



City of Diamondhead

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STAFF REPORT TO PLANNING COMMISSION

DATE: December 8, 2020

CASE FILE NUMBER: 202000466

APPLICANT: Ray Sheward and Scott

King

PROPERTY OWNER: Ray Sheward and

Scott King

TAX PARCEL NUMBER: 067N-1-35-0-093.000

PHYSICAL STREET ADDRESS: 7420 Turnberry Way

LEGAL DESCRIPTION: Glen Eagle Phase 1, Lot 174A

ZONING DISTRICT: R - 1

TYPE OF APPLICATION: Variance

NATURE OF REQUEST: Mr. Ray Sheward and Mr. Scott King have filed an application requesting a variance from the Zoning Ordinance (Article 5.4.2 G) to construct a house within 6.8' from the side yard (south) property line. The case file number is 202000466.

The newly assigned property address is 7420 Turnberry Way. The tax parcel number is 067N-1-35-0-093.000. The legal description is replat of Glen Eagle Phase 1, Lot 174A. The property is located in a R-1 zoning district. The minimum side yard setback is 10 feet due to this property being a combination lot allowed by the covenants.

DATE OF PUBLIC HEARING BEFORE PLANNING COMMISSION: December 8, 2020

ACTION BY THE PLANNING COMMISSION: In accordance with the Comprehensive Zoning Ordinance Article 2.6.4, the Planning Commission may recommend to the Mayor and City Council a variance be granted as the variance was applied for or in a modified form or subject to conditions or the application may be denied. A variance may be revocable, may be granted for a limited time period, or may be granted subject to conditions as the Planning Commission or Mayor and City Council may prescribe.

FINDINGS: The Planning Commission may recommend granting a variance provided affirmative findings of fact are made on each of the following criteria:

A. That special conditions and circumstances exist which are peculiar to the land,

structure or building involved and which are not applicable to other lands, structures or buildings in the same district. By way of example, special conditions or circumstances peculiar to land could include irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions.

- B. That literal interpretation of the provisions of this title would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this title.
- C. That special conditions and circumstances do not result from the actions of the applicant.
- D. That granting the variance requested will not confer on the applicant any special privilege that is denied by this title to other lands, structures, or buildings in the same zoning district.
- E. The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.
- F. The Variance would observe the spirit of the Ordinance and would not change the character of the district.
- G. The Variance would observe the spirit of the Comprehensive Plan.
- H. That the Variance requested will not result in any change in use or density of the subject property.

NOTES: In recommending that any variance be granted, the Planning Commission may prescribe appropriate conditions and safeguards in conformity with the zoning ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of the zoning ordinance and punishable as determined within the zoning ordinance.

Under no circumstances shall the Planning Commission or Mayor and City Council grant a variance to allow a use not permissible under the terms of the zoning ordinance in the district involved, or any use expressly or by implication prohibited by the terms of the zoning ordinance in said district.

RECOMMENDATION TO PLANNING COMMISSION: To deny the variance as petitioned;

The staff recommends to deny the variance based on the following findings of fact.

- A. That no special conditions and circumstances exist which are peculiar to the land, structure or building involved. The lot is basically rectangular in shape. The overall design and area of the proposed house did not take into account for the setbacks. The applicant states that "much time and money have been spent on the plans process". The minimum heating and cooled square feet requirement is 2000 square feet. The proposed house has a heating and cooled area of 2836 with a total square footage of 3910.

Based on the statement of the applicant, no benefit is gained by pushing the structure further back due to the topography and the wetland delineation. Using the same house plan, a hardship would exist and the possibility of changing the foundation to a chain wall rather than slab on grade.