-13-007.002. The property is located east of and adjacent to Kalani Drive and south of Diamondhead Drive East.

Jerry Dubuisson, Diamondhead Fire Chief explained the request for the proposed variance and answered questions proposed by the Commission relating to the proposed variance.

Chairman Malley called for public comments on the matter with the following addressing the commission.

Denise Catone spoke in support of the proposed variance.

Charles Reddien, Chair of Fire Commission spoke in support of the proposed variance.

Peggy Hollier addressed the commissioners in reference to a trailer that still remains at the Diamondhead Fire Department.

Commissioner Bower moved, seconded by Commissioner Bice, to approve the variance in the matter of Case File Number 2016-00010 as requested.

A roll call vote was taken as follows:

Ayes: Bice, Smith, Hensley, Bower and Malley. Nays: Garrison. Absent: Miller.

MOTION CARRIED

At this time Chairman Malley recused himself from the meeting, as he is represented in the next two agenda items. Case File Number 2016-00017 and Case File Number 2016-00018. Chairman Malley exited the room at 5:53 p.m.CST. Commissioner Hensley presided as Chairman.

CASE FILE NUMBER 2016-00017

Landmark Contractors, LLC represented by David Malley has filed an application requesting a variance from the Zoning Ordinance (Article 4.6.5 E) to encroach within the 20' required front yard setback along Apaki Place by 3'7/8" for the construction of a single family home. In the application another variance is requested from the Zoning Ordinance (Article 9.31) to encroach within the 20' required front yard setback along Apaki Place by 3' for the construction of a 6' wooden privacy fence. The zoning district is R-2.

The property address is 796 Apaki Place. The tax parcel number is 067R-1-36-145.000. The legal description is Diamondhead Phase 2, Unit 5, Block 7, Lot 85. The property is located north of and east of and adjacent to Apaki Place (corner lot) and west of Diamondhead Drive East. The case file number is 2016-00017.

Janene Malley with Landmark Contractors presented proposed variance request and answered questions from the commissioners. Ms. Malley also stated that the variance to construct a 6' wooden privacy fence within the required front yard setback was withdrawn.

Vice-Chairman Hensley called for public comments on the matter with the following addressing the commission:

Norman Parker, Penny Crawford and Norris Crawford spoke in opposition to the proposed variance.

City of Diamondhead
5000 Diamondhead Circle
Diamondhead, MS 39525



Office 228-222-4626
Fax 228-222-4390
www.Diamondhead.ms
904

APPLICATION FOR VARIANCE REQUEST

RECEIVED
DEC 30 2015
BY: 4:00 p.m.

CASE NO. 201600010

DATE December 30, 2015
(Signature)

APPLICANT: DIAMONDHEAD FIRE PROTECTION DISTRICT

APPLICANT'S ADDRESS: 4440 KALANI DRIVE, DIAMONDHEAD, MS 39525

APPLICANT'S TELEPHONE: (HOME) 228-255-5560 (WORK) _____

PROPERTY OWNER: SAME AS ABOVE

MAILING ADDRESS: SAME AS ABOVE

TELEPHONE NUMBER: (HOME) SAME (WORK) _____

TAX ROLL PARCEL NUMBER: 131E - 1 - 13 - 007.002

STREET ADDRESS OR LEGAL DESCRIPTION OF PROPERTY: SAME AS ABOVE.

STATE PURPOSE OF VARIANCE: (FRONT/SIDE/REAR/LOT SIZE/PARKING/BUILDING

COVERAGE) (SIGNAGE - SIZE - HEIGHT) To reduce the required number of parking spaces from 10 to 7

ZONING DISTRICT C-1 GENERAL COMMERCIAL

REQUIRED ITEMS:

- A. A statement describing the variance request and the reasons why it complies with the criteria for variances provided in Section 2.6.5, specifically...
- THE CONDITIONS FOR GRANTING A VARIANCE:**
1. DO THE SPECIAL CONDITIONS AND/OR CIRCUMSTANCES EXIST WHICH AFFECT ONLY THE LAND OR STRUCTURE IN QUESTION AND NO OTHER SURROUNDING OR SIMILAR PROPERTIES?
 2. WOULD LITERAL INTERPRETATION OF THE ZONING ORDINANCE DEPRIVE THE OWNER/APPLICANT OF RIGHTS COMMONLY ENJOYED BY OTHER PROPERTIES IN THE SAME ZONING DISTRICT?
 3. ARE THE SPECIAL CONDITIONS OR CIRCUMSTANCES NOT CAUSED BY THE OWNER/APPLICANT?
 4. WOULD THE REQUESTED VARIANCE NOT GIVE THE OWNER/APPLICANT ANY SPECIAL PRIVILEGES OR RIGHTS NOT SHARED BY OWNERS OF SIMILAR PROPERTIES?
- B. The property address and the name and mailing address of the owner of each lot within 300 feet of the subject property and a map with parcels keyed to the ownership and address data.
- C. Site plans, preliminary building elevation, preliminary improvement plans, or other maps or drawings, sufficiently dimensioned as required to illustrate the following, to the extent related to the variance application:
- i. Existing and proposed location and arrangement of uses on the site, and on abutting sites within 100 feet.
 - ii. Existing and proposed site improvements, buildings, and other structures on the site, and any off-site improvements related to or necessitated by the proposed use. Building elevations shall be sufficient to indicate the general height, bulk, scale, and architectural character.
 - iii. Existing and proposed topography, grading, landscaping, and screening, irrigation facilities, and erosion control measures.
 - iv. Existing and proposed parking, loading, and traffic and pedestrian circulation features, both on the site and any off-site facilities or improvement related to or necessitated by the proposed use.
 - v. The Zoning Administrator may request additional information necessary to enable a complete analysis and evaluation of the variance request, and determination as to whether the circumstances prescribed for the granting of a variance exist.
 - vi. A fee established by the City Council shall accompany the application. A single application may include request for variances from more than one regulation applicable to the same site, or for similar variances on two or more adjacent parcels with similar characteristics.
- D. Payment of fee for Variance Request: \$500.00 as per Ordinance 2012-020

STATEMENT OF UNDERSTANDING

As the applicant or owner/s for the requested Variance in the City of Diamondhead, I (we) understand the following:

The application fee of \$500.00 must be paid prior to the acceptance of the application. Further, that if the application is withdrawn for any reason that the application fee is forfeited to the City of Diamondhead.

As the applicant or owner/s, I (we), or the designated representative, must be present at the public hearing.

That all information provided with this application is true and correct to the best of my knowledge.

That this application represents only property owned by me (us) and that any other adjoining property owners must apply for a Variance on his own behalf.

That all required attachments have been provided to the City of Diamondhead.

That additional information may be required by the Planning Commission prior to final disposition.

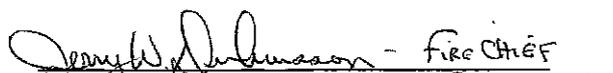
The City Council will not accept new case evidence once the recommendation has been made by the Planning Commission. If new evidence needs to be presented, the applicant will need to request that the matter be referred back to the Planning Commission for review.

The Public Hearing will be held on _____ at _____ p.m. in the Council Chambers of the Diamondhead City Hall.

If a continuance of the hearing is necessary at my (our) request, the request must be made to the Zoning Official a minimum of seven (7) days prior to the hearing. If such request is not made in writing, I understand that a new application must be filed and an application fee paid to the City.

If the application is denied by the City Council, a new application for the subject property may not be submitted for one (1) year from the date of denial.


Signature of Applicant FIRE CHIEF

 FIRE CHIEF
Signature of Property Owner FOR D. F. P. D.

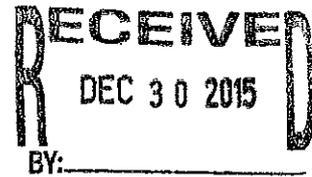
_____ For Official Use Only _____

- | | |
|--|--|
| <input type="checkbox"/> \$500.00 | <input type="checkbox"/> Application Signed |
| <input type="checkbox"/> Copy of Deed, Lease or Contract | <input type="checkbox"/> Written Project Description |
| <input type="checkbox"/> Site Plan | <input type="checkbox"/> Drainage Plan NA () |
| <input type="checkbox"/> Parking Spaces | <input type="checkbox"/> Notarized Statement NA () |
| <input type="checkbox"/> List of Property Owners | |

Diamondhead Fire Department

Jerry W. Dubuisson - Fire Chief

To: City of Diamondhead
Fr: Diamondhead Fire Protection District
Dt: December 14, 2015
Re: Variance Request (Parking Spaces)



Hello from your Fire Department,

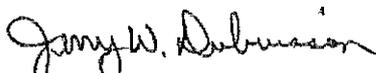
As referenced above, we are requesting a variance for the number of parking spaces at our Fire Station located at 4440 Kalani Drive, where we have operated for over three decades. Our property is very small, our operation is governmental rather than commercial in nature, and we do not have a high volume of visitors or "customers" at our facility. The current parking spaces were in place before we demolished our old building, and we never experienced a shortage of spaces. We have not increased the number of employees on-site, and our operation has not changed.

We have two office personnel (the Fire Chief and the Business Manager) who utilize parking along the front (south side) of the building, and the three on-duty Firefighters park behind the building on the east side. That leaves five available parking spaces for anyone visiting the Fire Station. We feel that the requirement for additional spaces is not justified, and that it is actually a waste of tax-payer money. Additionally, with all of the effort that has gone in to preserving greenspace in this community, the requirement of additional, unnecessary parking spaces actually contradicts that effort.

This variance request does not affect any other property, it does not deprive anyone of any rights, the circumstances are not caused by the owner, and this variance would not give the owner any special privileges or rights.

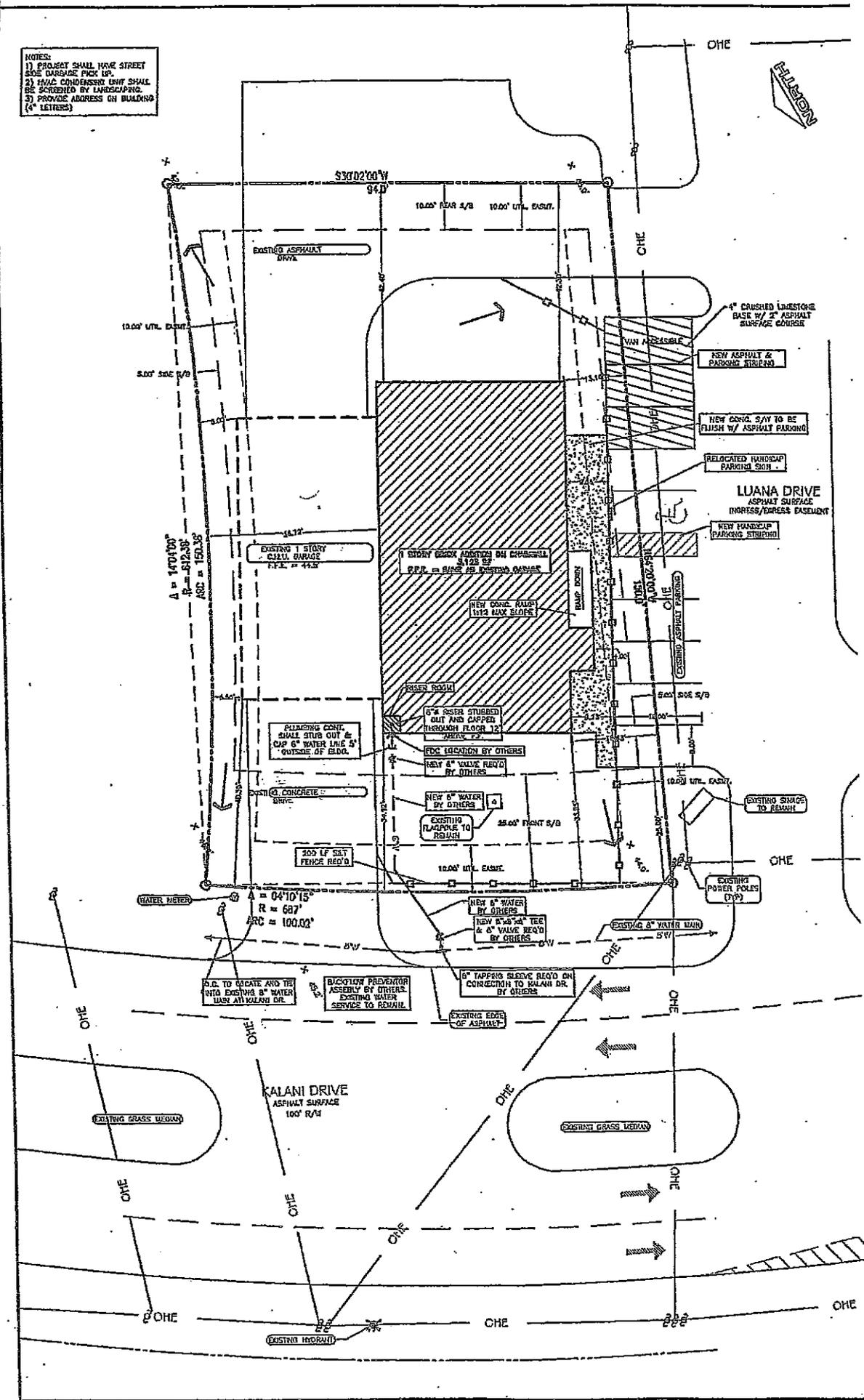
Therefore, we respectfully request that the City grant a variance for parking spaces at Fire Station #1, and we ask that you allow the seven (7) current parking spaces to suffice for this project.

Respectfully,


Jerry W. Dubuisson
Fire Chief

PLOT PLAN

NOTES:
 1) PROJECT SHALL HAVE STREET
 SIDE CURBSIDE PICK UP.
 2) HVAC CONDENSATE UNIT SHALL
 BE SCREENED BY LANDSCAPING.
 3) PROVIDE ADDRESS ON BUILDING
 (4" LETTERS)



SCALE: 1' = 20'