



5000 Diamondhead Circle • Diamondhead, MS 39525-3260

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 26, 2020

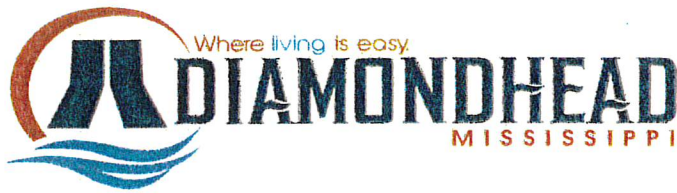
SUBJECT: Sharon Gerchow Variance Petition; Recommendation from Planning Commission to
Approve as Petition; Case File Number 20200031

Sharon I. Gerchow represented by Larry Mitrenga and David Solomon with Postwood Homes has filed an application requesting a variance from the Zoning Ordinance (Article 4.6.5 E iii) to construct a covered patio (12'11" x 24') within 18' of the southwest corner and 14' of the southeast of the rear property line on parcel 067K-1-36-138.000.

The property address is 8812 Manoo Street. The tax parcel number is 067K-1-36-138.000. The legal description is Diamondhead Subdivision Phase #2, Unit 2, Block 1, Lot 15. The property is located in an R-2 zoning district. The minimum rear yard setback is 20 feet.

At its meeting on Monday, February 24, 2020, the Planning Commission unanimously approved the recommendation to approve the rear yard setback variance as petition. A copy of the draft minutes, application and packet is attached for your information and review.

attachments



5000 Diamondhead Circle
Diamondhead, MS 39525
Ph: 228-222-4626
FX: 228-222-4390

APPLICATION FOR VARIANCE REQUEST

Case Number: 2020000031

Date 1/17/20

Applicant: POSTWOOD HOMES

Applicant's Address: 895 ON THE GREEN, BILOXI, MS 39532

Applicant's Email Address: LARRY@HYNEMAN.COM

Applicant's Contact Number: (Home) _____ (Work) 228-363-3045 (Cell) 228-596-8337

Property Owner: SHARON GERCHOW

Owner's Mailing Address: 1523 BRADNEY DR. HOUSTON, TX 77077

Owner's Email Address _____

Owner's Contact Number: (Home) 281-556-1430 (Work) _____ (Cell) _____

Tax Roll Parcel Number: 067K-1-36-138,000

Physical Street Address: 8812 MANOO ST. DIAMOND HEAD MS 39525

Legal Description of Property: LOT 15, BLK 1, UNIT 2, PHASE 2

Zoning District: R-2

State Purpose of Variance: (Front/Side/Rear) (Rear) Lot Size/Parking/Building (Coverage)
(Signage-Size-Height) _____

WE ARE REQUESTING AN APPROXIMATE 6 FT. VARIANCE OF THE 20 FT. REAR SETBACK
TO ALLOW A COVERED PATIO. SEE ATTACHED SURVEY. THE VARIANCE WILL
NOT INTERFERE WITH DRAINAGE OR ANY OTHER CONCERN

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 \$100.00 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 designed 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.

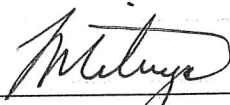
That additional information may be required by the Planning Commission prior to final disposition.

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 25, 2020 at 6 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

Signature of Property Owner

For Official Use Only

- ☐ \$100.00
- ☐ Copy of Deed, Lease or Contract
- ☐ Site Plan
- ☐ Parking Spaces
- ☐ List of Property Owner

- ☐ Application Signed
- ☐ Written Project Description
- ☐ Drainage Plan NA ☐
- ☐ Notarized Statement NA ☐

REQUIRED ITEM A

Property Owner SHARON GERCHOW

Street Address 8812 MAHOO ST. DIAMOND HEAD MS 39525

Statement Describing Variance Request

WE ARE REQUESTING AN APPROXIMATE 6 FT. VARIANCE OF THE 20 FT. REAR SETBACK TO ALLOW A COVERED PATIO. SEE SUBMITTED SURVEY. THE VARIANCE WILL NOT INTERFERE WITH DRAINAGE. THIS REQUEST IS BEING MADE IN ORDER TO SAVE A LARGE 30" DIAMETER LIVE OAK.

The reasons why it complies with the criteria for variances:

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?

Response: YES

2. WOULD LITERAL INTERPRETATION OF THE ZONING ORDINANCE DEPRIVE THE OWNER/APPLICANT OF RIGHTS COMMONLY ENJOYED BY OTHER PROPERTIES IN THE SAME ZONING DISTRICT?

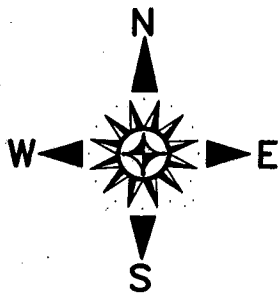
Response: ONLY TO THE EXTENT THAT ANY OWNER CAN AND HAS REQUESTED A VARIANCE IN THE PAST

3. ARE THE SPECIAL CONDITIONS OR CIRCUMSTANCES NOT CAUSED BY THE OWNER/APPLICANT?

Response: YES, THE PURPOSE OF THE VARIANCE IS TO SAVE A VERY LARGE LIVE OAK

4. WOULD THE REQUESTED VARIANCE NOT GIVE THE OWNER/APPLICANT ANY SPECIAL PRIVILEGES OR RIGHTS NOT SHARED BY OWNERS OF SIMILAR PROPERTIES?

Response: IT WOULD NOT GIVE ANY SPECIAL PRIVILEGE NOT SHARED BY OWNERS OF SIMILAR PROPERTIES AS SAVING A SIGNIFICANT PROTECTED LIVE OAK IS IN THE INTEREST OF THE ENTIRE COMMUNITY. THE PATIO ITSELF DOES NOT REQUIRE A VARIANCE AS IT IS ALLOWED PER CODE. THE ISSUE AND VARIANCE IS TO ALLOW THE PATIO TO BE COVERED. THE CONTRACT REQUIRED THE PATIO TO BE COVERED AND MOVING THE HOUSE TO PROTECT THE TREE IS THE REASON FOR THIS VARIANCE REQUEST.



LEGEND:

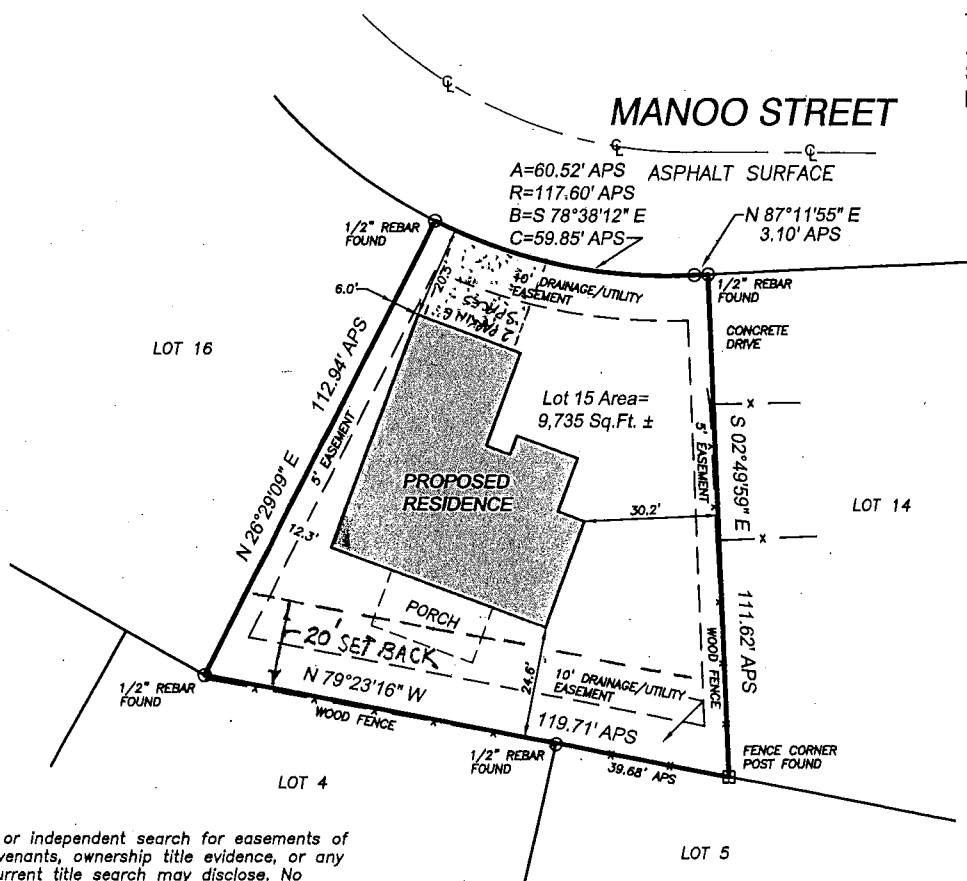
- CL CENTERLINE
- IRON ROD FOUND
- IRON ROD SET
- ⊗ IRON PIPE FOUND
- ⊞ FENCE CORNER POST
- ⊘ POWER POLE
- APS AS PER SURVEY
- APR AS PER RECORD

NOTES:

Surveyor has made no investigation or independent search for easements of record, encumbrances, restrictive covenants, ownership title evidence, or any other facts that an accurate and current title search may disclose. No attempt has been made as a part of this boundary survey to obtain or show data concerning existence, size, depth, condition, capacity, or location of any utility or municipal/public service facility. This survey meets Mississippi minimum requirements for a class "B" survey. Survey is valid only if print has original seal and signature of surveyor. No flood zone determination was performed as a part of this survey. An accurate determination can be made by ordering a FEMA Elevation Certificate.

PLOT PLAN

MANOO STREET



LEGAL DESCRIPTION:

A survey of Lot 15, Block 1,
Subdivision, Phase 2, Unit 2
Hancock County, Mississippi

REFERENCES:

- 1) PLAT OF DIAMONDHEAD, PHASE 2, UNIT 2
- 2) SURVEY BY GARY DURBIN, JOB# 3126B
- 3) DEED BOOK 2019 PAGE 12738

BEARINGS REFERENCED TO GEODETIC BY GPS OBSERVATIONS

In consideration of
this survey made by
supervision is true a
professional knowledge

Duke Levy, RL

DUKE LEV

DA 44121
DIAMONDHEAD
(228)

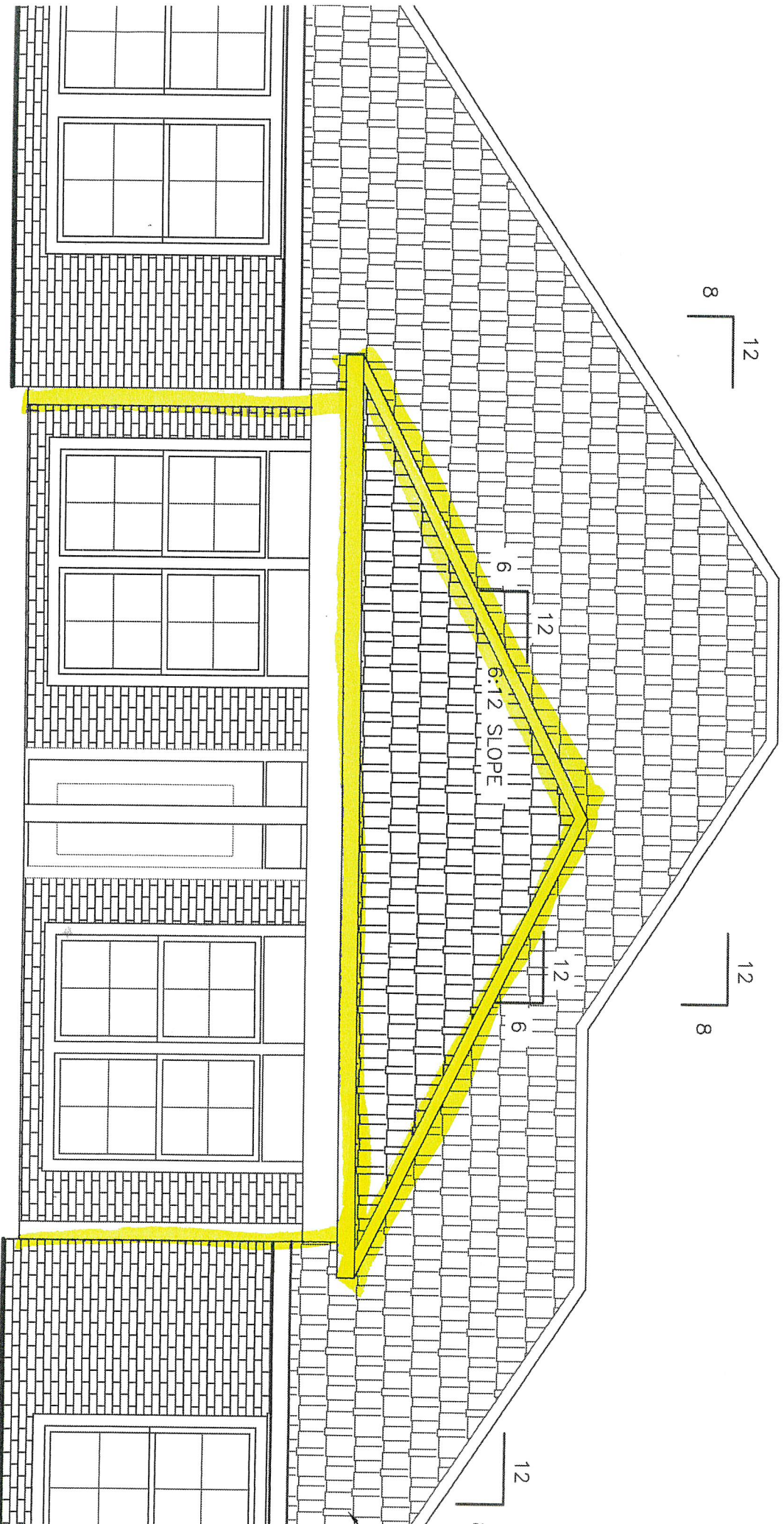
SCALE: 1" = 30'

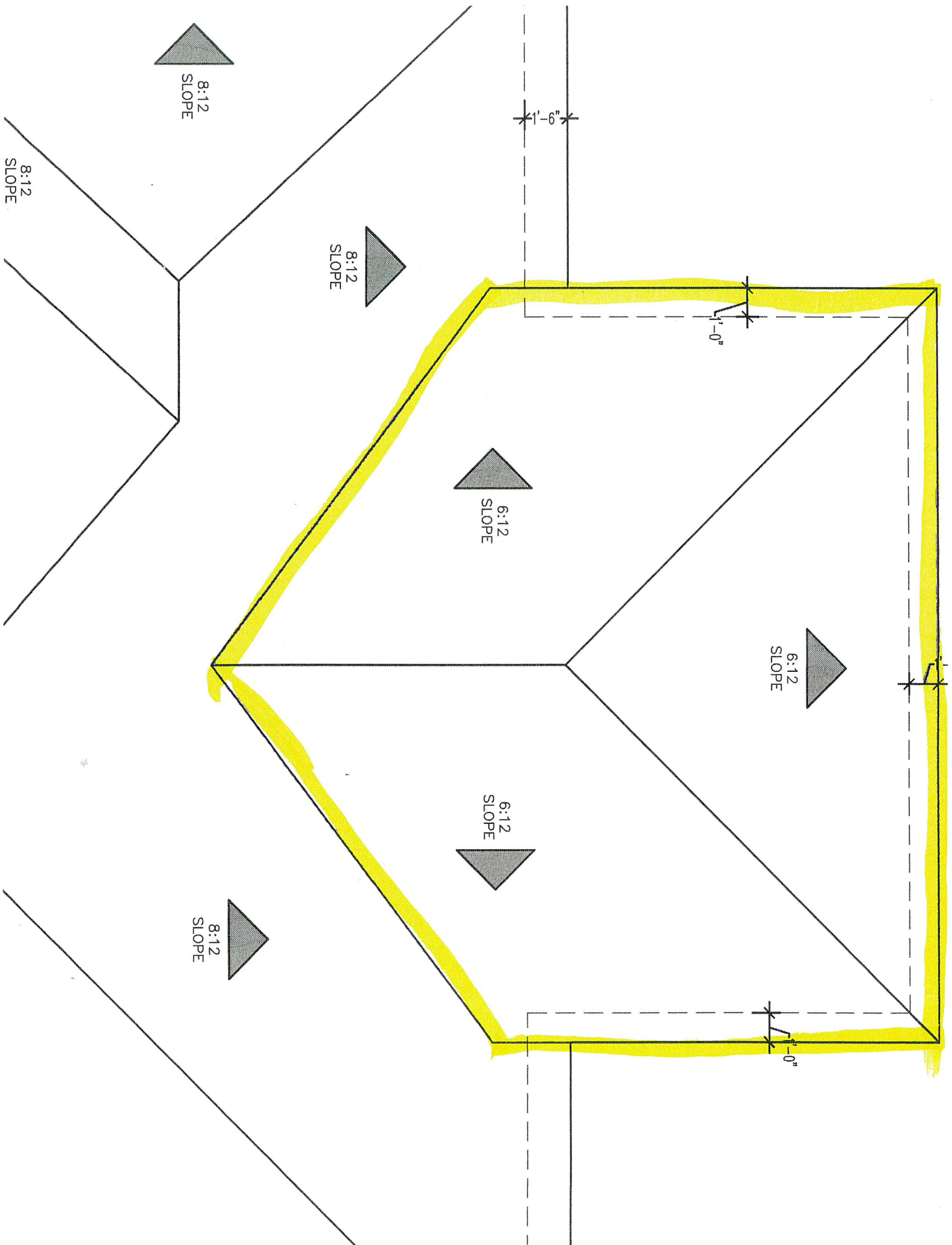
DRAWING: WO# 20

FRONT ELEVATION

Rear

8812 Manor St.





14'-11 1/2"
12'-9 1/2"

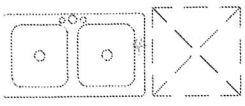
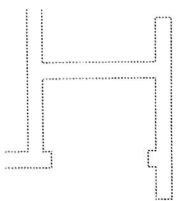
24'-0"

12'-11"

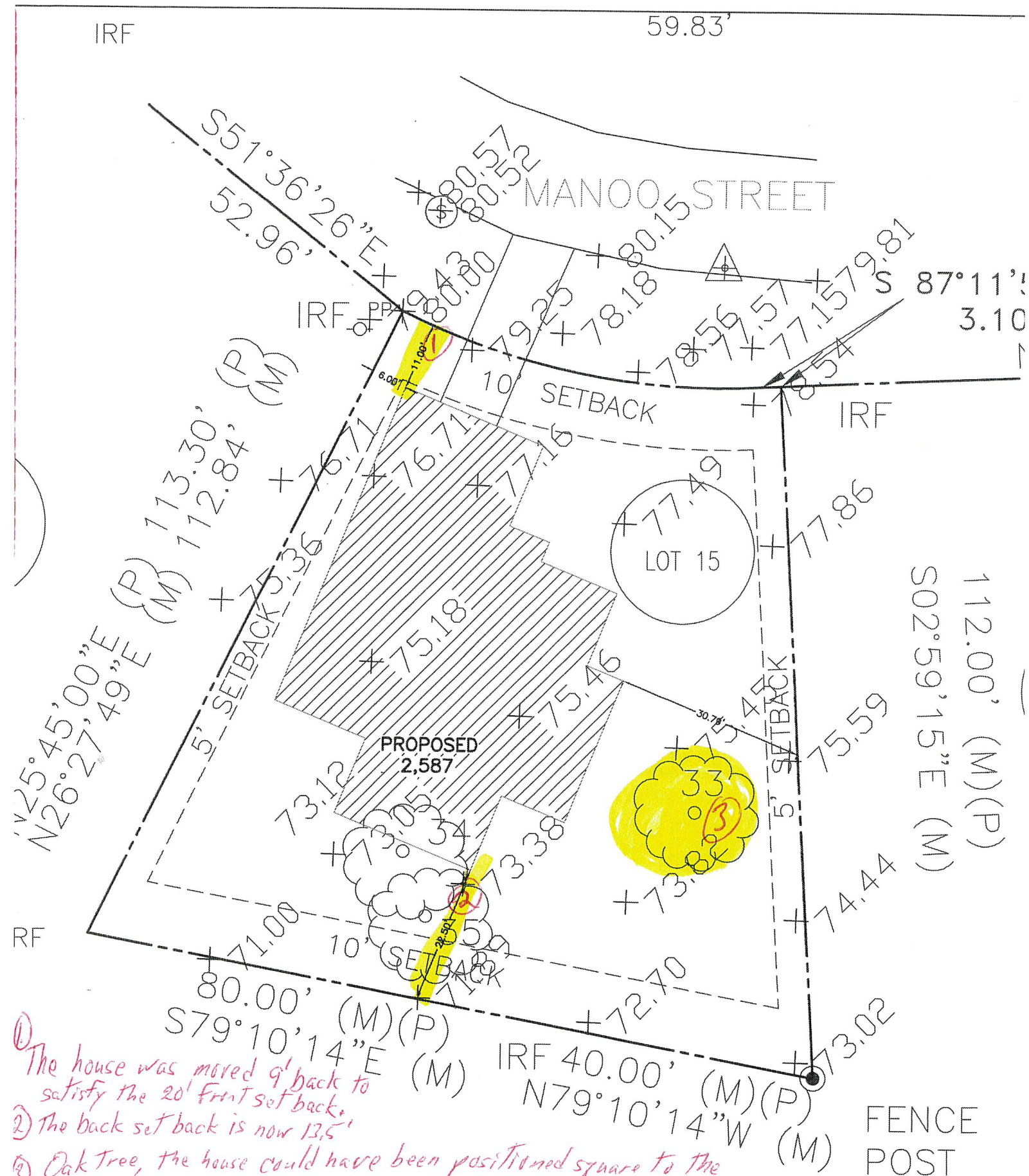


80.15' FINISHED FLOOR ELEVATION

4" THICK CONCRETE SLAB REINFORCED
WITH 6X6 W 1.4/1.4 WWM ON 6 MIL.
VISQUEEN ON TERMITES TREATED
COMPACTED FILL, (TYP).



I LV I F LAIV



- ① The house was moved 9' back to satisfy the 20' front setback.
- ② The back setback is now 13.5'
- ③ Oak tree, the house could have been positioned square to the back property line within the setbacks but the oak tree would have been lost.

Dennis R. Arceneaux

Prepared By:
The Casano Law Firm, P.A.
4403 West Aloha Drive
Diamondhead, MS 39525
228-255-0035
File No: 19-0736

Return To:
The Casano Law Firm, P.A.
4403 West Aloha Drive
Diamondhead, MS 39525
228-255-0035

STATE OF MISSISSIPPI
COUNTY OF Hancock

WARRANTY DEED

For and in consideration of the sum of Ten Dollars (\$10.00), cash in hand, paid, and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, it

Landmark Contractors, LLC , Grantor
1079 Tina Ladner Vic Faye Road
Pass Christian, MS 39571
Phone: 228-669-4444

Does hereby sell, convey, bargain and warrant to

Sharon I. Gerchow , Grantee
1523 Bradney Drive
Houston, TX 77077
Phone: 281-556-1430

The following described real property situated and located in Hancock County, Mississippi, more particularly and certainly described as follows:

**Lot 15, Block 1, Unit 2, Phase 2, Diamondhead, Hancock County, Mississippi,
as per the map or plat thereof on file and of record in the office of the
Chancery Clerk of Hancock County, Mississippi.**

Together with all and singular the rights, privileges, improvements and appurtenances to the same belonging or in any wise appertaining.


This conveyance is made subject to any and all reservations, restrictions, easements, exceptions, covenants and conditions of record, including any mineral, oil or gas reservations and any covenants or restrictions of record.

If bounded by water, the warranty granted herein shall not extend to any part of the above described property which is tideland or coastal wetlands as defined in the Mississippi Coastal Wetlands Protection Act and this conveyance includes any natural accretion and is subject to any erosion due to the action of the elements.

It is agreed and understood that the taxes for the current year have been prorated as of this date on an estimated basis, and that when said taxes are actually determined, if the proration as of this date is incorrect, the parties herein agree to pay on a basis of an actual proration. All subsequent years taxes are specifically assumed by Grantee herein.

WITNESS MY SIGNATURE, this the 10th day of October, 2019.


Landmark Contractors, LLC

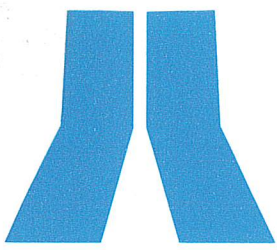

By: David D. Malley, Member

**STATE OF MISSISSIPPI
COUNTY OF HANCOCK**

Personally came and appeared before me, the undersigned authority in and for the aforesaid County and State on this the 10th day of October, 2019, within my jurisdiction, the within named **David D. Malley**, who acknowledged that he is **Member of Landmark Contractors, LLC**, and that for and on behalf of said company, and as its act and deed executed the above and foregoing instrument, after first having been duly authorized so to do.




Notary Public
My Commission Expires:



City of Diamondhead

5000 Diamondhead Circle, Diamondhead, MS 39525

Phone: (228) 222.4626

FAX: (228) 222-4390

www.diamondhead.ms.gov

STAFF REPORT TO PLANNING COMMISSION

DATE: February 20, 2020

CASE FILE NUMBER: 202000031

APPLICANT: Postwood Homes represented by Larry Mitrenga

PROPERTY OWNER: Sharon Gerchow

TAX PARCEL NUMBER: 067K-1-36-138.000

PHYSICAL STREET ADDRESS: 8812 Manoo Street

LEGAL DESCRIPTION: Diamondhead Subdivision Phase 2, Unit 2, Block 1, Lot 15

ZONING DISTRICT: R-2 Medium Density Single Family

TYPE OF APPLICATION: Variance

NATURE OF REQUEST:

Sharon I. Gerchow represented by Larry Mitrenga with Postwood Homes has filed an application requesting a variance from the Zoning Ordinance (Article 4.6.5 E iii) to construct a covered patio (12'11" x 24') within 18' of the southwest corner and 14' of the southeast of the rear property line on parcel 067K-1-36-138.000. The case file number is 202000031.

The property address is 8812 Manoo Street. The tax parcel number is 067K-1-36-138.000. The legal description is Diamondhead Subdivision Phase #2, Unit 2, Block 1, Lot 15. The property is located in an R-2 zoning district. The minimum rear yard setback is 20 feet.

DATE OF PUBLIC HEARING BEFORE PLANNING COMMISSION: February 24, 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 **approve** the variance as petitioned;

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

- Special conditions and circumstances do exist which are peculiar to the land. The house was pushed back to meet the front yard setback and the house was shifted to save a magnolia and 30" live oak trees.
- That special conditions and circumstances do not result from the actions of the applicant.
- 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
- 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.
- The Variance would observe the spirit of the Ordinance and would not change the character of the district.
- That the Variance requested will not result in any change in use or density of the subject property.