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January 15, 2020

City of Rochester Hills
Department of Planning and Economic Development
Attn: Zoning Board of Appeals
1000 Rochester Hills Dr.
Rochester Hills, Michigan 48309

**Re: Road Commission for Oakland County – Dequindre Road – Phase III
RCOC No. 46901, Parcel No. 71
Owner: Kendra L. Allen-Shaffer**

Dear Sir or Madam:

Enclosed for processing in your normal course is a completed application for a dimensional variance with regard to the property commonly known as 47347 Dequindre Road, Rochester Hills, Michigan, parcel identification number 15-25-479-053. The application is presented by the Road Commission for Oakland County pursuant to subsection 2 of section 4 of the Uniform Condemnation Procedures Act, MCL 213.54(2), which confers authority on the Road Commission to seek this variance for the parcel. Subsection 2 provides:

If the acquisition of a portion of a parcel of property actually needed by an agency would leave the remainder of the parcel in nonconformity with a zoning ordinance, the agency, before or after acquisition, may apply for a zoning variance for the remainder of the parcel. In determining whether to grant the zoning variance, the governmental entity having jurisdiction to grant the variance shall consider the potential benefits of the public use for which the property would be acquired, in addition to those criteria applicable under the relevant zoning statute, ordinance, or regulation. The agency must actually acquire the portion of the parcel of property for the proposed public use for the zoning variance to become effective for the remainder. If a variance is granted under this subsection, the property shall be considered by the governmental entity to be in conformity with the zoning ordinance for all future uses with respect to the nonconformity for which that variance was granted. However, if the property was also nonconforming for other reasons, the grant of that variance has no effect on the status of those other preexisting nonconformities. An owner shall not increase the nonconformity for which a variance is granted under this section without the consent of the governmental entity. An agency has the same right to appeal action on a zoning variance as would a property owner seeking a zoning variance.

This section does not deprive a governmental entity of its discretion to grant or deny a variance. MCL 213.54(2).

As described in the Application, a dimensional variance is necessary to restore the parcel to legally conforming status after public improvements made to Dequindre Road reduce the front yard set-back for this parcel. The Road Commission kindly requests this Zoning Board of Appeals grant the variance so that the parcel may be returned to conforming status after necessary public improvements have been made to Dequindre Road. The Application contains the following Exhibits:

1. Declaration of Taking
2. Scale Drawing of Highway Easement
3. Aerial Parcel Sketch
4. Parcel Map
5. Warranty Deed and Residential Property Profile

Though a letter of denial from the Building Department and a notarized letter from the property owner are requested elements of the application, such are inapplicable in the context of this application by a condemning authority pursuant to a necessary public improvement. Thus, those items have not been included. Instead, we have discussed this variance request with Mr. Stephon Bagne, Esq., the attorney representing Mrs. Shaffer. He has confirmed that his client concurs with the requested variance.

The Road Commission requests the enclosed application be placed on the formal agenda of the Rochester Hills Zoning Board of Appeals meeting scheduled for February 5, 2020. We also request that, if the variance is granted, it explicitly state that it was granted pursuant to MCL 213.54. If there are questions or concerns related to the application, please direct them to my office. I can be reached at the telephone numbers and email address listed above.

Feel free to contact me should you have any questions.

Very truly yours,

ZAUSMER, P.C.



Devin R. Sullivan