

Project # 202000395



5000 Diamondhead Circle
Diamondhead, MS 39525
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APPLICATION FOR VARIANCE REQUEST

Case Number 202000395

Date 08 September 2020

Applicant: Tammy Simms Fields & Scott C Lippin

Applicant's Address: 8912 Anahola Court Diamondhead MS. 39525

Applicant's Email Address: MSXX007@bellsouth.net

Applicant's Contact Number: (Home) _____ (Work) _____ (Cell) 985-290-7891

Property Owner: Tammy Simms Fields (Lippin)

Owner's Mailing Address: 8912 Anahola Court Diamondhead MS. 39525

Owner's Email Address: MSXX007@bellsouth.net

Owner's Contact Number: (Home) _____ (Work) _____ (Cell) 985-290-7891

Tax Roll Parcel Number: Parcel Lot # 143

Physical Street Address: 8912 Anahola Court Diamondhead MS. 39525

Legal Description of Property: Single Family home

Zoning District: R-2

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

To facilitate the irregular shape of our lot and irregular adjacency to the lots we require a variance to the 20 foot rear ordinance to 7.5 feet between the structure and the property/fence/line at the minimum distance point and 11.5 feet at the maximum distance point (See Slide A-B-C)

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SEP 08 2020
BY: Rd 12:52pm.



REQUIRED ITEM A

Property Owner Tammy Fields & Scott C Lippin

Street Address 8912 Anahola Court Diamondhead MS. 39525

Statement Describing Variance Request

Requesting a variance allowing a carport structure to be built within 7.5 feet of the adjacent property/fence line at the min point and 11.5 feet at the maximum point (See Slide A-B-C for further detail)

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?

The location of the home on the lot and where the structure is planned to be built is an irregular shape, causing a creative shaped structure positioned so it will conform to the restricted zoning to the maximum extent possible (See Slides A-B-C)

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

Yes, there are multiple lots with the same condition, some approved by the zoning board of Diamondhead and City Council (Slide F). Plus some added photos showing encroachments in Diamondhead in R-2 areas (Slides G-I)

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

The irregular shape of the lot was caused by the original landowner and contractors during initial home construction. In addition a structure existed at 8912 Anahola Court in this same location in 2004 when the home was purchased by Tammy Fields Lippin. (Destroyed by Katrina 2005)

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

There are multiple homeowners sharing the same type of approved variance, therefore no special privilege is granted in our case. A home with lesser distance between the structure and property line exists within 500 feet from our home at 8912 Anahola Place. This home has an approved variance from the City.

We also have a petition signed by multiple adjacent neighbors indicating their acceptance of the structure. (See Slide D-E)

Request for Variance from Zoning Ordinance

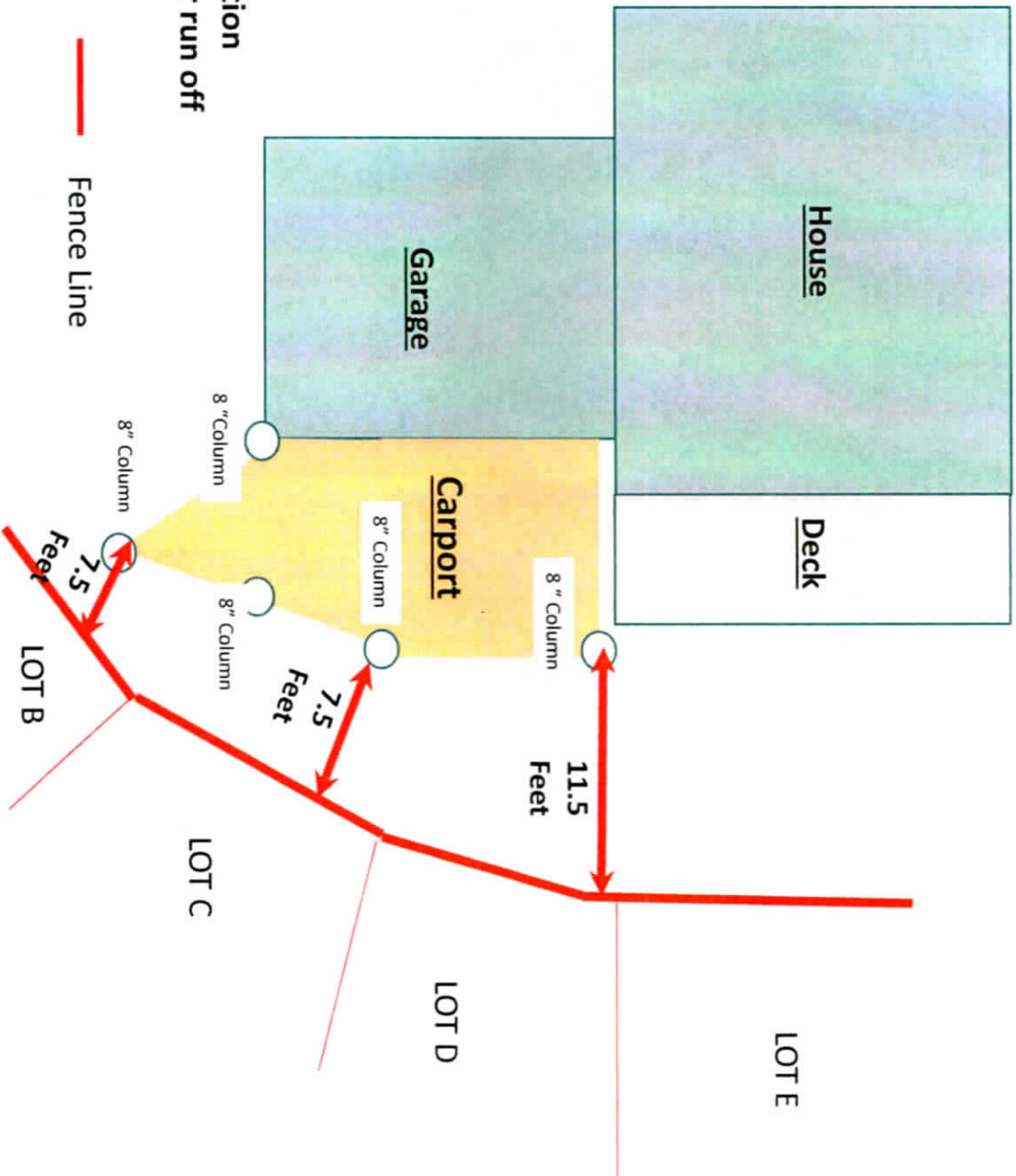
8912 Anahola Court

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BY: R 4 12:52 p.m.

Slide A

Site Plans

Top View

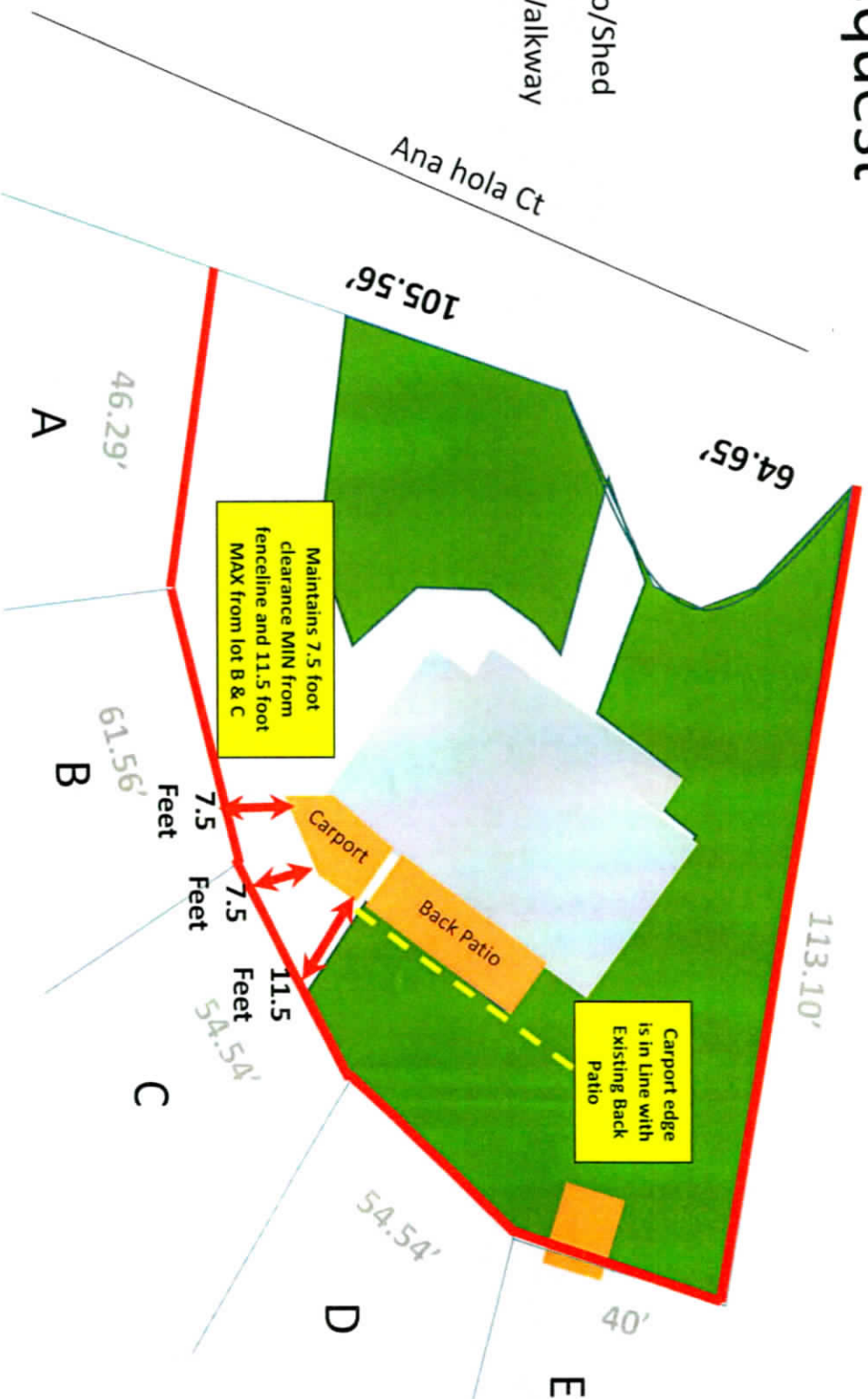


- No changes to elevation
- No Changes to water run off

Slide B

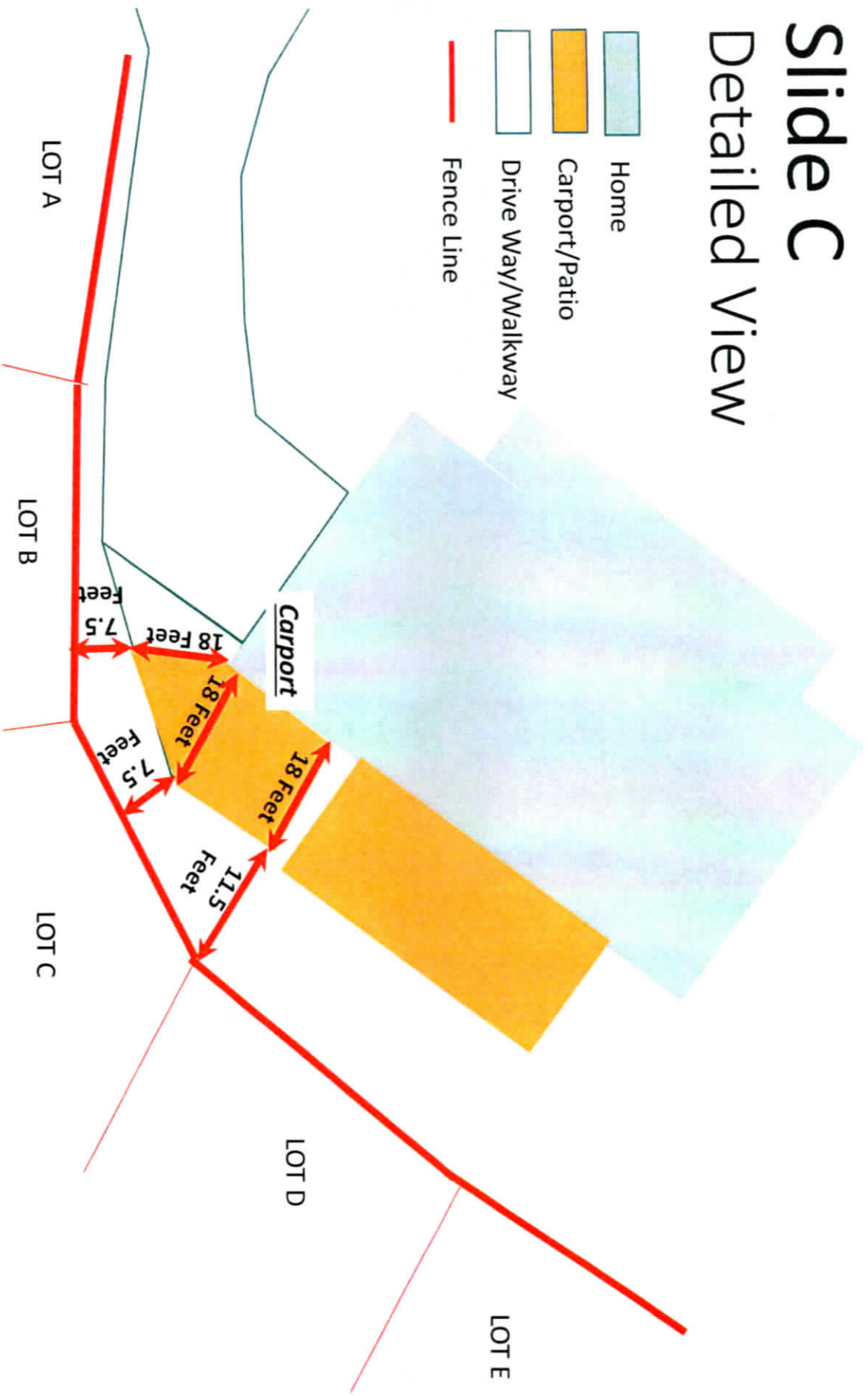
Tammy Fields Lot # 143

Variance Request



Slide C

Detailed View



Summary of Request

Variance to build a structure inside the city ordinance of 20 feet

- Minimum distance from the property line is 7.5 Feet
- Maximum distance from the property line is 11.5 Feet
- Is consistent with other properties in the same R-2 zoning area.

No Change to water run off direction or volume

- A gutter will be assembled to the aft section facing lot B & C only to reduce any potential erosion on our lot @ 8912 Anahola Court and to assure water will route to the pre-carport structure run off flows.

No changes in elevation; no added soil was moved onto or removed from the property

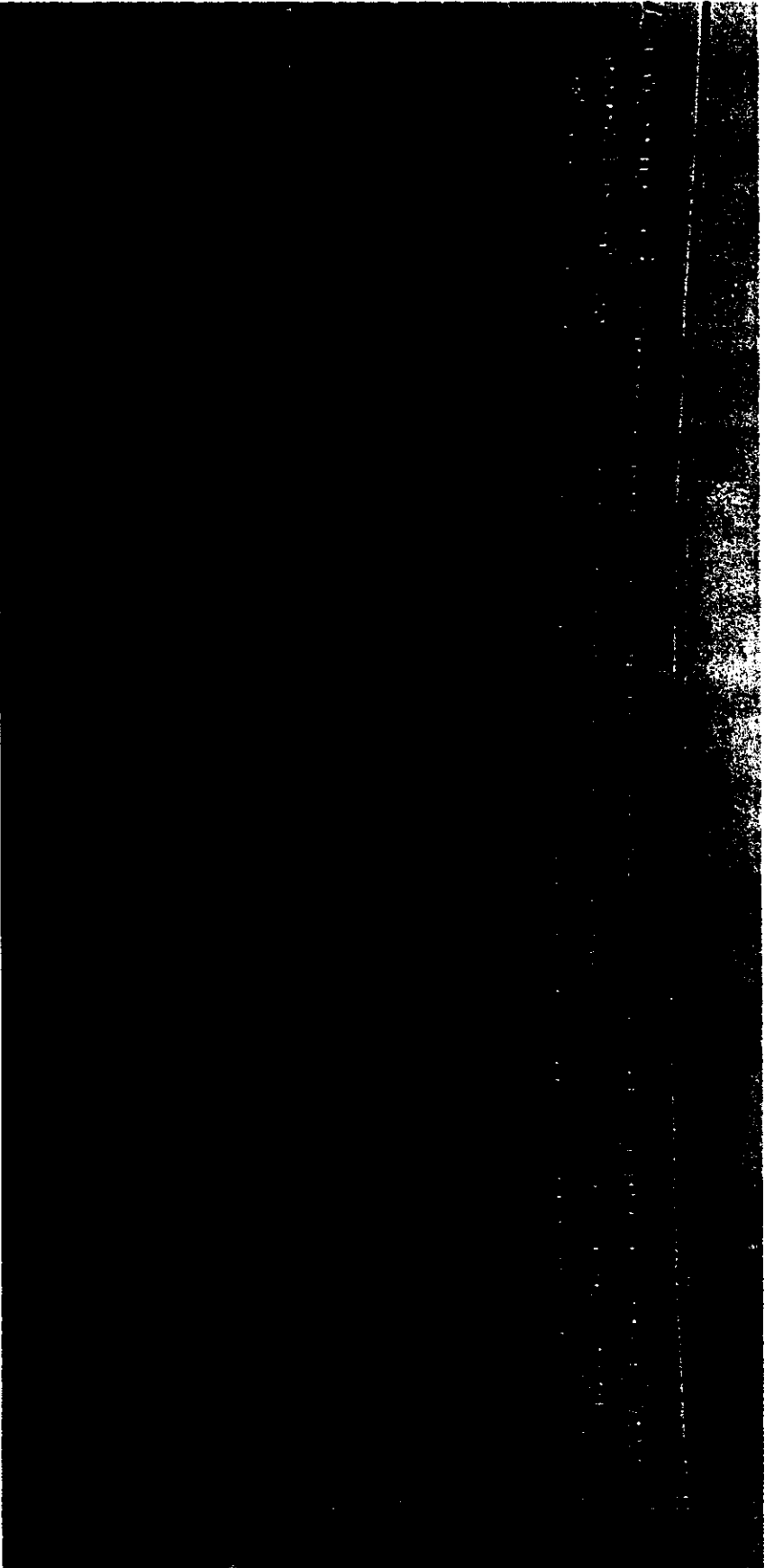
Structure virtually hidden to the street view and adjacent neighbors, due to location and tree coverage.

- Is situated at a min of 150-250 feet from other homes in directly adjacent lots A-D lots as noted on slides A-B-C

Petition signed by adjacent neighbors
accepting the structure (August 2020)

Slide D

Petition Signed by 8 Adjacent Neighbors
And neighbors addresses within 300 ft as required by application



Slide E

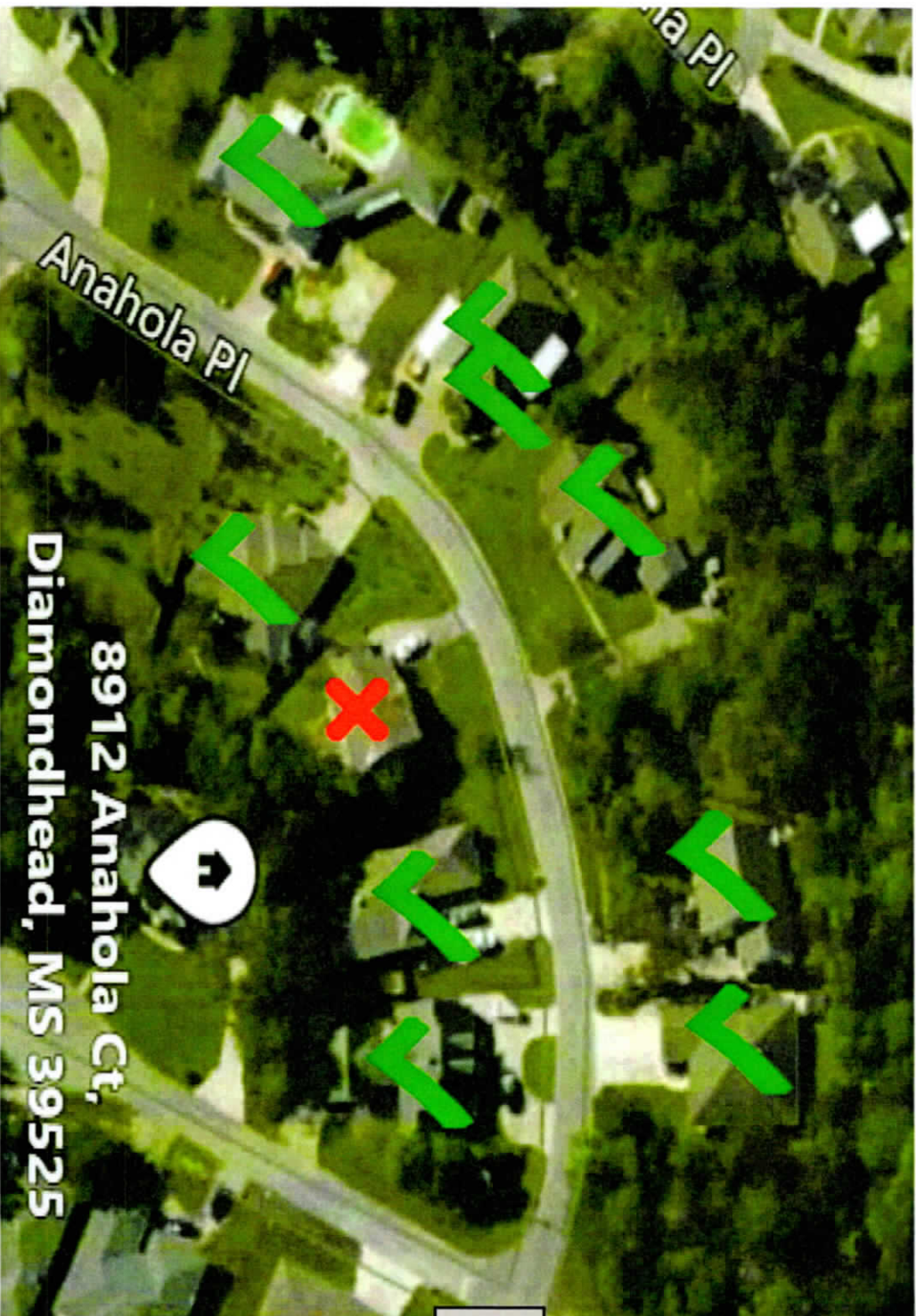
Signed the
petition
accepting the
carport = 8



Has a variance
approved by
City Council for
similar
condition



Did not sign the
petition accepting
the carport =
8940 Anahola
Place



So why the complaint from 8940 Anahola Place???

- Was arrested in April 2020 and stands trial for 2 felony counts of drug possession and sales/distribution
- Believes we reported him to the Hancock sheriff, resulting in his arrest
- Has openly threatened our well-being due to his arrest to other neighbors
- Has publicly told others that he will make us pay for his arrest
- A vindictive person as a result of his arrest for multiple felonies

- Is moving and has the home listed for sale on Zillow



Cases in the same zoning code approved by the
Planning board or the City Council 2017-2019

Slide F

9 Cases approved by the Planning Commission and City Council

2017 to present ranging from 8-13 Feet of "REAR" Property lines

Planning - Case File # 201900464 - Approved

Dubos family applied for and received a variance from the zoning ordinance to build a single family home within 10 feet of the rear property line.

A variance of 10 feet inside the zoning ordinance

Planning Case File # - 201900273- Approved

Mr Fandal filed a variance request and was approved for constructing a house within 10 feet of the front property line.

A variance of 10 feet inside the zoning ordinance

Planning Case File # 201900060- Approved

The Burgoyne family applied for and was granted a variance to build a 16x24 deck and pavilion within 12 feet of the rear property lines.

A variance of 8 feet inside the zoning ordinance

Planning Case file # 201800495- Approved

The Waltman family applied for and received a variance to build a pool lanai within 10 feet of the rear property line

A variance of 10 feet inside the zoning ordinance

Planning Case File# 201800258- Approved

Mr Lejeune applied for and was granted a variance to build a patio cover within 5 feet of the rear property line

A variance of 10 feet inside the zoning ordinance

Planning Case # 201800266- Approved

Mr Embry applied for and received a waiver to build a patio cover 7 feet from the rear property line.

A variance of 13 feet inside the zoning ordinance

Planning Case # 201700343-- Approved

Mr Hight requested and received a variance to build a garage 11 feet from the rear property line

A variance of 9 feet inside the zoning ordinance

Planning Case File # 227 Fairway Circle- Approved

Mr Peterson requested and received a waiver to build a single family home within 10 feet of the rear property line

A variance of 10 feet inside the zoning ordinance

Planning Case # 2017-00331- Approved

Ms Marshal requested and received a waiver to build a patio roof within 7 feet from the rear property line

A variance of 13 feet inside the zoning ordinance

Similar Property Lines variances in same zoning R2 in Diamondhead

Slide G Similar Variances

88158 Golf Club Dr



No permit posted and the rear of the structure is within 10 feet of rear fence

8920 Anahola PL



3-4 Feet from Adjacent Property Fence Line
Variance
Approved by City Council

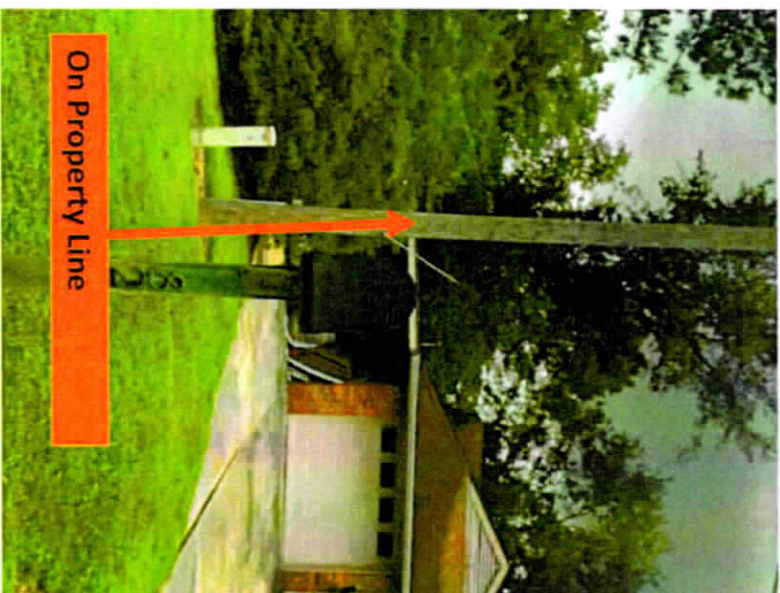
3-4 Feet from Adjacent Property Fence Line

89331 Diamondhead Dr East

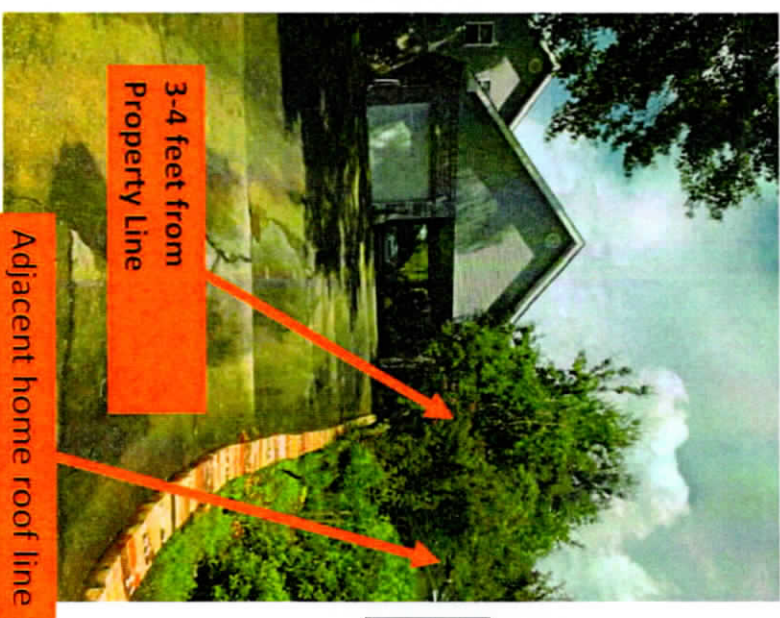


Slide H Similar Variances

9868 Koloa Dr

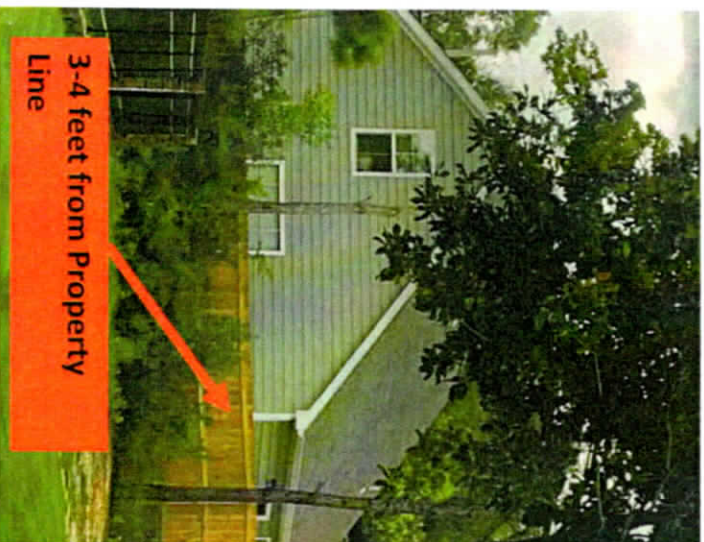


79293 Diamondhead Dr East



Slide I Similar Variances

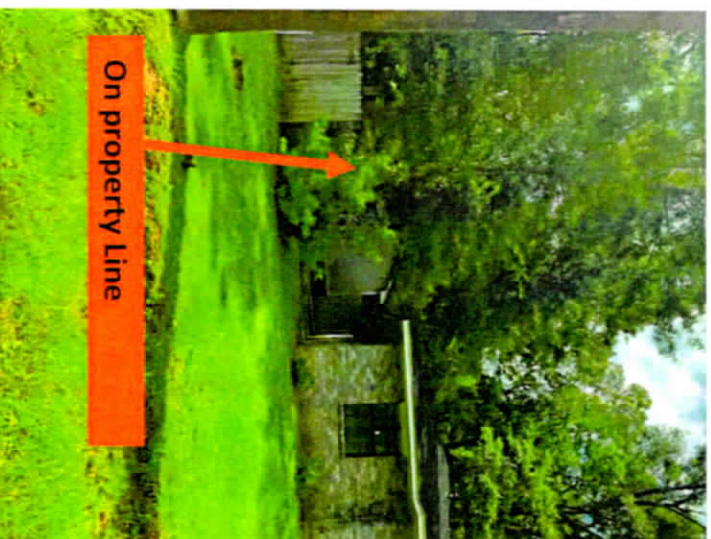
8830 Hana Place



88375 Diamondhead East Dr



822 Hawi CT





City of Diamondhead

5000 Diamondhead Circle, Diamondhead, MS 39525

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www.diamondhead.ms.gov

STAFF REPORT TO PLANNING COMMISSION

DATE: October 20, 2020

CASE FILE NUMBER: 202000395

APPLICANT: Tammy Simms Fields and Scott C Lippon

PROPERTY OWNER: Tammie Simms Fields (Lippon)

TAX PARCEL NUMBER: 067J-3-36-143.000

PHYSICAL STREET ADDRESS: 8912 Anahola Court

LEGAL DESCRIPTION: Diamondhead Subdivision Phase 2, Unit 7A, Block 1, Lot 75

ZONING DISTRICT: R-2 Medium Density Single Family

TYPE OF APPLICATION: Variance

NATURE OF REQUEST:

Ms. Tammy Simms Fields and Mr. Scott C. Lippon have filed an application requesting a variance from the Zoning Ordinance (Article 4.6.5E iii) to allow a carport within 7.5' (the closest point) and 11.5' (the farthest point) from the rear property line. The case file number is 202000395.

The property address is 8912 Anahola Court. The tax parcel number is 067J-3-36-143.000. The legal description is Diamondhead Subdivision Phase #2, Unit 7A, Block 1, Lot 75. The property is located in a R-2 zoning district. The minimum rear yard setback is 20 feet.

DATE OF PUBLIC HEARING BEFORE PLANNING COMMISSION: October 27, 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.

- This lot 143 is an existing lot of record which is not a typical rectangular lot.. By the Hancock County Geoportal, the house was constructed in 1999 and it was subject to the DH POA covenants which would require a 20' rear yard setback. Even if a carport was constructed, it would be a non-conforming structure. Since the structure was removed, it would have to comply with the required setbacks of the Zoning Ordinance.
- The 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. However, you can find other non-conforming structures before the adoption of the Zoning Ordinance. Furthermore, the Planning Commission has approve similar variances in the past. See attachment to the application.
- Any special conditions and circumstances, if any, are the direct result from the actions of the applicant.
- As a further note, 8 adjacent property owners signed a petition accepting the carport at 8'.