



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

A handwritten signature in blue ink, appearing to read "J. Pat Rich", is written next to the printed name.

DATE: January 30, 2024

SUBJECT: Word and Robin Johnston Rear Yard Setback Variance

Mr. and Mrs. Johnston requested a variance to the 20' rear yard setback of 10' to construct a screened pool enclosure.

- The depth of this lot narrows from 129.6' to 115.6'.
- All other setbacks, including the pool, are met.
- Since the pool enclosure is attached to the home, the setback is 20'.
- The pool enclosure will not block the view of the course by any neighboring residents.
- A similar variance was granted on the same street.

The Planning & Zoning Commission voted 6-0 to recommend to allow the variance.



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.

Passed
6-0

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



5000 Diamondhead Circle · Diamondhead, MS 39525

Phone: 228.222.4626 Fax: 228-222-4390

www.diamondhead.ms.gov

STAFF REPORT TO PLANNING COMMISSION

DATE: January 22, 2024

NATURE OF REQUEST: 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 the 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.

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

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

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

- A. That special conditions and circumstances *do* 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 narrows from 129.6' to 115.6' which does not allow the screened pool enclosure to meet the 20' setback.*
- 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. *There are many other screened pool enclosures in R-1 as well as on the golf course. A similar variance was approved at 7433 Turnberry Drive in January of 2022.*
- C. That special conditions and circumstances, if any, *do not* result from the actions of the applicant. *The plans for the 4,500 SF home were adapted to fit on the lot. This is the only variance requested. The applicant was not aware the screened pool enclosure would require a 20' setback.*
- 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 *does* observe the spirit of the Ordinance and *will not* change the character of the district (area).
- G. The Variance *will* 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.



5000 Diamondhead Circle ·
Diamondhead, MS 39525-3260
Phone: 228.222.4626 Fax: 228-222-4390
www.diamondhead.ms.gov

TO: Word and Robin Johnston 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

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.

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**

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.

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.



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

APPLICATION FOR VARIANCE REQUEST

Case Number: 202300343

Date 11/13/23

Applicant: Word and Robin Johnston

Applicant's Address: 7515 Turnberry A

Applicant's Email Address: wordjohnston@gmail.com

Applicant's Contact Number: (Home) 601-517-0728 (Work) _____ (Cell) _____

Property Owner: Word and Robin Johnston

Owner's Mailing Address: PO Box 1107 Mt Olive MS 39119

Owner's Email Address wordjohnston@gmail.com

Owner's Contact Number: (Home) 601-517-0728 (Work) _____ (Cell) _____

Tax Roll Parcel Number: 067N-1-35-002000

Physical Street Address: _____

Legal Description of Property: _____

Zoning District: _____

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

ADD A SCREEN ENCLOSURE AND 1 SECTION IS WITHIN 10'
OF PROPERTY LINE. HEIGHT OF STRUCTURE IS SAME HEIGHT
AS GUTTER @ 12'2" THERE IS APPROX 68' FROM GOLF CART PATH
AND I BELIEVE THIS WAS DISCUSSED WITH DON JONES BEFORE HE
RETIRED. THANKYOU. JEFF JASSBY

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 January 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.



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 _____

Street Address _____
Statement Describing Variance Request

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: _____

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

Response: _____

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

Response: _____

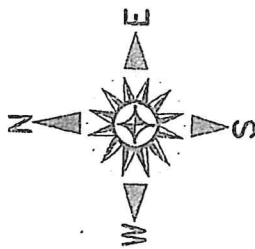
4. WOULD THE REQUESTED VARIANCE NOT GIVE THE OWNER/APPLICANT ANY SPECIAL PRIVILEGES OR RIGHTS NOT SHARED BY OWNERS OF SIMILAR PROPERTIES?

Response: _____

PLOT PLAN AND DRAINAGE PLAN

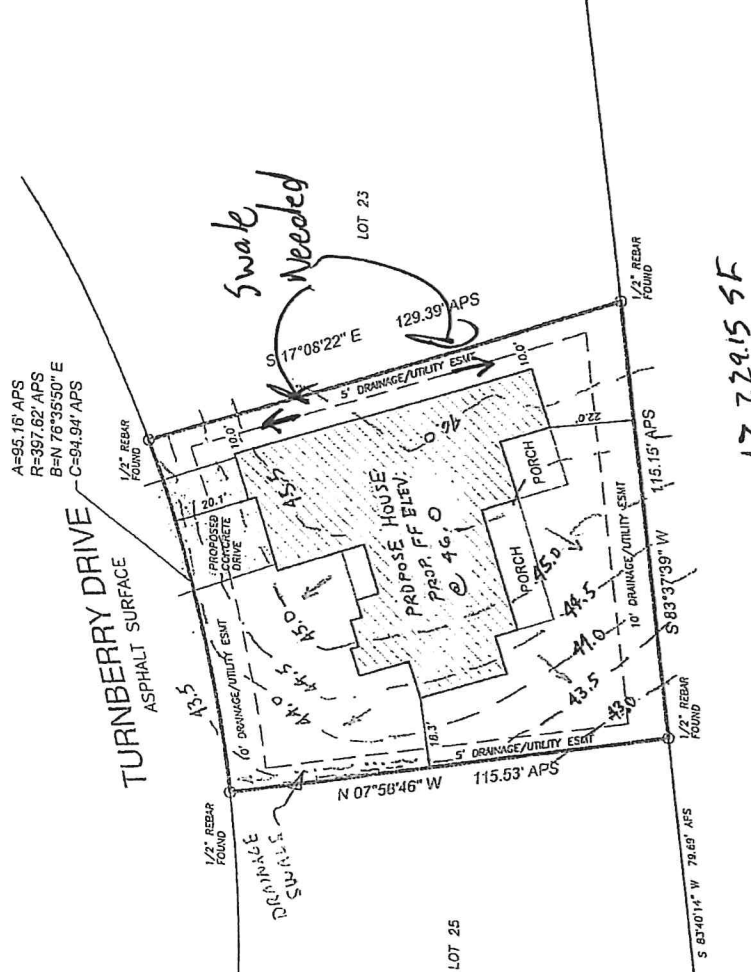
LEGAL DESCRIPTION:

A survey of Lot 24, Glen Eagle at Diamondhead
Subdivision, Phase 1, City of Diamondhead, Hancock
County, Mississippi.



LEGEND:

- ☒ CENTERLINE
- IRON ROD FOUND
- IRON ROD SET
- ⊙ IRON PIPE FOUND
- ⊞ FENCE CORNER POST
- ⌵ POWER POLE
- APS AS PER SURVEY
- APR AS PER RECORD



In consideration of the fee paid, I declare that
this survey made by me or under my immediate
supervision is true and correct to the best of my
professional knowledge, information, and belief.

Duke Levy, RLS #1722

DUKE LEVY & ASSOCIATES, P.A.

4412 LEISURE TIME DRIVE
DIAMONDHEAD, MS 39525
(228) 343-9891 PHONE

DATE: 10-06-2022	CUSTOMER: Jeff Jassby
REVISED: 12-30-2022	
SCALE: 1" = 30'	
DRAWING: WO# 2022-256	

REFERENCES:

- 1) DEED BOOK 2005 PAGE 2777
- 2) PLAT OF GLEN EAGLE S/D

BEARINGS REFERENCED TO GEODETIC BY GPS OBSERVATIONS

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.

