



5000 Diamondhead Circle · Diamondhead, MS 39525

Phone: 228-222-4626 Fax: 228-222-4390

www.diamondhead.ms.gov

TO: Mayor, City Council and City Manager

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

DATE: November 9, 2022

SUBJECT: 3416 Lumahai Place Rear Yard Setback Variance Request

Hasselvander, LLC, represented by Brian Hasselvander, has filed an application requesting a variance from the Zoning Ordinance (Article 4.19) to allow the construction of a deck within 15'6" from the rear property line. The rear yard setback is 20'. The variance requested is 4'6".

At its regular meeting on November 8, 2022, the Planning Commission voted 6-0 to recommend approving the variance as requested. The public notice was published in the newspaper and mailed to property owners within 400'. There were no objections to the variance.



AGENDA PLANNING AND ZONING COMMISSION

Commissioner Bennett
Commissioner Brewer
Commissioner Cook
Commissioner Debrow
Commissioner Flowers
Commissioner Layel
Commissioner Nicaud

Tuesday, November 08, 2022
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 October 25, 2022 minutes.

New Business

Passed 6-0

3. J. White Homes, LLC, represented by Jason White has filed an application requesting a variance from the Zoning Ordinance (Article 4.19) to allow the construction of a single family residence within 9'3" of both side yard property lines. The property address is 982 Ala Moana Place. The tax parcel number is 067J-1-36-054.000. The property is in a R-2 zoning district. The side yard setbacks are 10'. The variance requested is 9" on each side yard for a total of 1'6". The Case File Number is 202200464.
4. Hasselvander, LLC, represented by Brian Hasselvander, has filed an application requesting a variance from the Zoning Ordinance (Article 4.19) to allow the construction of a deck within 15'6" from the rear property line. The property address is 3416 Lumahai Place. The tax parcel number is 131M-2-11-050.000. The property is in a R-2 zoning district. The rear yard setback is 20'. The variance requested is 4'6". The Case File Number is 202200466.
5. Approval of the 2023 Planning & Zoning Commission Calendar.

Unfinished Business

Open Public Comments to Non-Agenda Items

Commissioners' Comments

Communication / Announcements

6. The next City Council meeting is Tuesday November 15, 2022.

The next Planning Commission meeting is December 13, 2022.



City of Diamondhead

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STAFF REPORT TO PLANNING COMMISSION

DATE: November 7, 2022

CASE FILE NUMBER: 20220046

APPLICANT: Hasselvander, LLC

TAX PARCEL NUMBER: 131M-2-11-050.000

PHYSICAL STREET ADDRESS: 3416 Lumahai Place

ZONING DISTRICT: R-2 Medium Density Single-Family Home

TYPE OF APPLICATION: Variance

NATURE OF REQUEST: to allow the construction of a deck within 15'6" from the rear property line. The rear yard setback is 20'. The variance requested is 4'6".

DATE OF PUBLIC HEARING BEFORE PLANNING COMMISSION: November 8, 2022

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 **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. *The lot is a non-conforming lot. It is 50' at the 20' setback and should be 60'.*
- 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. *The house had to be moved 13' toward the rear of the lot to meet the front 20' setback.*
- C. That special conditions and circumstances, if any, *do not* result from the actions of the applicant. *Had this been a conforming lot, no variance would be required.*
- 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. *Most of the homes on the water on the Southside have a deck for the beautiful views.*
- 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. *Less than ¼ of the deck will encroach the rear set back by 4'6".*
- 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
Ph: 228-222-4626
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APPLICATION FOR VARIANCE REQUEST

Case Number: 2022004666

Date 10-10-22

Applicant: Hasselvander LLC Brian Hasselvander

Applicant's Address: 17 E Reservoir Rd Columbia, ms 39429

Applicant's Email Address: bhassel65@gmail.com

Applicant's Contact Number: (Home) _____ (Work) _____ (Cell) 601 441-2368

Property Owner: Hasselvander LLC

Owner's Mailing Address: 17 E Reservoir Rd Columbia 39429

Owner's Email Address: bhassel65@gmail.com

Owner's Contact Number: (Home) _____ (Work) _____ (Cell) 601 441-2368

Tax Roll Parcel Number: 131M-2-11-050,000

Physical Street Address: 3416 Lumahai Place

Legal Description of Property: D14 PT 1, UNIT 9, BLOCK 1, Lot 9

Zoning District: R-2

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

Rear Left Cister/ River Deck 21 ft above ground
4'6" To 0 in 16 ft 20 ft set back Does not encroach
on any other properties marsh Behind house
15'6" from RPSB Rear ^{Property Line} variance 4'6"

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 Nov 8, 2022 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 Hasselvander LLC

Street Address 3416 Lyndale Place

Statement Describing Variance Request

New construction

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

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: _____

Do not know others

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

Response: _____

No

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

Response: _____

Do not know

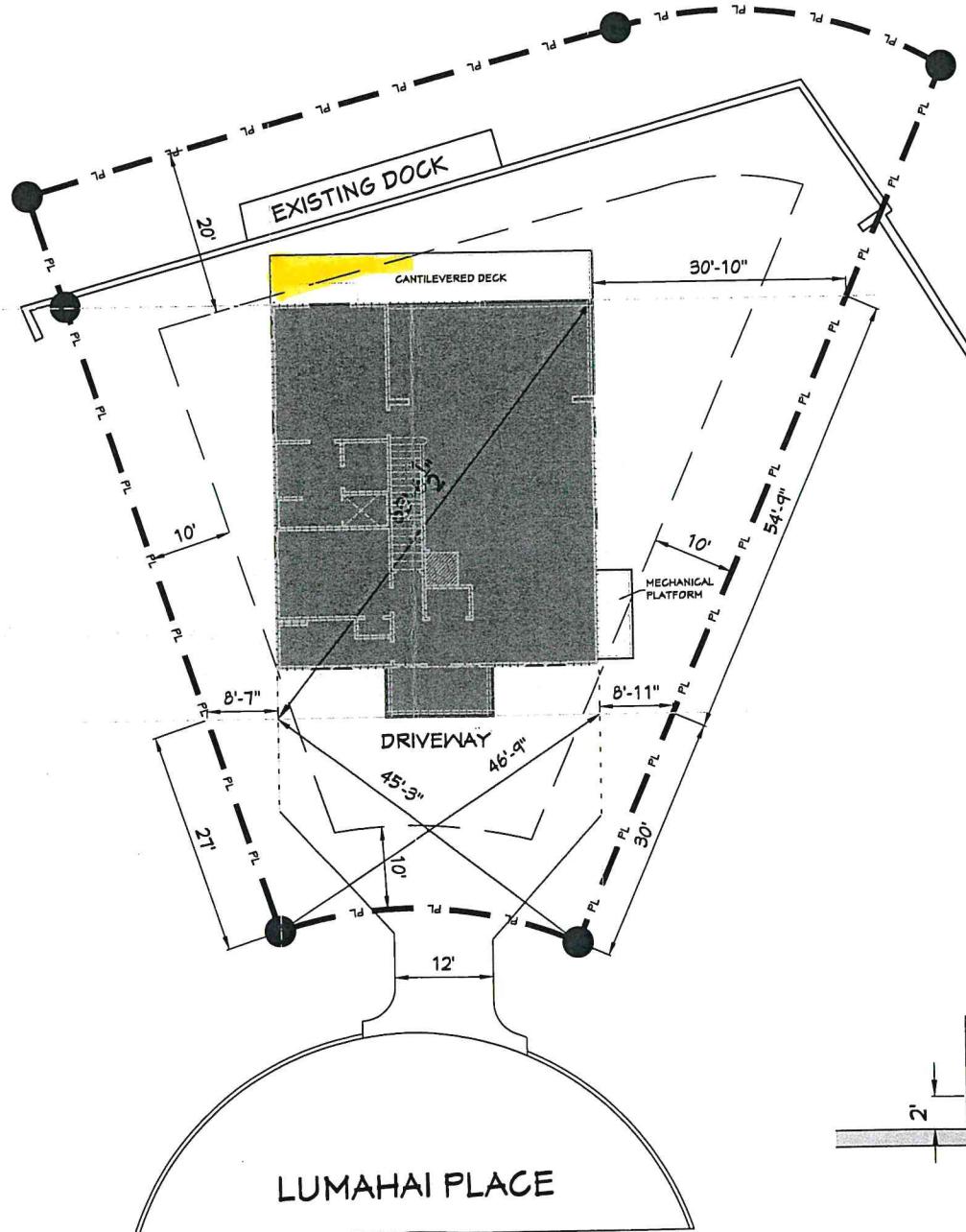
101

SITE PLAN

SCALE ----- 1" = 10'

N

LOT 9, BLOCK 1
ZONE "YE"
(BFE 24')

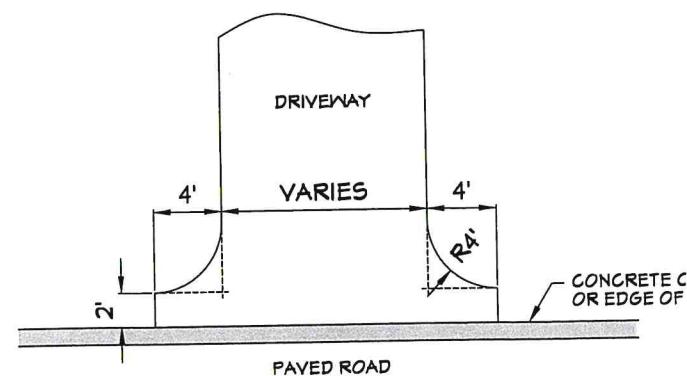


LOT SETBACKS

FRONT: 10'
REAR: 20'
SIDES: 10'
OTHER: NA

SITE LEGEND

- PL — PROPERTY LINE
- SL — SETBACK LINE
- BBL — BATTER BOARD LINES
- CONCRETE — CONCRETE
- OUTLINE OF RESIDENCE — OUTLINE OF RESIDENCE
- PAVED ROAD — PAVED ROAD
- PROPERTY CORNER



102

DRIVEWAY DETAIL

SCALE ----- N.T.S.

TRACTOR TO
ROUTE ROOF
AS PER CODE

10'-6" RAFTER BEARING

FINISH FLOOR LINE

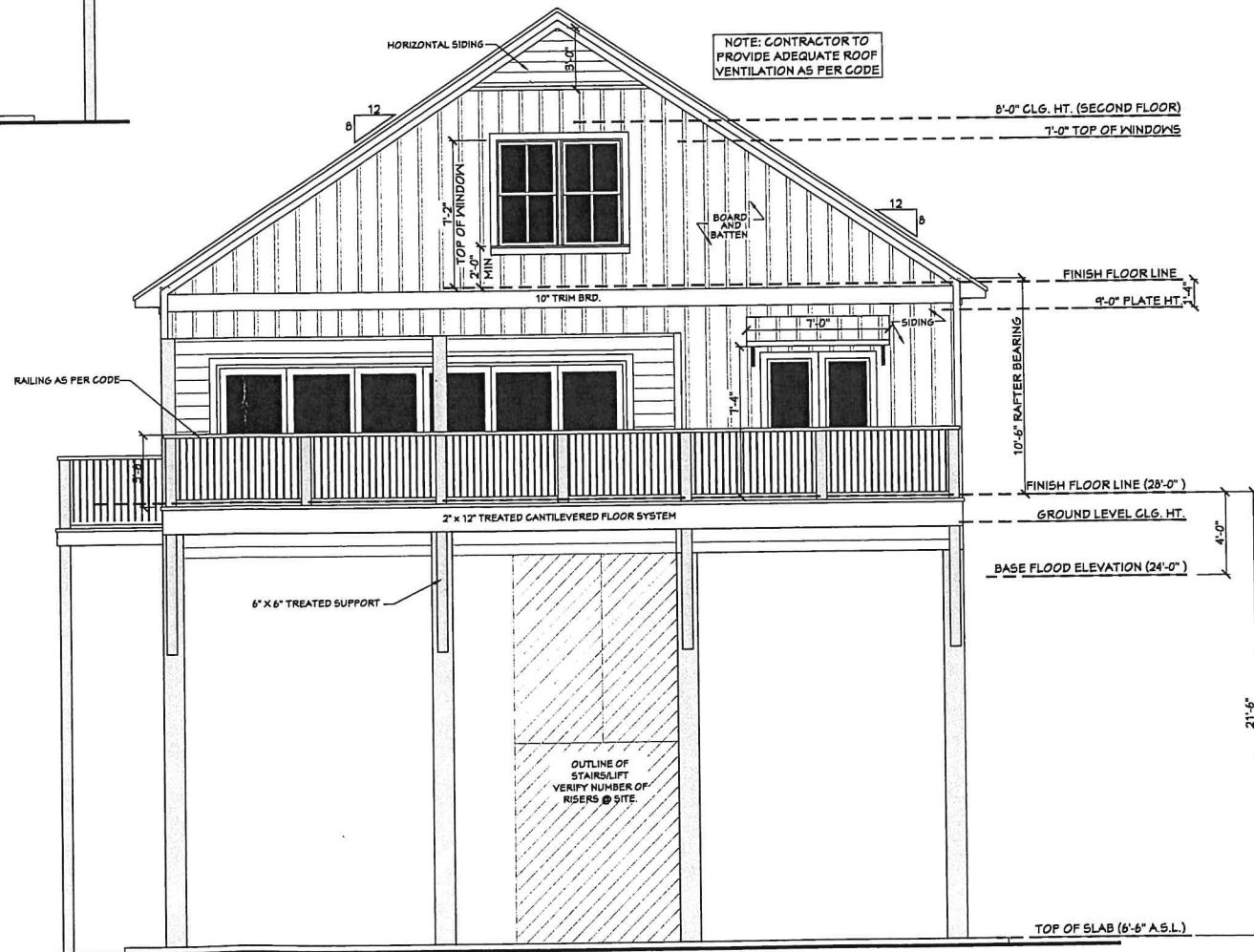
EXTERIOR ELEVATION NOTES:

1. CONTRACTOR TO VERIFY ALL WINDOW AND DOOR STYLES AND SIZES WITH OWNER PRIOR TO CONSTRUCTION.
2. PROVIDE STEPS AND GUARD RAILS AS PER CODE BASED ON SITE CONDITIONS.
3. GROUND LINES SHOWN FOR REFERENCE ONLY AND VARY DEPENDING ON SITE CONDITIONS.
4. ALL FINISH MATERIALS TO BE VERIFIED WITH OWNER PRIOR TO CONSTRUCTION.
5. REFER TO TYPICAL WALL DETAIL FOR FRAMING METHODS AND OTHER MISC. INFORMATION.
6. CONTRACTOR TO PROVIDE ADEQUATE ROOF VENTILATION AS REQ'D BY CURRENT CODES.

NOTES:

1. STAIRS NOT SHOWN FOR CLARITY. VERIFY NUMBER OF RISERS REQ'D. AT SITE PROVIDE RAILING AS PER CODE.
2. RISERS TO BE CLOSED, OPEN RISERS ARE NOT PERMITTED.

BASE FLOOD ELEVATION - 24'-0"





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

Hasselvander, LLC, represented by Brian Hasselvander, has filed an application requesting a variance from the Zoning Ordinance (Article 4.19) to allow the construction of a deck within 15'6" from the rear property line.

The property address is 3416 Lumahai Place. The tax parcel number is 131M-2-11-050.000. The property is in a R-2 zoning district. The rear yard setback is 20'. The variance requested is 4'6". The Case File Number is 202200466.

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, 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, November 8, 2022, 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.