



City of Diamondhead

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STAFF REPORT TO PLANNING COMMISSION

DATE: November 4, 2020

CASE FILE NUMBER: 202000422

APPLICANT: Athea Tzuanos

PROPERTY OWNER: Athea Tzuanos

TAX PARCEL NUMBER: 067R-3-41-037.000

PHYSICAL STREET ADDRESS: 63732 Diamondhead Drive North

LEGAL DESCRIPTION: Diamondhead Subdivision Phase 1, amended Unit 2, Block 2, Lot 12

ZONING DISTRICT: R-2 Medium Density Single Family

TYPE OF APPLICATION: Variance

NATURE OF REQUEST:

Ms. Athena Tzuanos has filed an application requesting a variance from the Zoning Ordinance (Article 4.18 D ii f (municode)) to allow the placement of an existing shed (9' x 15') without a permit extending beyond the front façade of the house facing Banyan Street. The shed is 25' from the property line on Banyan. This lot is a corner lot having 2 front yard setbacks on Banyan Street and Diamondhead Drive North.

The property address is 63732 Diamondhead Drive North. The tax parcel number is 068R-3-41-037.000. The legal description is Diamondhead Subdivision Phase #1, amended Unit 2 and , Block 2, Lot 12. The property is located in an R-2 zoning district.

DATE OF PUBLIC HEARING BEFORE PLANNING COMMISSION: November 10, 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.

VARIANCE PROCEDURE:

This procedure is intended to provide relief from the terms of the Zoning Regulations when, because of special circumstances applicable to the property, the strict application of the Zoning Regulations deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification, and to ensure that any adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and the district in which such property is situated.

- A. **Variance:** A modification from the provisions of the zoning ordinance of the City of Diamondhead, as determined by the Mayor and City Council for final disposition, in cases where enforcement of the zoning ordinance would result in unnecessary hardship.
- B. **Hardship:** For purposes of granting a variance A hardship exists only where the unusual situation or condition is not created by the owner of the property. A hardship as related to zoning is not to be confused with an economic, personal, or medical hardship

RECOMMENDATION TO PLANNING COMMISSION: To **deny** the variance as petitioned;

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

- NO 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. A hardship shall mean an unusual topographical situation or condition involving a particular property and which makes it impossible for the owner to use the property in the manner prescribed for the district by the zoning ordinance.
- 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. A hardship exists only where the unusual situation or condition is not created by the owner of the property.
- That granting the variance requested would confer on the applicant a special privilege that is denied by this title to other lands, structures, or buildings in the same zoning district. A hardship as related to zoning is not to be confused with an economic, personal, or medical hardship.
- The Variance would not observe the spirit of the Ordinance and would change the character of the district and set a precedent for other accessory structures in front yard setbacks.
- 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.

two alternatives:

Shed to the back yard ?

fence extending instead of a fence ?



63732 DH DR East
pic taken from DH DR East
by Ronald Jones 9-17-2020



63732 DH DR EAST

Pic taken from Banyan St
by Ronald D. T. ...