



City of Diamondhead

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STAFF REPORT TO PLANNING COMMISSION

DATE: April 28, 2020

CASE FILE NUMBER: 202000115

APPLICANT: Timothy and Gina Stockstill

PROPERTY OWNER: Timothy and Gina Stockstill

TAX PARCEL NUMBER: 067Q-0-36-090.000

PHYSICAL STREET ADDRESS: 689 Oahu Street

LEGAL DESCRIPTION: DH Phase 2, Unit 3, Block 5, Lots 63 in part and 64

ZONING DISTRICT: R-2 Medium Density Single Family

TYPE OF APPLICATION: Variance

NATURE OF REQUEST:

Timothy and Gina Stockstill have filed an application requesting a variance from the Zoning Ordinance (Article 9.8 J) to construct a 4' in height vinyl fence extending 51' beyond the façade of their house fronting on Oahu Street. The case file number is 202000115.

The property address is 689 Oahu Street. The tax parcel number is 067Q-0-36-090.000. The legal description is Diamondhead Subdivision Phase #2, Unit 3, Block 5, Lots 63 in part and 64. The property is located in an R-2 zoning district. The minimum front yard setback is 20 feet. No fence shall be constructed closer to the street than the building facade

DATE OF PUBLIC HEARING BEFORE PLANNING COMMISSION: April 28, 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.

- There are no special conditions and circumstances exist which are peculiar to the land, structure or building involved;
- 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.
- That special conditions and circumstances, if any, are the direct result from the actions of the applicant.
- That granting the variance requested will confer on the applicant a special privilege.
- 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.
- The Variance does not observe the spirit of the Ordinance.
- The Variance would NOT observe the spirit of the Comprehensive Plan.
- That the Variance requested will not result in any change in use or density of the subject property.