



5000 Diamondhead Circle · Diamondhead, MS 39525

Phone: 228.222.4626 Fax: 228-222-4390

[www.diamondhead.ms.gov](http://www.diamondhead.ms.gov)

TO: Mayor, City Council and City Manager

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

DATE: March 1, 2023

SUBJECT: Dennis Mitchell, Jr. Side Yard Setback Variance

Mr. Mitchell requested a variance to the 10' side yard setback of 9 ½" to construct a residence where the previous was destroyed by fire. The new residence will be on the same footprint.

The Planning & Zoning Commission voted 4-0 to recommend to allow the variance.



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

## AGENDA PLANNING AND ZONING COMMISSION

Tuesday, February 28, 2023

6:00 PM CST

Council Chambers, City Hall  
and via teleconference, if necessary

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### 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 January 24, 2023 minutes.

### New Business

3. Dennis Mitchell, Jr. has filed an application requesting a variance from the Zoning Ordinance (Article 4.19) to construct a residence within 9'2 1/2" of the side yard property line. The property address is 1430 Hanakealoha Place. The tax parcel number is 132R-0-10-118.000. The property is in a R-2 zoning district. The side yard setbacks are 10'. The variance requested is 9 1/2". The Case File Number is 202300000. *4-0*
4. Diamondhead POA/The Camphouse Restaurant has filed an application requesting a variance from the Zoning Ordinance (Article 10.6) to place an additional 50 square feet of signage on the front wall of the restaurant. The property address is 3410 Yacht Club Circle. The tax parcel number is 131M-2-11-058.000. The property is in a C-2 zoning district. The maximum square footage for wall mounted signs is 150 square feet. The variance requested is 50 square feet. The Case File Number is 202300025. *4-0*
5. Cure Land Company, LLC, represented by Carlene Alfonso has filed an application requesting a map amendment (Rezoning) in accordance with the Zoning Ordinance Article 2.8 (Amendment (Rezoning Procedure). The Case File Number is 202300023. Cure Land Company, LLC desires to change the current zoning from C-1 (General Commercial District) to R-3 (High Density Single Family Residential). The physical address is 5410 Gex Drive. The tax parcel number is 132A-2-03-028.000. The purpose of the zoning change is for condominium development. The parcel of property is generally described as being bounded on the west by Diamondhead Drive North, the north by the Duck Pond and Lakeview Court, the east by Diamondhead Drive East and Prestige

*No Action  
Taken. Loss  
of Quorum.*



# City of Diamondhead

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## STAFF REPORT TO PLANNING COMMISSION

DATE: February 24, 2023

CASE FILE NUMBER: 202300000

APPLICANT: Dennis Mitchell, Jr.

TAX PARCEL NUMBER: 132R-0-10-118.000

PHYSICAL STREET ADDRESS: 1430 Hanakealoha Place

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

TYPE OF APPLICATION: Variance

NATURE OF REQUEST: allow the construction of a single-family residence within 9'2 1/2" of the side yard property line. The side yard setback is 10'.

DATE OF PUBLIC HEARING BEFORE PLANNING COMMISSION: February 28, 2023

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.

- pg 14
- 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 previous residence on this lot was destroyed by fire. Applicant desires to use the same footprint as previous residence and reuse existing driveway and pool.*
  - 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 requested variance is compatible with the existing homes in the cul-de-sac.*
  - C. That special conditions and circumstances, if any, *do not* result from the actions of the applicant. *The applicant wants to replace what existed prior to the fire.*
  - 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 *does* observe the spirit of the Ordinance.
  - 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.



RECEIVED  
JAN 03 2023

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

APPLICATION FOR VARIANCE REQUEST

Case Number: 202300000

Date 1/3/23

Applicant: DENNIS Mitchell JR

Applicant's Address: 1430 Hanakealoha Pl

Applicant's Email Address: DHM0804@yahoo.com

Applicant's Contact Number: (Home) \_\_\_\_\_ (Work) \_\_\_\_\_ (Cell) 713-557-8824

Property Owner: DENNIS Mitchell JR

Owner's Mailing Address: 13902 Oneida Ct, Cypress, Tx 77429

Owner's Email Address DHM0804@yahoo.com

Owner's Contact Number: (Home) \_\_\_\_\_ (Work) \_\_\_\_\_ (Cell) 713-537-8824

Tax Roll Parcel Number: 132R-0-10-118.000

Physical Street Address: 1430 Hanakealoha Pl, Diamondhead, Ms 39525

Legal Description of Property: Lot 32, Block 6, Unit 1, Diamondhead Phase 2

Zoning District: R-2

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

Side yard setback 10' required, 9'-2 1/2" provided  
Variance request 9 1/2"

RECEIVED  
JAN 04 2023  
BY: AB

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.

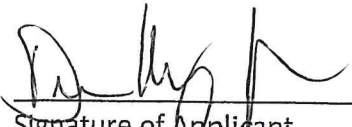
That additional information may be required by the Planning Commission prior to final disposition.

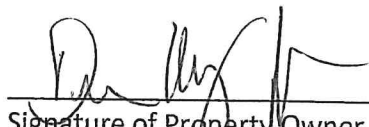
The City Council will not accept new case evidence once the recommendation has been made by the Planning Commission. If new evidence needs to be presented, the applicant will need to request that the matter be referred back to the Planning Commission for review.

The Public Hearing will be held on February 28, 2023 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 DENNIS Mitchell JR

Street Address 1430 Hanakealoha Pl, Diamondhead, MS

Statement Describing Variance Request

The previous home that burned down had a variance, so the designer also built in a variance in the new design. We just were made aware of this. The home design is very comparable to the other homes on the street.

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: It is my understanding that Ron Buskirk, of Buskirk Services and home design, who is the primary designer for Thornhill construction, designed the home based on the previous home footprint.

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

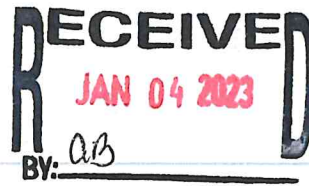
Response: It appears as if it is possible. The house next door is 1426 Hanakealoha. It is 2200 sf, and the lot is 10,022 sf. The house adjacent to that one is 1424 Hanakealoha and is 2851 sf, and the lot is 11,819 sf. My house is designed at 2211 sf with a lot size of 11,233 sf.

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

Response: The conditions were not caused by the owner. We recently purchased the property, and had the home designed in the same location and footprint of the previous home. We were made aware of the conditions during the permit application.

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

Response: There would be no special privileges. We are trying to build a comparable home for our street. Our immediate neighbors house is the same Sq Footage on a smaller lot, and the home adjacent to that one is much larger and almost same size lot.



To whom it may concern,

My name is Dennis Mitchell JR, and my wife Andrea and I recently purchased the lot at 1430 Hanakealoha Pl in Diamondhead. There was a house there previously that was completely destroyed in a fire. There are two other houses nearby, 1424 and 1426 Hanakealoha Pl which is a cul de sac street with no other homes.

When we first bought the lot we were using Thornhill Construction and his primary designer Ron Buskirk of Buskirk Services and Home Design. Ron designed the home based on the footprint of the previous home. The driveway still exists, so placing the home in the same place seemed like the most logical choice.

Later we switched to Kyle Ladner of Diamond L Construction. When Ron gave us the final plans, approved by the engineer, they delivered them to Diamondhead for a builders permit. This is when we were made aware of the variance request needed. I called Ron to ask about the variance and he said the previous home had a variance and it was in the same place. I also was provided information on the other two houses on the street which would appear to have them in the same situation with variance.

Immediately next door is 1426 Hanakealoha Pl, which is a 2200 sq ft home on a 80x140 lot with a total area of 10,022.5 sq ft area.

Our home is proposed at 2211 sq ft, on a lot that is 80x140 and a total area of 11233.8 sq ft. Our home size is almost identical but a larger lot.

The only other house is adjacent to our immediate neighbor at 1424 Hanakealoha Pl. That house is 2851 sq ft on a lot that is 80x140 with a total area of 11,819.83 sq ft. So a



much larger house on a lot that is only slightly larger than ours,

We are asking for approval for our variance to build a very comparable home to our neighbors who we believe must have very similar conditions based on home square footage and lot size.

Thank You,

Dennis + Andrea Mitchell

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

Dennis Mitchell, Jr. has filed an application requesting a variance from the Zoning Ordinance (Article 4.19) to construct a residence within 9'2 ½" of the side yard property line.

The property address is 1430 Hanakealoha Place. The tax parcel number is 132R-0-10-118.000. The property is in a R-2 zoning district. The side yard setbacks are 10'. The variance requested is 9 ½". The Case File Number is 202300000.

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, February 28, 2023, 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.



# City of Diamondhead

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**To: Property Owners**

**From: Pat Rich, Development Coordinator**

**Date: February 6, 2023**

**Subject : Variance Case**

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Diamondhead, Mississippi

Google Street View

Jun 2013

See more dates

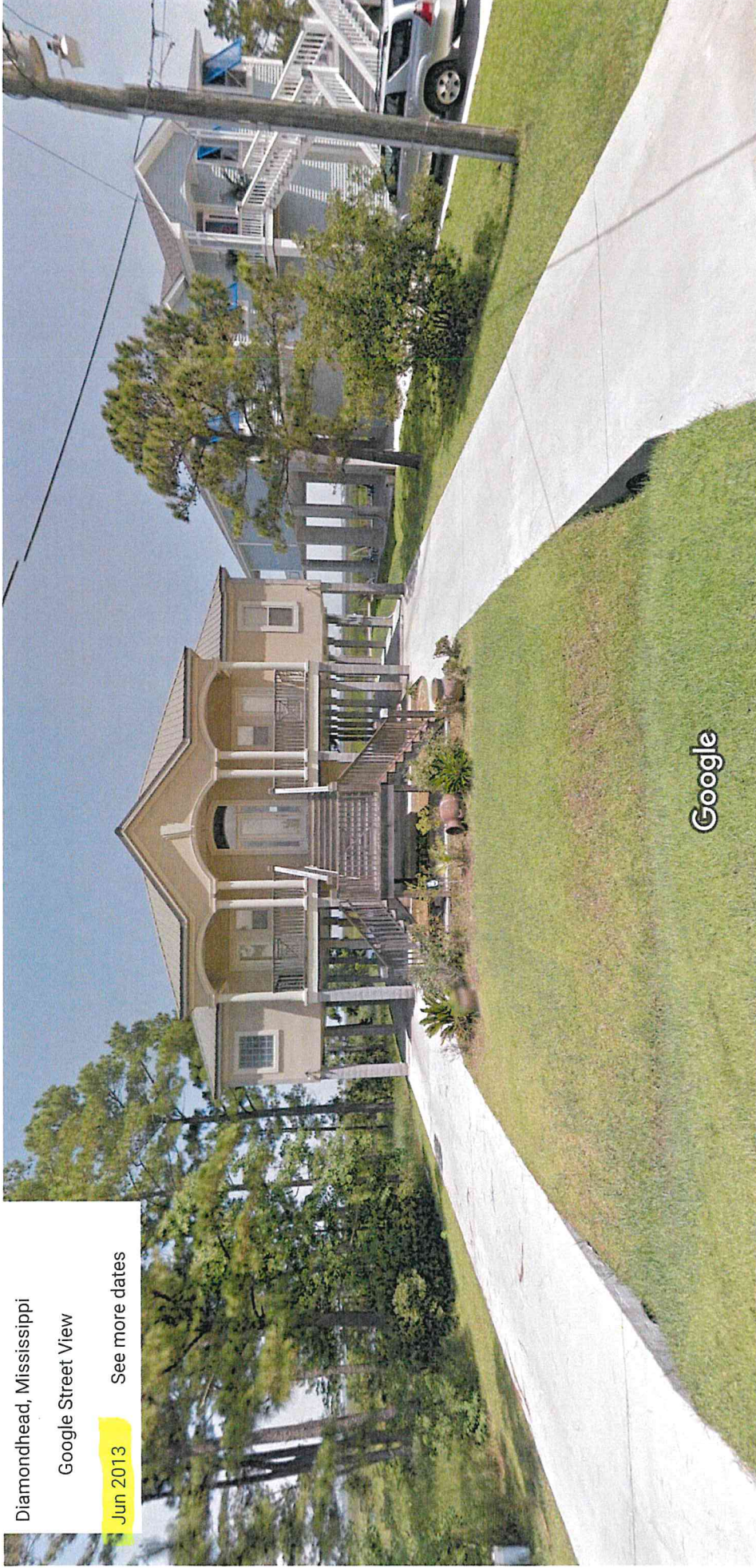
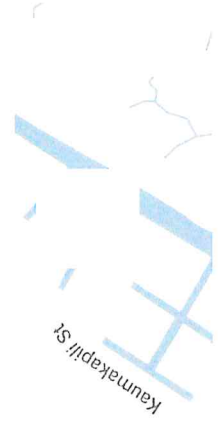


Image capture: Jun 2013 © 2023 Google

*Previous Home*





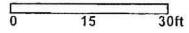
65'

x,y

**Parcels**  
**132R-0-10-118.000**

Parcel Number: 132R-0-10-118.000  
 Owner Name: MITCHELL DENNIS JR  
 Owner Address: 14510 LAKEPOINT BEND LANE  
 Owner City, State ZIP: CYPRESS, TX 77429  
 Physical Address: 1430 HANAKEALOHA PLACE  
 Improvement Type: BHS  
 Year Built: 2008  
 Base Area: 288  
 Adjusted Area: 288  
 Actual Total Value: 69231  
 Taxable Total Value: 0  
 Estimated Tax: 1295.42  
 Homestead Exemption: No  
 Deed Book: 2022

Close Export Print Labels



**Diamond Contractor**  
♦ Custom Home Builders ♦  
♦ SITE WORK ♦  
228-669-7311

02.22.2023

