



Department of Planning and Economic Development
 1000 Rochester Hills Dr.
 Rochester Hills, MI 48309
 (248) 656-4660
planning@rochesterhills.org
www.rochesterhills.org

Zoning Board of Appeals (ZBA) Application

Request Information

Request Type (as defined in Article 2 Chapter 4 Variances and Appeals of the City's Zoning Ordinance)		
Variance: <input checked="" type="checkbox"/> Dimensional (Non-Use) <input type="checkbox"/> Use	<input type="checkbox"/> Appeal <input type="checkbox"/> Interpretation	Conditional or Temporary Use Permit: <input type="checkbox"/> Temporary Building or Use <input type="checkbox"/> Excavation or Landfill Permit <input type="checkbox"/> Other (please describe):

Property Information

Street Address 47441 Dequindre Road	
Parcel Identification Number (can be obtained on the Property Tax Look-Up page on the City's website) 15-25-433-016	Platted Lot (if applicable) Subdivision: Brooklands Park Lot No.: 2842-43
Current Use(s) Residential	Zoning District R-4, One Family Residential

Appeal (if applicable)

Regulations (as defined in Section 138-2.404 of the City's Zoning Ordinance) An appeal may be taken to the ZBA by any person, firm or corporation, or by any officer, department, board or bureau affected by a decision of the Building Department concerning the enforcement of the zoning ordinance.
Requested Appeal(s)
Reason for Appeal

Interpretation (if applicable)

Regulations (as defined in Section 138-2.405 & Section 138-2.406 of the City's Zoning Ordinance) The ZBA has the power to interpret the ordinance text and map whenever a question arises in the administration of the zoning ordinance as to the meaning and intent of the zoning ordinance.
Requested Article #(s), Section #(s), & Paragraph #(s) for Interpretation
Reason for Interpretation

Conditional or Temporary Use Permit (if applicable)

Regulations (as defined in Section 138-1-302 of the City's Zoning Ordinance) The ZBA may issue a Temporary or Special Use Permit only when the use is to be in excess of 60 days



Dimensional (Non-Use) Variance (if applicable)

Ordinance Section(s) (variance being requested from)

Section 138-5.100 Schedule of Regulations;
 R-4, Minimum Front Yard Setback 25 feet.

Review Criteria (as defined in [Section 138-2.407](#) of the City's Zoning Ordinance)

A non-use variance is a variance granted to provide relief from a specific standard in the ordinance, which usually relates to an area, dimensional or construction requirement or limitation.

To obtain a non-use variance, an applicant must present proof that a practical difficulty exists, and the practical difficulty must relate to a unique circumstance of the property, as distinguished from a personal circumstance or situation of the applicant.

Practical Difficulty. Describe how compliance with the strict letter of the regulations governing area, setback, frontage, height, bulk, lot coverage, density or other dimensional or construction standards will unreasonably prevent use of the affected property for a permitted purpose, or will render conformity with such restrictions unnecessarily burdensome.

This variance is being requested pursuant to MCL 213.54(2), which permits an agency that acquires a portion of a parcel through condemnation to seek a variance for the parcel left nonconforming after the condemnation. Prior to the condemnation, the dwelling on the parcel complied with the front yard setback, at 31.15 feet. On February 21, 2019 The Road Commission for Oakland County issued a Declaration of Taking (Exhibit 1) condemning a portion of the parcel necessary to complete road improvements to Dequindre Road. After improvements are made, the dwelling will be set back less than 25 feet, at 21.15 feet.

Substantial Justice. Describe how granting the variance will do substantial justice to the applicant as well as to other property owners in the District.

The variance is necessary and permitted pursuant to MCL 213.54(2), to restore the parcel to legally conforming status after the necessary public improvements to Dequindre Road are made, which are undertaken by the Road Commission for the benefit of all property owners in this District and the community as a whole.

Lesser Variance. Describe how granting a lesser variance would not give substantial relief to the applicant and/or be more consistent with justice to other property owners in the District.

A lesser variance is not available as public necessity requires acquisition by the Road Commission of the full dimensions of the Highway Easement identified in Exhibit 1 in order to effectuate the necessary public road improvements.

Unique Circumstance. Describe how the request results from a special or unique circumstances peculiar to the affected property, that do not apply generally to other properties or uses in the same district or zone.

The requested variance results from the non-conforming setback created by the lawful acquisition by condemnation of a highway easement by the Road Commission. The request results from circumstances unique to those parcels, including the instant parcel, adjacent to Dequindre Road from which property was condemned by the Road Commission for the necessary public improvement.

Not Self-Created. Describe how the alleged hardship has not been created by the actions of the applicant or any person having a current interest in the property.

The requested variance does not result from a hardship created by the parcel owner. The non-conforming setback is created by public necessity in the improvement of Dequindre Road, which is a public improvement undertaken by the Road Commission for the benefit of the public welfare.

Public Safety and Welfare. Describe how the request would not be materially detrimental to the public welfare or materially injurious to this property or other properties or premises in the zone or district in which the property is located.

The request is not detrimental to the public welfare. The non-conforming setback is created by public necessity in the improvement of Dequindre Road, which, as noted above, is a public improvement undertaken by the Road Commission for the benefit of the public welfare.



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ZBA Application

Use Variance (if applicable)

Ordinance Section(s) (variance being requested from)

Review Criteria (as defined in [Section 138-2.408](#) of the City's Zoning Ordinance)

A use variance is a variance that allows a property to be used in a way for which the ordinance does not otherwise permit in the Zoning District where the property is located.

To obtain a use variance, an applicant must present proof that an unnecessary hardship exists, and the unnecessary hardship must relate to a unique circumstance of the property, which prevents the applicant from reasonably using the property for a permitted purpose. **A use variance may not be applied for without first attempting to rezone the property.**

Reasonable Use. Describe how the affected property cannot be reasonably used or cannot yield a reasonable return on a prudent investment if only used for a purpose allowed in the Zoning District.

Unique Circumstance. Describe how the request results from a special or unique circumstances peculiar to the affected property and not to general neighborhood conditions.

Essential Character. Describe how the use to be authorized by the variance will not alter the essential character of the area and locality.

Not Self-Created. Describe how the alleged hardship has not been created by the actions of the applicant or any person having a current interest in the property.

Public Safety and Welfare. Describe how the request would not be materially detrimental to the public welfare or materially injurious to this property or other properties or premises in the zone or district in which the property is located.



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ZBA Application

Applicant Information

Name Road Commission for Oakland County		
Address 31001 Lahser Road		
City Beverly Hills	State MI	Zip 48025
Phone (248) 785-4744 (Counsel Sarah Gabis)	Email sgabis@fosterswift.com	
Applicant's Legal Interest in Property Condemning Authority seeking variance pursuant to MCL 213.54(2)		

Property Owner Information Check here if same as above

Name Mark Maciejka		
Address 47441 Dequindre Road		
City Rochester Hills	State MI	Zip 48307
Phone (313) 965-8897 (Counsel Stephon Bagne)	Email sbagne@clarkhill.com	

Applicant's/Property Owner's Signature

I (we) do certify that all information contained in this application, accompanying plans and attachments are complete and accurate to the best of my (our) knowledge.

I (we) authorize the employees and representatives of the City of Rochester Hills to enter and conduct an investigation of the above referenced property.

Applicant's Signature  P67722	Applicant's Printed Name Sarah J Gabis For: RCOC	Date 12.18.19
Property Owner's Signature SEE COVER LETTER	Property Owner's Printed Name	Date

OFFICE USE ONLY

Date Filed 12-20-19	File # 19-049	Escrow #
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ZBA Application Instructions

1. **Completed Applications.** Applications must be submitted on the attached completed application with all information typed or printed in ink along with the following.
 - a. Letter of denial from the Building Department
 - b. 8 copies of the plot plan of the subject property drawn to scale depicting *(if applicable)*:
 - 1) Shape and dimensions of the property
 - 2) All existing and proposed structures to be erected, altered or use changed
 - 3) Building-to-building and building-to-property line relationships
 - 4) Location of any trees in the affected area measuring at least 6" in diameter
 - c. Proof of ownership. If the applicant is not the owner of the land in Fee Simple Title, a document (land contract, purchase agreement, option to purchase, etc.) must be provided that indicates the applicant's interest in the property
 - d. Notarized letter from property owner indicating no objection to request
 - e. Any other information which the applicant feels will aid the City in its review
 - f. PDF files of all of the above submitted information

2. **Review Process.** Prior to submitting an application to the ZBA, an application for a building permit from the Building Department must be submitted. If the proposed construction does not meet the requirements of the zoning ordinance, then the letter of denial will indicate the sections of the ordinance which are not in compliance.

City staff and consultants will review the ZBA application and supporting materials. If it is determined that one or more applicable item(s) are not included or need to be modified, the applicant will be contacted. Incomplete applications will not be placed on a ZBA agenda until all necessary information is submitted and reviewed.

The applicant will be notified of the date and time that the public hearing will be held by the ZBA. A representative for the project must be present at the public hearing. ZBA meetings are generally held the second Wednesday of each month at 7:00 P.M. After the public hearing, if the application is acted upon, the Building Department will be notified of the action taken.

The ZBA application is noticed for public hearing in accordance with Act 110 of the Public Acts of 2006, as amended. Notification is provided to all persons to whom real property is assessed within 300 feet of the property that is the subject of the request, and to the occupants of structures within 300 feet of the subject property. The notice is also published in the local paper (Oakland Press) not less than 15 days prior to the public hearing.

3. **Fees.** Established fees as follows must be provided before the application can be processed. Checks should be made payable to the City of Rochester Hills.

Single Family Residence Requests	\$150
All other Variance, Interpretation, Appeals, Decisions or Approval Requests	\$300

4. **Questions or Clarifications.** Please contact the Department of Planning and Economic Development at the contact information above for questions or clarifications.

EXHIBIT 1

2019 FEB 21 AM 12:56

24507
LIBER 52592 PAGE 286
\$26.00 MISC RECORDING
\$4.00 REMONUMENTATION
02/21/2019 03:06:56 P.M. RECEIPT# 18139
PAID RECORDED - OAKLAND COUNTY
LISA BROWN, CLERK/REGISTER OF DEEDS

DECLARATION OF TAKING

COPY OF RESOLUTION ADOPTED BY
THE BOARD OF COUNTY ROAD
COMMISSIONERS OF THE COUNTY OF
OAKLAND, MICHIGAN, UNDER DATE OF
FEBRUARY 21, 2019

**IN RE: CONDEMNATION
DEQUINDRE ROAD – PHASE III
PROJECT NO. 46901, PARCEL NO. 74**

WHEREAS, Dequindre Road within the City of Rochester Hills is a county primary road under the jurisdiction of this Board; and

WHEREAS, the present condition of Dequindre Road, within the City of Rochester Hills, necessitates the reconstruction and improvement of same; and

WHEREAS, detailed plans showing such improvement and reconstruction have been prepared and are now on file in the offices of the Road Commission for Oakland County, Engineering Department; and

WHEREAS, under date of January 10, 2019, this Board determined the estimated just compensation for the below described highway easement, which will have to be acquired in conjunction with this project; and

NOW, THEREFORE, BE IT RESOLVED that by virtue of the authority vested in the Board of County Road Commissioners of the County of Oakland, State of Michigan, a Michigan public body corporate, it is hereby declared and determined that it is necessary to reconstruct and improve Dequindre Road, and that said improvement is for highway purposes necessary for the benefit of the public; and

3P
City
Road

OKLE

BE IT FURTHER RESOLVED, DECLARED AND DETERMINED that it is necessary to acquire a certain highway easement located in the City of Rochester Hills, Oakland County, Michigan without the consent of the owners thereof, for the purpose of reconstructing and improving Dequindre Road; that acquiring the highway easement is necessary for the use and benefit of the public, and a good faith written offer to purchase said easement has been made, all in accordance with the requirements of 1966 PA 295, of the State of Michigan, as amended and 1980 PA 87, as amended; and

BE IT FURTHER RESOLVED that by virtue of the authority vested in the Board of County Road Commissioners of the County of Oakland, State of Michigan, a Michigan public body corporate, by 1966 PA 295, as amended, and 1980 PA 87, as amended, it is now declared and determined that the highway easement is hereby taken for public highway purposes:

Highway Easement Description

Part of the East 1/2 of the Southeast 1/4 Section 25, Town 3 North, Range 11 East, City of Rochester Hills, Oakland County, Michigan, being described as the East 17 feet of Lot 2842 and Lot 2843 of "Supervisor's Plat of Brooklands Park No. 11", as recorded in Liber 62 of Plats on Page 31, Oakland County Records.

**Part of Tax ID No. 15-25-433-016
Commonly known as: 47441
Dequindre Road**

INTERESTS TAKEN:	Highway Easement
PARTIES IN INTEREST:	Mark Maciejka, Mortgage Electronic Registration Systems, Inc., Green Tree Servicing, LLC n/k/a Ditech Financial LLC, County of Oakland, Ireland Drainage District, County of Oakland Water Resources Commissioner, and any other parties of interest unknown to the Board at this time.
ESTIMATED JUST COMPENSATION:	\$ 8,840 Highway Easement
	<u>\$ 1,800</u> Landscaping Damages
	\$ 10,640 Total Estimated Just Compensation

Subject to Delinquent Taxes, if any, in accordance with 1931 PA 270 and the proration of real property taxes, if any, in accordance with the provisions of 1966 PA 288; and

BE IT FURTHER RESOLVED that the Board of County Road Commissioners, in accordance with the provisions of Section 5 of 1980 PA 87, as amended, reserves its rights to bring federal or state cost recovery actions against the present owner(s) of the property, arising out of a release of hazardous substances at the property; and

BE IT FURTHER RESOLVED that this Board authorizes and directs its Managing Director and Legal Department to institute condemnation proceedings in accordance with the provisions of 1980 PA 87, as amended, to acquire the previously described highway easement.

I hereby certify that the above is a true and correct copy of a resolution adopted by the Board of County Road Commissioners of the County of Oakland, Michigan, under date of February 21, 2019



Dennis G. Kolar
Secretary/Clerk of the Board

Drafted by: Jienelle R. Alvarado (P71924) Road Commission for Oakland County 31001 Lahser Road Beverly Hills, MI 48025 (248) 645-2000	When recorded return to: Shannon J. Miller Road Commission for Oakland County 31001 Lahser Road Beverly Hills, MI 48025
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EXHIBIT 2

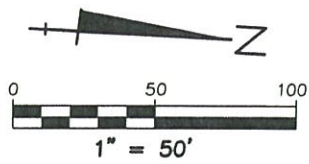
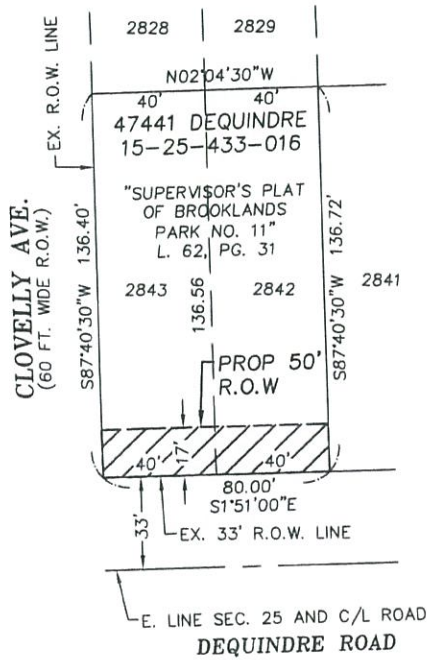


EXHIBIT A
 PARCEL 15-25-433-016
 47441 DEQUINDRE ROAD



LAND AREAS	
PARCEL	= 10,925 SFT
EXISTING ROW	= 0 SFT
PROPOSED HIGHWAY EASEMENT	= 1,360 SFT
HIGHWAY EASEMENT (TOTAL ROW)	= 1,360 SFT

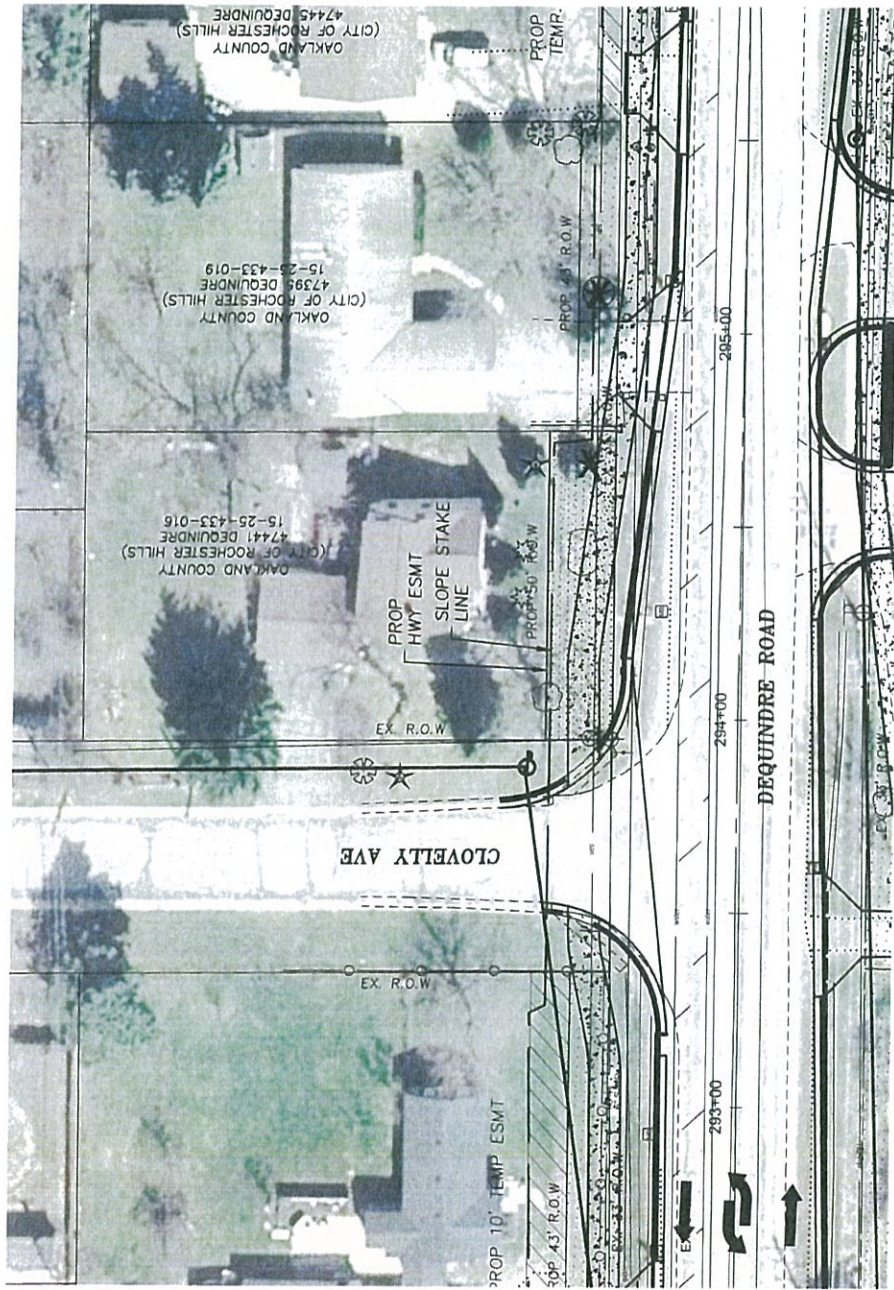
BEARINGS AND DISTANCES ARE BASED ON "SUPERVISOR'S PLAT OF BROOKLANDS PARK NO. 11" AS RECORDED IN LIBER 62 OF PLATS, ON PAGE 31, OAKLAND COUNTY RECORDS.

HIGHWAY EASEMENT -

 RIGHT OF WAY DIVISION PHONE: 877-858-4804 WEB: WWW.RCOCWEB.ORG	DEQUINDRE ROAD PARCEL 74 - 15-25-433-016	DATE: 2/08/2018
	SECTION 25, T.3N., R.11E., CITY OF ROCHESTER HILLS, OAKLAND COUNTY, MICHIGAN	PROJECT NUMBER: 46901 DRAWN BY: RRR SHEET: 1 OF 1

EXHIBIT 3

AERIAL PARCEL SKETCH
 PARCEL 15-25-433-016
 47441 DEQUINDRE



X TREE REMOVAL



Know what's below.
 Call before you dig.



HIGHWAY EASEMENT



1" = 30'

ROAD COMMISSION BY OAKLAND COUNTY		PROJECT NO. 46901	ROW 74 - AERIAL PARCEL SKETCH	DESIGN PHASE
BEVERLY HILLS, MICHIGAN PHONE: 877-858-8004 WEB: WWW.RCDCKEB.ORG		DATE 8/21/2018	DEQUINDRE ROAD UTICA TO AUBURN	DESIGN PHASE 3
				SHEET NO. 1 OF 1

EXHIBIT 4



-  2 Foot Contours
-  5 Foot Contours
-  FEMA Base Flood Elevations
-  FEMA Cross Sections
-  100 yr - FEMA Floodplain
-  100 yr (detailed) - FEMA Floodplain
-  500 yr - FEMA Floodplain
-  FLOODWAY - FEMA Floodplain

Disclaimer: The information provided herewith has been compiled from recorded deeds, plats, tax maps, surveys and other public records. It is not a legally recorded map or survey and is not intended to be used as one. Users should consult the information sources mentioned above when questions arise. FEMA Floodplain data may not always be present on the map.

OAKLAND
 ECONOMIC DEVELOPMENT & COMMUNITY AFFAIRS
L. Brooks Patterson
 Oakland County Executive


Date Created: 7/17/2014

 NORTH
 1 inch = 50 feet

EXHIBIT 5

LIBER 26201 PAGE 495

LIBER 26201 PAGE 495
17.00 DEED COMBINED
12.00 RECONVEYANCE
\$1,083.75 TRANSFER TAX
NOTARIAL FEE \$50.00
DATE RECORDED: 07/15/2002
\$1,133.75 TOTAL

WARRANTY DEED

Metropolitan Title Company (For Plat/Condominium) Statutory Form

Know All Persons by These Presents: That George Arthur Rumble, a single man and Jamie Allen Rumble and Natalie Rumble, husband and wife

whose address is 47441 Dequindre Rd, Rochester Hills, MI 48307

Convey(s) and Warrant(s) to Mark Maciejka, a single man

whose address is 2008 Marmoor Drive, Shelby Township, MI 48317

the following described premises situated in the City of Rochester Hills County of Oakland and State of Michigan, to-wit:

Lot(s) 2842 and 2843 of SUPERVISOR'S PLAT OF BROOKLANDS PARK NO 11, according to the plat thereof recorded in Liber 62 OF Plats, page(s) 31 of Oakland County Records.

More commonly known as: 47441 Dequindre Rd.

SNM 62031

For the full consideration of: One Hundred Forty Four Thousand Two Hundred and 00/100 Dollars (\$144,200.00)

Subject to: Zoning, building and use restrictions, easements and rights of way of record.

STATE OF MICHIGAN REAL ESTATE TRANSFER TAX
OAKLAND 7/31/2002 62667
1158.95 00
\$1,083.75 ST
211329

Dated this: 15th day of July, 2002

Witnesses:

Signed by:

George Arthur Rumble

Jamie Allen Rumble

Natalie Rumble

State of Michigan
County of Oakland

Notary Public: [Signature]

Commission Expires:
County in Michigan: Oakland

OAKLAND COUNTY

The foregoing instrument was acknowledged before me this 15th day of July, 2002 by George Arthur Rumble, a single man and Jamie Allen Rumble and Natalie Rumble, husband and wife

Drafted by: Carol Shelton
Assisted by: Metropolitan Title Co.
543 N. Main St
Rochester, MI 48307
Recording Fee: \$10.00
File Number: 0-418510
Tax Parcel No.: 15-25-433-016
Returns to: Mark Maciejka
47441 Dequindre Rd.
Rochester Hills, MI 48307
State Transfer Tax: \$1,083.75
County Transfer Tax: \$158.95
Send Tax Bills to: Grantee
OK - AW

74

47441 DEQUINDRE RD ROCHESTER HILLS MI 48307-4813

3 beds / 1 full baths / 0 half baths / 1246 sq ft

15-25-433-016



Residential Property Profile

Note: Please be advised the data included in Property Gateway originates from multiple local municipalities. Data, in regard to properties, may be classified and updated differently by municipalities. If you have any questions, please contact the local community where the data originated.

Owner Information

Owner(s) : MARK MACIEJKA
Postal Address : 47441 DEQUINDRE RD ROCHESTER HILLS MI 48307-4813

Location Information

Site Address : 47441 DEQUINDRE RD ROCHESTER HILLS MI 48307-4813
PIN : 15-25-433-016 Neighborhood Code : 25D
Municipality : City of Rochester Hills
School District : 220 ROCHESTER COMM SCHLS
Class Code : 401 RES IMP (Includes prior SI-Suburban Imp.)

Property Description

T3N, R11E, SEC 25 SUPERVISORS PLAT OF BROOKLANDS PARK NO 11 LOT 2842 & 2843

Most Recent Sale Since 1994

Date : 07/15/2002
Amount : \$144,200 Liber : 26201:495
Grantor : RUMBLE, GEORGE A
RUMBLE, JAMIE A
RUMBLE, NATALIE Grantee : MACIEJKA, MARK

Next Most Recent Sale

Date : 11/02/2001
Amount : \$1 Liber : 23968:833
Grantor : RUMBLE, GEORGE A
RUMBLE, JAMIE A
Grantee : RUMBLE, GEORGE A

47441 DEQUINDRE RD ROCHESTER HILLS MI 48307-4813

3 beds / 1 full baths / 0 half baths / 1246 sq ft

15-25-433-016



Residential Property Profile

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Tax Information

Taxable Value	: \$42,540	State Equalized Value	: \$62,920
Current Assessed Value	: \$62,920	Capped Value	: \$42,540
Effective Date For Taxes	:	Principal Residence Exemption Type	: 0
Summer Principal Residence Exemption Percent	:	Winter Principal Residence Exemption Percent	: 100.0000%
Taxes		Taxes	
Summer	:	Summer	:
Winter	:	Winter	:
Village	:	Village	:

Lot Information

Description	: LEVEL	Area	: 0 ACRES
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Primary Structure

Structure	: BUNGALOW	Living Area	: 1246 SQ FT
Ground Floor	: 856 SQ FT	Year Built	: 1941
Effective Year	: 1996	Remodel Year	: 0
Stories	: 1.5 Story	Rooms	: 6
Bedrooms	: 3	Full Baths	: 1
Half Baths	: 0	Fireplaces	: 0
Ext Walls	:	Basement	: YES - FULL
Garage	: SEPARATE - 2 car (380 SQ FT)	Heat	: Forced Hot Water
Fuel Type	: Gas	Central Air	: No

Basement Information

Finish	: UNFINISHED	Area	: 0 SQ FT
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Porch Information

Type	Area
Pine	96 SQ FT
Treated Wood	144 SQ FT