



5000 Diamondhead Circle · Diamondhead, MS 39525

Phone: 228.222.4626 Fax: 228-222-4390

www.diamondhead.ms.gov

TO: City Council and City Manager

FROM: J. Pat Rich, Development Coordinator *J. Pat Rich*

DATE: January 30, 2024

SUBJECT: Susan Joyce Rear Yard Setback Variance

Ms. Joyce requested a variance to the 10' rear yard setback of 5' to construct an accessory structure, shed.

- Work was started on this project without a permit. The contractor was to pull the permit.
- When Ms. Joyce applied for the permit, she was advised to stop work until she received a variance. She complied.
- There are no special conditions and circumstances. There is room in the backyard for the shed to meet all setbacks.
- Staff recommendation was to deny the variance based on the literal interpretation of the reasons for granting a variance.

The Planning & Zoning Commission voted 3-3 which resulted in no recommendation to the Council.



Commissioner Bennett
Commissioner Brewer
Commissioner Debrow
Commissioner Flowers
Commissioner Harwood
Commissioner Layel
Commissioner Nicaud

AGENDA PLANNING AND ZONING COMMISSION

Tuesday, January 23, 2024

6:00 PM CST

Council Chambers, City Hall
and via teleconference, if necessary

Call to Order

Statement of Purpose

1. May our decisions today be made with wisdom, careful deliberation and in the best interest of the City of Diamondhead. May we display patience and kindness in our dealings with each other and all who are in attendance and may any decisions made today promote the health, safety and welfare of the citizens of Diamondhead and the enhancement of the City as a whole.

Pledge of Allegiance

Roll Call

Confirmation or Adjustments to Agenda

Approval of Minutes

2. Approval of December 12, 2023 minutes.

New Business

3. Word and Robin Johnston have filed an application requesting a variance from the Zoning Ordinance (Article 4.19) to allow the construction of a pool screen enclosure within 10' of the rear property line. The property address is 7515 Turnberry Drive. The tax parcel number is 067N-1-35-002.000. The property is in a R-1 zoning district. The rear yard setback is 20'. The variance requested for the pool enclosure is 10'. The Case File Number is 202300543.
4. Susan Joyce has filed an application requesting a variance from the Zoning Ordinance (Article 4.19) to allow the construction of an accessory structure within 5' of the rear property line. The property address is 684 Apona Street. The tax parcel number is 131A-0-04-067.000. The property is in a R-2 zoning district. The rear yard setback is 10'. The variance requested for the accessory structure is 5'. The Case File Number is 202300565.
5. Susan Muth has filed an application requesting a variance from the Zoning Ordinance (Article 4.19) to allow the construction of a carport within 7' of the side yard property line. The property address is 10779 Lilinoe Way. The tax parcel number is 067G-1-25-285.000. The property is in a MH zoning district. The side yard setback is 10'. The variance requested for the carport is 3'. The Case File Number is 202300586.

Unfinished Business

6. Presentation on Zoning Code Re-write by Bob Barber with Orion Planning.
7. Tree Ordinance Re-write introduction.

Open Public Comments to Non-Agenda Items



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STAFF REPORT TO PLANNING COMMISSION

DATE: January 22, 2024

NATURE OF REQUEST: Susan Joyce has filed an application requesting a variance from the Zoning Ordinance (Article 4.19) to allow the construction of an accessory structure within 5' of the rear property line.

The property address is 684 Apona Street. The tax parcel number is 131A-0-04-067.000. The property is in the R-2 zoning district. The rear yard setback is 10'. The variance requested for the accessory structure is 5'. The Case File Number is 202300565.

DATE OF PUBLIC HEARING BEFORE PLANNING COMMISSION: January 23, 2023

RECOMMENDATION TO PLANNING COMMISSION: To **deny** the variance as petitioned.

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

- A. That special conditions and circumstances *do not* 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. *Lot depth is sufficient to meet both the rear yard setback and residence setback requirements.*
- B. That literal interpretation of the provisions of this title *would not* 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, if any, *do* result from the actions of the applicant. *No request for a permit was submitted.*
- D. That granting the variance requested *will* 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 not* represent the minimum variance that will afford relief and *will not* represent the least modification possible of the regulation in issue.
- F. The Variance *does not* observe the spirit of the Ordinance and *will* change the character of the district (area).
- G. The Variance *will not* observe the spirit of the Comprehensive Plan.
- H. That the Variance requested *will* result in any change in use or density of the subject property.



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TO: Susan Joyce and adjacent property owners

FROM: J. Pat Rich, Development Coordinator *J. Pat Rich*

DATE: December 29, 2023

SUBJECT: Variance request before the Planning & Zoning Commission

Susan Joyce has filed an application requesting a variance from the Zoning Ordinance (Article 4.19) to allow the construction of an accessory structure within 5' of the rear property line.

The property address is 684 Apona Street. The tax parcel number is 131A-0-04-067.000. The property is in a R-2 zoning district. The rear yard setback is 10'. The variance requested for the accessory structure is 5'. The Case File Number is 202300565.

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 period, or may be granted subject to conditions as the Planning Commission or Mayor and City Council may prescribe.

The Planning and Zoning Commission will consider this application at its next regularly scheduled meeting on **Tuesday, January 23, 2024, at 6:00 p.m.** The public hearing will be held at Diamondhead City Hall in the Council Chambers at 5000 Diamondhead Circle in Diamondhead, MS 39525. Interested members of the public are invited to attend. This meeting will also be live streamed for your convenience.

If you have any questions or comments or would like to review the application, you may contact J. Pat Rich, Development Coordinator, at 228-242-1613.

**NOTICE OF PUBLIC HEARING
PLANNING AND ZONING COMMISSION
DIAMONDHEAD, MS**

Susan Joyce has filed an application requesting a variance from the Zoning Ordinance (Article 4.19) to allow the construction of an accessory structure within 5' of the rear property line.

The property address is 684 Apona Street. The tax parcel number is 131A-0-04-067.000. The property is in a R-2 zoning district. The rear yard setback is 10'. The variance requested for the accessory structure is 5'. The Case File Number is 202300565.

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 period, or may be granted subject to conditions as the Planning Commission or Mayor and City Council may prescribe.

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If you have any questions or comments or would like to review the application, you may contact J. Pat Rich, Development Coordinator, at 228-242-1613.



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FX: 228-222-4390

APPLICATION FOR VARIANCE REQUEST

Case Number: 202300565

Date 12/1/23

✓Applicant: Susan Joyce

Applicant's Address: 684 Apona St. Diamondhead, MS 39525

Applicant's Email Address: cottonclog@gmail.com

Applicant's Contact Number: (Home) _____ (Work) _____ (Cell) 404-643-3221

Property Owner: Susan Leuter Joyce

Owner's Mailing Address: 684 Apona St. Diamondhead, MS 39525

Owner's Email Address cottonclog@gmail.com

Owner's Contact Number: (Home) n/a (Work) n/a (Cell) 404-643-3221

Tax Roll Parcel Number: 131A-0-01-067.000

Physical Street Address: 684 Apona St. Diamondhead, MS

Legal Description of Property: _____

Zoning District: R-2

✓State Purpose of Variance: (Front/Side/Rear/Lot Size/Parking/Building/Coverage)
(Signage-Size-Height) Variance of 5' to RYSB for Accessory Structure

REQUIRED ITEMS:

- A. A statement describing the variance request and all the reasons why it complies with the criteria for variances provided in Section 2.6.5, specifically.
THE CONDITIONS FOR GRANTING A VARIANCE: (SEE ATTACHED SHEET #4)
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 their 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: \$100.00 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 \$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 Jan 23, 2024 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.

+ Susan Jones
Signature of Applicant

Susan Jones
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 Susan Joyce

Street Address 484 Apona St Diamondhead
Statement Describing Variance Request

The rear wall of my shed is only
5ft. from neighbors fence. I will
provide proper drainage for the shed

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. Just my storage/art shed

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

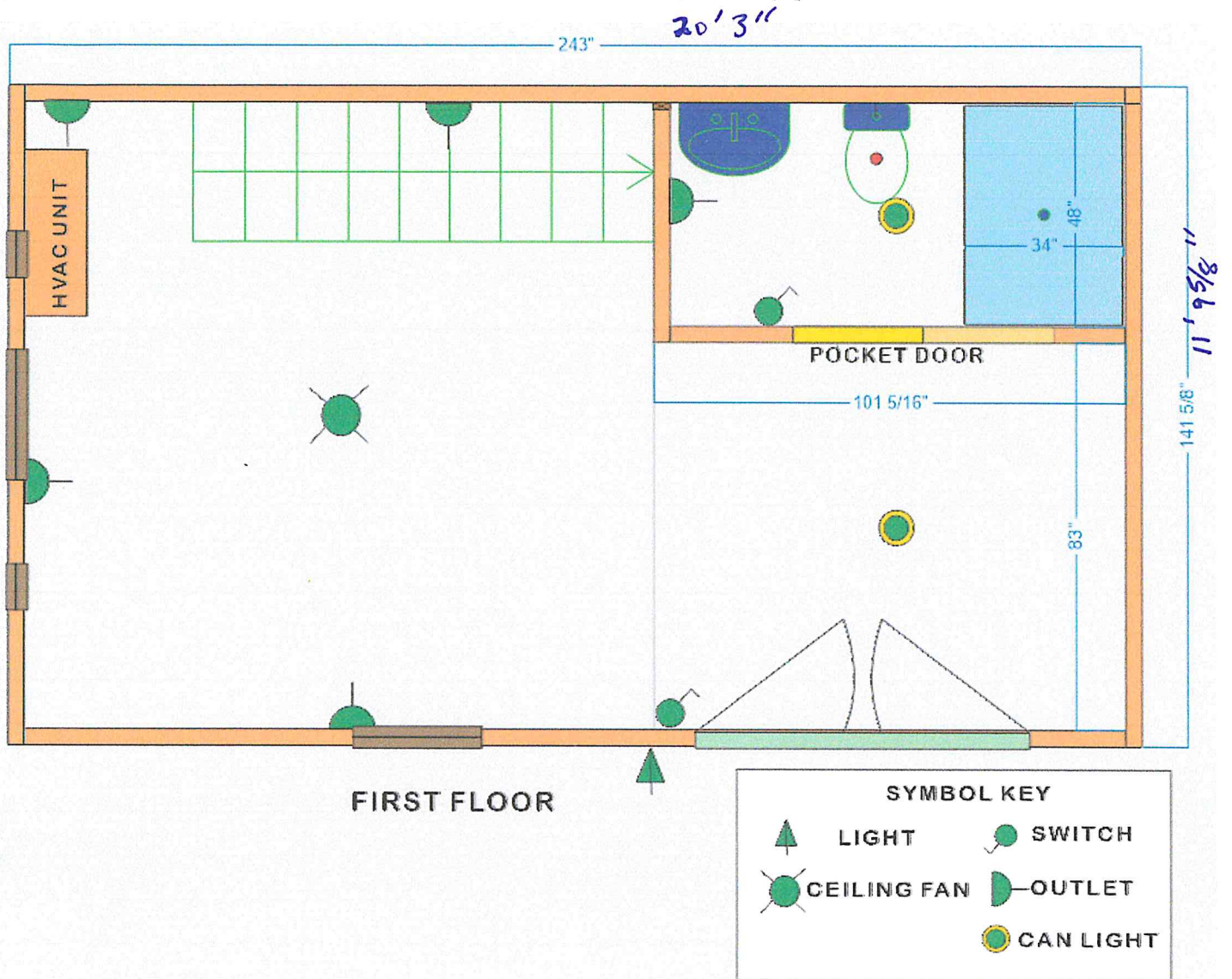
Response: No. others will not be affected
by the storage/art shed.

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

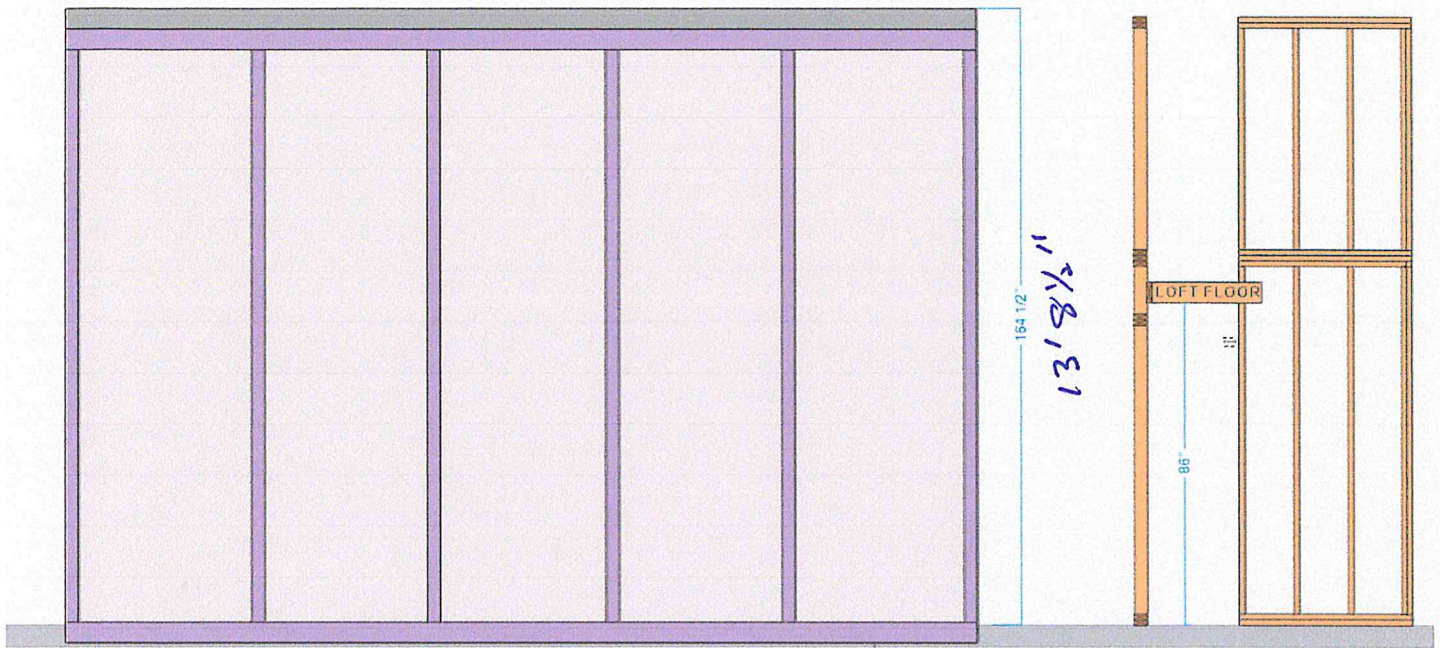
Response: Yes. It was caused by the previous
contractor who assumed that the universal
space of 5ft. applied to Diamondhead

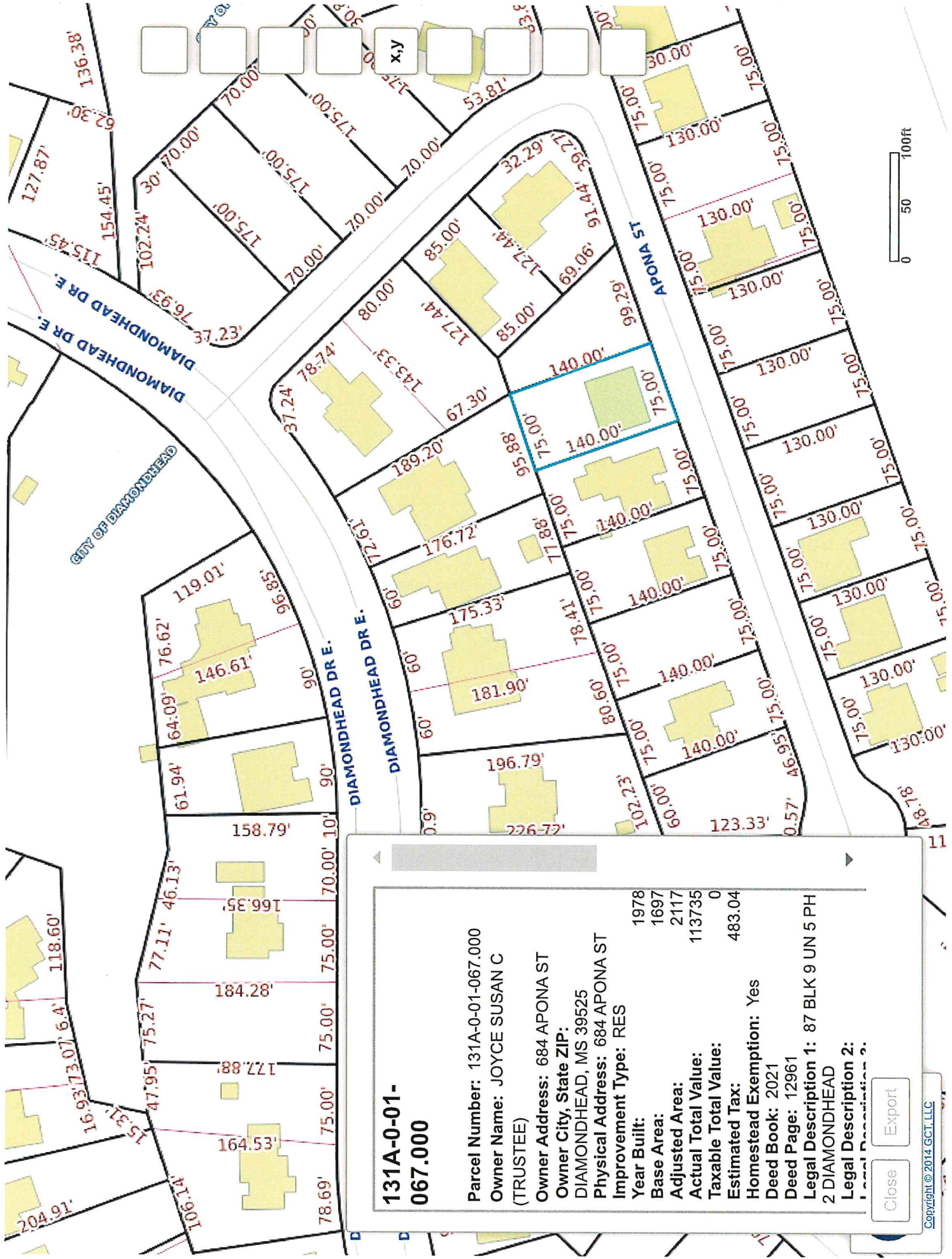
- ✓ 4. WOULD THE REQUESTED VARIANCE NOT GIVE THE OWNER/APPLICANT ANY SPECIAL PRIVILEGES OR RIGHTS NOT SHARED BY OWNERS OF SIMILAR PROPERTIES?

Response: All neighbors and owners of similar
properties are accepting of the storage/
art shed and are prepared to join me on 1/23/24



240 sq ft.





131A-0-01-067.000

Parcel Number: 131A-0-01-067.000
Owner Name: JOYCE SUSAN C (TRUSTEE)
Owner Address: 684 APONA ST
Owner City, State ZIP: DIAMONDHEAD, MS 39525
Physical Address: 684 APONA ST
Improvement Type: RES
Year Built: 1978
Base Area: 1697
Adjusted Area: 2117
Actual Total Value: 113735
Taxable Total Value: 0
Estimated Tax: 483.04
Homestead Exemption: Yes
Deed Book: 2021
Deed Page: 12961
Legal Description 1: 87 BLK 9 UN 5 PH
2 DIAMONDHEAD
Legal Description 2:

Close

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