



AGENDA PLANNING AND ZONING COMMISSION

Tuesday, May 25, 2021

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 April 27, 2021 minutes

New Business

- APPROVED 5-0*
3. The City of Diamondhead represented by Ronald Jones, Building Official, has filed an application requesting a text amendment to eliminate Coastal AE Zones from the Flood Damage Prevention Ordinance (Ord. 2012-006). Case File Number is 2021000132. The proposed text amendments would remove "Coastal AE Zone" from Chapter 14: Flood Damage Prevention. Section 14-105 (15) – General standards for all zones; remove "and coastal AE zone". Section 14-106 – Specific standards for riverine zones; remove "and coastal AE zones" from the first paragraph. Section 14-110 – Coastal high hazard areas; remove "coastal AE zones and" from the first paragraph, (1) remove "coastal AE zones and", (3) delete, (4) renumber as (3), (5) renumber to (4) and remove "coastal AE zones and", (6) renumber to (5), (7) renumber to (6) and remove "coastal AE zones and", (8) renumber to (7), (9) renumber to (8), (10) renumber to (9), (11) renumber to (10) and remove "coastal AE zones and", (12) renumber to (11), (13) renumber to (12) and remove "coastal AE zones and".

*Denied 4/
APPROVED 5-0*
Elliott Homes, LLC has filed an application requesting a variance from the Zoning Ordinance (Article 4.6.5) to construct a residence on a corner lot with a front yard setback of 17.1' from the south property line. The variance requested is 2.9'. The property is located at 9846 Kaimuki Court. The tax parcel number is 067H-2-25-219.000. The legal description is Diamondhead Subdivision Phase 2, Unit 7, Block 6, Lot 49. The property is located in an R-2 zoning district. The front yard setback is back 20' from the front property line. The Case Number is 202100077.

Unfinished Business

Open Public Comments to Non-Agenda Items



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: May 24, 2021

CASE FILE NUMBER: 202100077

APPLICANT: Elliott Homes, LLC

PROPERTY OWNER: Elliot Homes, LLC

TAX PARCEL NUMBER: 067H-2-25-219.000

PHYSICAL STREET ADDRESS: 9864 Kaimuki Court

LEGAL DESCRIPTION: Diamondhead Subdivision Phase 2, Unit 7, Block 6, Lot 49

ZONING DISTRICT: R-2

TYPE OF APPLICATION: Variance

NATURE OF REQUEST: Elliott Homes, LLC has filed an application requesting a variance from the Zoning Ordinance (Article 4.6.5) to construct a residence on a corner lot with a front yard setback of 17.1' from the south property line. The variance requested is 2.9'.

The property is located at 9864 Kaimuki Court. The tax parcel number is 067H-2-25-219.000. The legal description is Diamondhead Subdivision Phase 2, Unit 7, Block 6, Lot 49. The property is located in an R-2 zoning district. The front yard setback is back 20' from the front property line. The Case Number is 202100077.

DATE OF PUBLIC HEARING BEFORE PLANNING COMMISSION: May 25, 2021

ACTION BY THE PLANNING COMMISSION:

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. This is a corner lot where the 20' front yard setback is applied to both sides facing the street.
- B. This Commission has never granted a variance to the front yard setback on a corner lot to build a home.
- C. That special conditions and circumstances result from the actions of the applicant. There are other house designs that will fit on the lot and not require a variance.
- 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. If granted, it will be the first.
- E. The variance, if authorized, will not represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue. Other house designs will fit on the lot without a variance.
- F. The Variance does not observe the spirit of the Ordinance and it would change the character of the district (area).
- G. The Variance would not observe the spirit of the Comprehensive Plan.
- H. That the Variance requested will not result in a change in use or density of the subject property.

9850 Kaimuki St.

Pat Rich

From: David Boan <dfboan@hotmail.com>
Sent: Tuesday, May 11, 2021 9:31 AM
To: Pat Rich
Subject: Elliott Homes proposed construction of house on corner of Kaimuki Court and Kaimuki Street.

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Good morning:

Pat, it was a pleasure speaking with you at the Red Bean Cookoff. Also, thank you for informing me of the proposed construction on my street. I looked at the survey boundaries yesterday and have the following comments;

1. I do understand that a builder would want to use as much of their property as possible and a home with more square footage is more valuable for potential better profits. What I believe I see already by Elliott homes are they are already challenging the setbacks in many other builds. An example of this is, ride down Ala Moana and you can see homes closer to the road and with what appears to be variances already.
2. Also, the style they are building next to some brick homes does not match the same quality/style that are already built. Within brick homes that are already occupied by other homeowners - they are building siding homes or other type of exterior structures. Ala Moana Street has examples of these differences.
3. Please advise them to be more sensitive to property values of the existing homeowners as they decide the type/style of home and elevation they are proposing to build in that area. If most are brick, as a homeowner I would hope that the home they are building would be mostly brick. The built-up elevation of the home could also affect their neighbors relative to flooding possibilities during heavy rainfalls.
4. Back to the corner lot. There is only one way in and one way out of Kaimuki Court. The streets are narrow when an emergency vehicle need to travel this area. There have been times, police have been called to ask residents to move their vehicle so emergency traffic is not impeded. There are no sidewalks on Kaimuki Street or Kaimuki Court. Residents walk their animals and children transverse daily to catch the bus for school at the end of Kaimuki Street. Please have planning and zoning consider these factors that could affect safety in these areas if a variance is allowed. Also, this build will be at the top of the street. During heavy rainfalls, water toward the end of Kaimuki Court flow velocity is already significant. When this land is cleared, I suspect the flow velocity will be greater. Please keep this in mind on how drainage will affect others on Kaimuki Court and surrounding streets.

Thank you for taking these comments in consideration when this comes to the P&Z for discussion.

Regards,

David F. Boan

9864 Kaimuki Ct.

DH 20706049



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

APPLICATION FOR VARIANCE REQUEST

Case Number: 202100077

Date 4-5-21

Applicant: Elliott Homes, LLC

Applicant's Address: 1402 Pass Rd. Gulfport, Ms 39502

Applicant's Email Address: angela@myelliotthome.com

Applicant's Contact Number: (Home) _____ (Work) _____ (Cell) 228-273-5991

Property Owner: Elliott Home, LLC

Owner's Mailing Address: _____

Owner's Email Address _____

Owner's Contact Number: (Home) _____ (Work) _____ (Cell) _____

Tax Roll Parcel Number: 067H-2-25-219.000

Physical Street Address: Corner Kaimukst ; Kaimuki Ct.

Legal Description of Property: Ph. 2, Un. 7, Blk. 6, lot. 49

Zoning District: R-2

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

lot fit

House (left side) is 17.1" from street with 10' EASEMENT

R-2
FRSB 20
SYSB 8

REQUIRED ITEM A

Property Owner Elliott Homes, LLC

Street Address COR. Kaimuki St. ; Kaimuki Ct.

Statement Describing Variance Request

with attempt to comply with 20' setback on all sides of the street. We are only able to fit the house ; driveway 20' from road. The side of the house is 17.1' from road while complying to all easments

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: This will affect the house. Left side will be 17.1' away from street instead of 20' feet from road on all sides. this however, will not affect surrounding homes or structure of any kind.

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: We would be unable to build this house due to lot fit size if we held the left side of the home to 20' from road. All other easments are in compliance

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

Response: This is because of lot fit and easments in place

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

Response: Yes, the owner will not be able to build her last home without approval to position home (left side) 17.1' from road (Survey attached) **

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 ^{(+1.00 A/H fee) = total of 101.00} 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 May 25, 2021 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.

Angela Hayes
Signature of Applicant

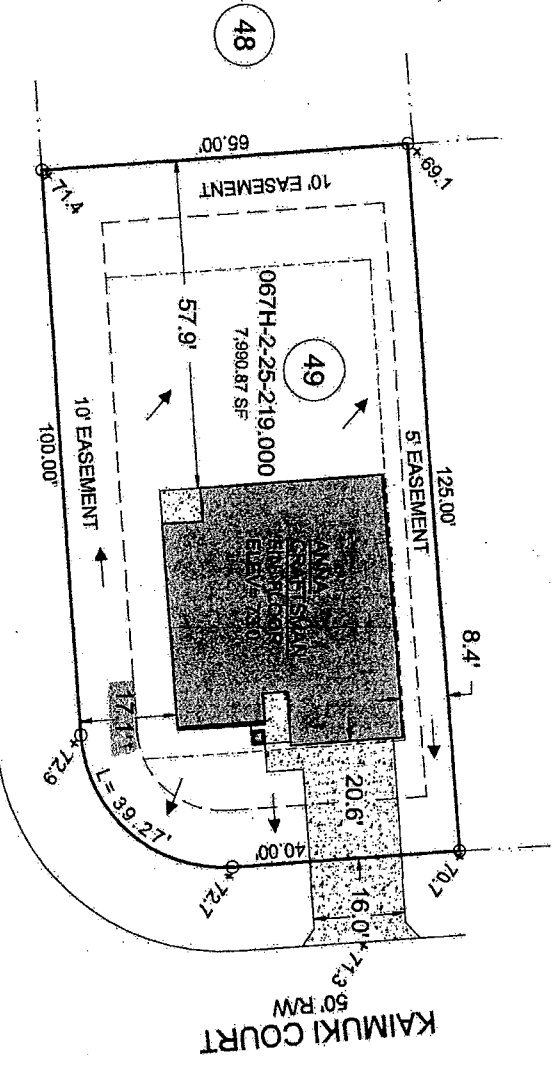
[Signature]
Signature of Property Owner

_____ 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 ()

50



DRIVEWAY AND LEAD
 SIDEWALK= 608.09
 SQ.FT.
 PERVIOUS SURFACE=
 8,469 SQ.FT.

SITE PLAN ON LOT 49, BLOCK 6,
 DIAMONDHEAD, PHASE 2, UNIT 7, CITY OF
 DIAMONDHEAD, HANCOCK COUNTY, MS

KAIMUKI STREET
 50' RW

KAIMUKI COURT
 50' RW



CROSBY SURVEYING
 PROFESSIONAL LAND SURVEYING

716 LIVE OAK DRIVE
 BILOXI, MISSISSIPPI 39532
 PHONE: 228-234-1649

EMAIL: cliffordcrosby@cableone.net

DH20706049

Prepared By and Return To:
Schwartz, Orgler & Jordan, PLLC
12206 Hwy 49
Gulfport, MS 39503
(228) 832-8550

Indexing Instructions: Lot 49, Block 6,
Unit 7, Phase 2, Diamondhead

File# 210025

STATE OF MISSISSIPPI
COUNTY OF HANCOCK

WARRANTY DEED

THAT FOR AND IN CONSIDERATION of the sum of Ten and no/100 Dollars (\$10.00),
cash in hand paid, and other good and valuable consideration, the receipt and sufficiency of all of
which is hereby acknowledged,

Edwin Henry Brink
16510 Laurelfield Dr.
Huston, TX 77059
(713) 254-1790

does hereby grant, bargain, sell, convey and warrant, unto

Elliott Homes, LLC,
A Mississippi Limited Liability Company
1402 Pass Road
Gulfport, MS 39501
(228) 257-9914

the following described property, together with the improvements, hereditaments and appurtenances
thereunto situated and located in the County of Hancock, State of Mississippi, and more particularly
described as follows, to-wit:

Lot Forty Nine (49), Block 6, Unit 7, Diamondhead, Phase 2, according to map
or plat thereof on file and of record in the Office of the Chancery of Hancock
County at Bay St. Louis, Mississippi.

THIS CONVEYANCE is subject to any and all recorded restrictive covenants, rights-of-way
and easements applicable to subject property, and any prior recorded reservations, conveyances and
leases of oil, gas and minerals by previous owners of subject property.

Estimated county ad valorem taxes have been prorated between the parties as a part of the
consideration for this conveyance. In the event the estimates upon which such proration is based
prove to be inaccurate for any reason, the Grantee agrees to refund any excess, and the Grantor

agrees to pay any deficiency, upon receipt of a copy of the tax statement for the current year and a computation of the true amount due, based on a 365 day year.

THIS CONVEYANCE is also subject to Zoning and/or other land use regulations promulgated by federal, state or local governments affecting the use or occupancy of the subject property.

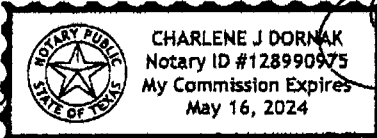

WITNESS THE SIGNATURE of the Grantor on this the 19 day of January, 2021.


Edwin Henry Brink

STATE OF Texas
COUNTY OF Harris

THIS DAY personally appeared before me, the undersigned authority in and for the jurisdiction aforesaid, Edwin Henry Brink, who acknowledged that he signed, executed and delivered the above and foregoing instrument as a voluntary act and deed on the day and year therein mentioned.

GIVEN under my hand and official seal on this the 19 day of January, 2021.

(SEAL)  
NOTARY PUBLIC
My Commission Expires:
May 16, 2024

DECLARATION OF ACCEPTANCE

PROPERTY ADDRESS: **Lot 49 Block 6 Unit 7 Phase 2
Diamondhead, MS 39525
Hancock County**

I/We, the undersigned, do hereby declare that I/we have inspected the vacant land at the above reference address and/or location as of this date, and that without any reservations, I/we hereby accept the property as to its "as is" condition and have satisfied myself/ourselves that:

- (a) the property can be used for its intended use;**
- (b) I/we have made all inquiries that I/we deem reasonable and necessary regarding permits, wetlands, tidelands and use of the property;**
- (c) I/we do hereby accept that property in its "as is, where is" condition;**
- (d) I/we have been given the property survey to verify acreage and access to the property and am/are satisfied;**
- (e) I/we are ready to proceed with the final closing of this transaction;**
- (f) I/we hereby release the Seller(s) from any further obligation.**

DATE: January 15, 2021



Elliott Homes, LLC

NOTICE OF PUBLIC HEARING
PLANNING AND ZONING COMMISSION
DIAMONDHEAD, MS

Elliott Homes, LLC has filed an application requesting a variance from the Zoning Ordinance (Article 4.6.5) to construct a residence on a corner lot with a front yard setback of 17.1' from the south property line. The variance requested is 2.9'.

The property is located at 9864 Kaimuki Court. The tax parcel number is 067H-2-25-219.000. The legal description is Diamondhead Subdivision Phase 2, Unit 7, Block 6, Lot 49. The property is located in an R-2 zoning district. The front yard setback is back 20' from the front property line. The Case Number is 202100077.

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.

The Planning and Zoning Commission will consider this application at its next regularly scheduled meeting on **Tuesday, May 25, 2021 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 the Building Department at the above address and/or at 228-222-4626.



5000 Diamondhead Circle · Diamondhead, MS 39525-3260

Phone: 228.222.4626 Fax: 228-222-4390

www.diamondhead.ms.gov

TO: Elliott Homes, LLC and adjacent property owners

FROM: J. Pat Rich, Planning and Zoning Administrator

A handwritten signature in blue ink that reads 'J. Pat Rich'.

DATE: May 7, 2021

SUBJECT: Notice of Public Hearing

Elliott Homes, LLC has filed an application requesting a variance from the Zoning Ordinance (Article 4.6.5) to construct a residence on a corner lot with a front yard setback of 17.1' from the south property line. The variance requested is 2.9'.

The property is located at 9864 Kaimuki Court. The tax parcel number is 067H-2-25-219.000. The legal description is Diamondhead Subdivision Phase 2, Unit 7, Block 6, Lot 49. The property is located in an R-2 zoning district. The front yard setback is back 20' from the front property line. The Case Number is 202100077.

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.

The Planning and Zoning Commission will consider this application at its next regularly scheduled meeting on **Tuesday, May 25, 2021 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 the Building Department at the above address and/or at 228-222-4626.

