



COMMUNITY DEVELOPMENT DEPARTMENT

45175 Ten Mile Road
Novi, MI 48375
(248) 347-0415 Phone
(248) 735-5600 Facsimile
www.cityofnovi.org

ZONING BOARD OF APPEALS STAFF REPORT

FOR: City of Novi Zoning Board of Appeals

ZONING BOARD APPEALS DATE: August 15, 2017

REGARDING: 47289 Sierra Dr, Parcel # 50-22-21-101-001 (PZ17-0028)

BY: Larry Butler, Deputy Director Community Development

I. GENERAL INFORMATION:

Applicant

Kim T. Capello, Attorney for Homeowners

Variance Type

Dimensional Variance

Property Characteristics

Zoning District:	Residential Acreage
Location:	East of Beck Road and South of 11 Mile Road
Parcel #:	50-22-21-101-001

Request

The applicant is requesting a variance from the City of Novi Ordinance Section 5.11.2.A to install an interior side yard fence.

This property is zoned Residential Acreage (R-A).

II. STAFF COMMENTS:

Contrary to code requirements and advice from code ordinance officer there currently is a standing fence in place.

III. RECOMMENDATION:

The Zoning Board of Appeals may take one of the following actions:

1. I move that we **grant** the variance in Case No. **PZ17-0028**, sought by _____, for _____ because Petitioner has shown practical difficulty requiring _____.
- (a) Without the variance Petitioner will be unreasonably prevented or limited with respect to use of the property because _____.
- (b) The property is unique because _____.
- (c) Petitioner did not create the condition because _____.

(d) The relief granted will not unreasonably interfere with adjacent or surrounding properties because_____.

(e) The relief if consistent with the spirit and intent of the ordinance because _____.

(f) The variance granted is subject to:

1. _____.
2. _____.
3. _____.
4. _____.

2. I move that we **deny** the variance in Case No. **PZ17-0028**, sought by _____, for _____ because Petitioner has not shown practical difficulty requiring _____.

(a) The circumstances and features of the property including _____ are not unique because they exist generally throughout the City.

(b) The circumstances and features of the property relating to the variance request are self-created because _____.

(c) The failure to grant relief will result in mere inconvenience or inability to attain higher economic or financial return based on Petitioners statements that _____.

(d) The variance would result in interference with the adjacent and surrounding properties by _____.

(e) Granting the variance would be inconsistent with the spirit and intent of the ordinance to _____.

Should you have any further questions with regards to the matter please feel free to contact me at (248) 347-0417.

Larry Butler
Deputy Director Community Development
City of Novi



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**ZONING BOARD OF APPEALS
 APPLICATION**

APPLICATION MUST BE FILLED OUT COMPLETELY

I. PROPERTY INFORMATION (Address of subject ZBA Case)				Application Fee: <u>\$250.00</u>	
PROJECT NAME / SUBDIVISION <u>LOT 15 PIONEER MEADOWS</u>				Meeting Date: <u>8/15/2017</u>	
ADDRESS <u>47289 SIERRA DRIVE</u>		LOT/SUITE/SPACE # <u>15 PIONEER MEADOWS</u>		ZBA Case #: <u>PZ 17-0028</u>	
SIDWELL # <u>50-22-21-101-001</u>		May be obtained from the Assessing Department (248) 347-0485			
CROSS ROADS OF PROPERTY <u>SIERRA DRIVE AND BECK ROAD</u>					
IS THE PROPERTY WITHIN A HOMEOWNER'S ASSOCIATION JURISDICTION? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO			REQUEST IS FOR: <input checked="" type="checkbox"/> RESIDENTIAL <input type="checkbox"/> COMMERCIAL <input type="checkbox"/> VACANT PROPERTY <input type="checkbox"/> SIGNAGE		
DOES YOUR APPEAL RESULT FROM A NOTICE OF VIOLATION OR CITATION ISSUED? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO					
II. APPLICANT INFORMATION					
A. APPLICANT		EMAIL ADDRESS <u>KIM@KTCAPELLOLAW.COM</u>		CELL PHONE NO. <u>248 761 3702</u>	
NAME <u>KIM T. CAPELLO</u>		TELEPHONE NO. <u>248 380 5122</u>			
ORGANIZATION/COMPANY <u>ATTORNEY</u>		FAX NO. <u>248 380 5115</u>			
ADDRESS <u>26444 TAFT ROAD</u>		CITY <u>NOVI</u>		STATE <u>MICH</u>	ZIP CODE <u>48375</u>
B. PROPERTY OWNER <input type="checkbox"/> CHECK HERE IF APPLICANT IS ALSO THE PROPERTY OWNER					
Identify the person or organization that owns the subject property:		EMAIL ADDRESS		CELL PHONE NO.	
NAME <u>MARCO AND KELLY D. MICHELE</u>		TELEPHONE NO.			
ORGANIZATION/COMPANY		FAX NO.			
ADDRESS <u>47289 SIERRA DRIVE</u>		CITY <u>NOVI</u>		STATE <u>MI</u>	ZIP CODE <u>48374</u>
III. ZONING INFORMATION					
A. ZONING DISTRICT					
<input checked="" type="checkbox"/> R-A <input type="checkbox"/> R-1 <input type="checkbox"/> R-2 <input type="checkbox"/> R-3 <input type="checkbox"/> R-4 <input type="checkbox"/> RM-1 <input type="checkbox"/> RM-2 <input type="checkbox"/> MH <input type="checkbox"/> I-1 <input type="checkbox"/> I-2 <input type="checkbox"/> RC <input type="checkbox"/> TC <input type="checkbox"/> TC-1 <input type="checkbox"/> OTHER _____					
B. VARIANCE REQUESTED					
INDICATE ORDINANCE SECTION (S) AND VARIANCE REQUESTED:					
1. Section <u>5.11.2.A</u> Variance requested <u>place fence in exterior side yard</u>					
2. Section _____ Variance requested _____					
3. Section _____ Variance requested _____					
4. Section _____ Variance requested _____					
IV. FEES AND DRAWINGS					
A. FEES					
<input type="checkbox"/> Single Family Residential (Existing) \$200 <input checked="" type="checkbox"/> (With Violation) \$250 <input type="checkbox"/> Single Family Residential (New) \$250 <input type="checkbox"/> Multiple/Commercial/Industrial \$300 <input type="checkbox"/> (With Violation) \$400 <input type="checkbox"/> Signs \$300 <input type="checkbox"/> (With Violation) \$400 <input type="checkbox"/> House Moves \$300 <input type="checkbox"/> Special Meetings (At discretion of Board) \$600					
B. DRAWINGS 1-COPY & 1 DIGITAL COPY SUBMITTED AS A PDF					
<ul style="list-style-type: none"> Dimensioned Drawings and Plans Site/Plot Plan Existing or proposed buildings or addition on the property Number & location of all on-site parking, if applicable 			<ul style="list-style-type: none"> Existing & proposed distance to adjacent property lines Location of existing & proposed signs, if applicable Floor plans & elevations Any other information relevant to the Variance application 		



ZONING BOARD OF APPEALS APPLICATION

V. VARIANCE

A. VARIANCE (S) REQUESTED

DIMENSIONAL USE SIGN

There is a five-(5) hold period before work/action can be taken on variance approvals.

B. SIGN CASES (ONLY)

Your signature on this application indicates that you agree to install a **Mock-Up Sign** ten-(10) days before the scheduled ZBA meeting. Failure to install a mock-up sign may result in your case not being heard by the Board, postponed to the next schedule ZBA meeting, or cancelled. A mock-up sign is **NOT** to be an actual sign. Upon approval, the mock-up sign must be removed within five-(5) days of the meeting. If the case is denied, the applicant is responsible for all costs involved in the removal of the mock-up or actual sign (if erected under violation) within five-(5) days of the meeting.

C. ORDINANCE

City of Novi Ordinance, Section 3107 – Miscellaneous

No order of the Board permitting the erection of a building shall be valid for a period longer than one-(1) year, unless a building permit for such erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

No order of the Board permitting a use of a building or premises shall be valid for a period longer than one-hundred and eighty-(180) days unless such use is established within such a period; provided, however, where such use permitted is dependent upon the erection or alteration of a building such order shall continue in force and effect if a building permit for such erection or alteration is obtained within one-(1) year and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

D. APPEAL THE DETERMINATION OF THE BUILDING OFFICIAL

PLEASE TAKE NOTICE:

The undersigned hereby appeals the determination of the Building Official / Inspector or Ordinance made

CONSTRUCT NEW HOME/BUILDING ADDITION TO EXISTING HOME/BUILDING SIGNAGE
 ACCESSORY BUILDING USE OTHER _____

VI. APPLICANT & PROPERTY SIGNATURES

A. APPLICANT

Kim T. Carullo
Applicant Signature KIM T. CARULLO

JUNE 1, 2017
Date

B. PROPERTY OWNER

If the applicant is not the owner, the property owner must read and sign below:

The undersigned affirms and acknowledges that he, she or they are the owner(s) of the property described in this application, and is/are aware of the contents of this application and related enclosures.

Kelly DiMichele
Property Owner Signature

6-1-17
Date

VII. FOR OFFICIAL USE ONLY

DECISION ON APPEAL:

GRANTED DENIED

The Building Inspector is hereby directed to issue a permit to the Applicant upon the following conditions:

Chairperson, Zoning Board of Appeals

Date



Community Development Department

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REVIEW STANDARDS
DIMENSIONAL VARIANCE

The Zoning Board of Appeals (ZBA) will review the application package and determine if the proposed Dimensional Variance meets the required standards for approval. In the space below, and on additional paper if necessary, explain how the proposed project meets each of the following standards. (Increased costs associated with complying with the Zoning Ordinance will not be considered a basis for granting a Dimensional Variance.)

Standard #1. Circumstances or Physical Conditions.

Explain the circumstances or physical conditions that apply to the property that do not apply generally to other properties in the same zoning district or in the general vicinity. Circumstances or physical conditions may include:

a. Shape of Lot. Exceptional narrowness, shallowness or shape of a specific property in existence on the effective date of the Zoning Ordinance or amendment.

Describe below:

DRIVE AND BECK ROAD. THE PROPERTY IS LOCATED AT THE CORNER OF SIERRA DRIVE AND BECK ROAD. THE HOUSE FACES SIERRA DRIVE. THE SIDEYARD FACES BECK. THE PURPOSE AND INTENT OF THE ORDINANCE IS TO PREVENT FENCES ALONG PROPERTY LINES ABUTTING RESIDENTIAL STREETS. BECK IS NOT A RESIDENTIAL STREET. THE BACKYARD ABUTS BECK ROAD. NOISE AND DUST FROM BECK TRAVELS TO THE BACKYARD. THE BACKYARD IS VISIBLE FROM BECK. BECK AND BECK TRAFFIC ARE VISIBLE FROM THE BACKYARD.

b. Environmental Conditions. Exceptional topographic or environmental conditions or other extraordinary situations on the land, building or structure. Describe below:

- 1) THE RESIDENTIAL PROPERTY ABUTS A MAJOR THOROUGHFARE NOT A RESIDENTIAL SIDEYARD STREET. THIS IS UNLIKE OTHER HOMES IN THE SUB.
2) OTHER HOMES IN THE AREA ARE PERMITTED TO ERECT SIDEYARD FENCES.
3) TO BE EFFECTIVE AND USEFUL A FENCED IN YARD NEEDS TO BE ENCLOSED ON ALL SIDES. A FENCE ALONG THREE LOT LINES IS NOT A FENCED ENCLOSURE.
4) TO ALLOW A FENCE ALONG BECK ROAD WOULD NOT BE A DETRIMENT TO SURROUNDING NEIGHBORS.

c. Abutting Property. The use or development of the property immediately adjacent to the subject property would prohibit the literal enforcement of the requirements of the Zoning Ordinance or would involve significant practical difficulties. Describe below:

- 5) TO ALLOW THE FENCE ALONG BECK ROAD WOULD NOT BE CONTRARY TO THE SPIRIT AND INTENT OF THE ORDINANCE AS THE FENCE ALONG BECK ROAD DOES NOT ABUT RESIDENTIAL PROPERTY AND IS NOT VISIBLE FROM OTHER HOMES IN THE NEIGHBORHOOD.
6) IT IS NOT ONLY IMPRACTICAL, BUT IMPOSSIBLE TO ENCLOSE A RESIDENTIAL BACKYARD (FOR SAFETY PURPOSES) WITHOUT ENCLOSING ALL FOUR SIDES OF THE ENCLOSURE.
7) THE PROPOSED ENCLOSURE IS NOT IN THE FRONT YARD OF THE HOME.
8) THE PROPOSED ENCLOSURE IS ENTIRELY IN THE REAR YARD OF THE LOT.
9) THERE ARE NUMEROUS FENCES AND PRIMARY BRICK WALLS ABUTTING RESIDENTIAL LOTS AND SUBDIVISIONS ALONG BECK ROAD.

* NOTE SET BACK REQUIREMENTS PAGE 5-43.

Standard #2. Not Self-Created.

Describe the immediate practical difficulty causing the need for the Dimensional Variance, that the need for the requested variance is not the result of actions of the property owner or previous property owners (i.e., is not self-created).

THE ORDINANCE APPEARS VAGUE AS TO WHETHER A FENCE IS PERMITTED IN THE REAR YARD OF A CORNER LOT WHERE THE FENCE IS ERECTED ALONG BECK ROAD!

Standard #3. Strict Compliance.

Explain how the Dimensional Variance in strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome.

~~AND~~ A FENCED YARD, WITH NO ENCLOSURE ALONG BECK ROAD SERVES NO PURPOSE TO PROTECT CHILDREN AND PETS FROM ROAD HAZARDS, TRAFFIC AND STRANGERS. HOME OWNER HAS TWO YOUNG CHILDREN AND A DOG.

Standard #4. Minimum Variance Necessary.

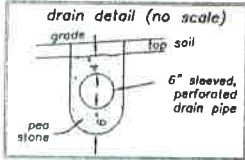
Explain how the Dimensional Variance requested is the minimum variance necessary to do substantial justice to the applicant as well as to other property owners in the district.

TO "ENCLOSE" THE PROPERTY OWNERS' REAR YARD IT IS NECESSARY TO HAVE A FENCE, OR OTHER STRUCTURE ALONG BECK ROAD

Standard #5. Adverse Impact on Surrounding Area.

Explain how the Dimensional Variance will not cause an adverse impact on surrounding property, property values, or the use and enjoyment of property in the neighborhood or zoning district.

THERE WILL BE NO IMPACT ON SURROUNDING RESIDENTIAL HOMES AS THE FENCE ABUTS BECK ROAD. THE RESIDENTIAL PROPERTIES ALONG BECK ROAD HAVE A SOLID, BRICK, PRIVACY FENCE ABUTTING BECK ROAD. THERE IS ANOTHER SIDE YARD PRIVACY FENCE FACING A RESIDENTIAL STREET ONE BLOCK SOUTH, ALONG BECK ROAD.

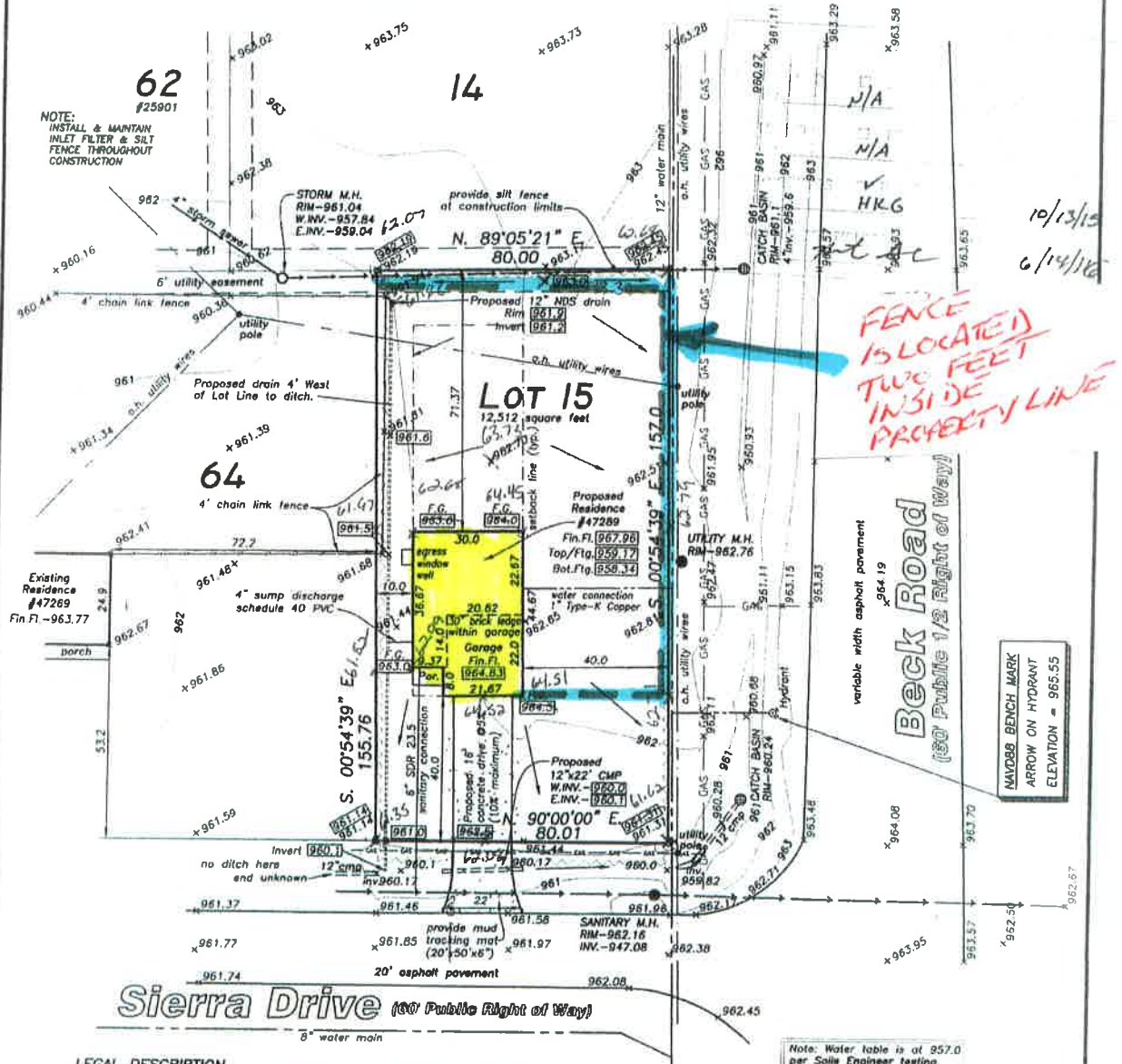


Note:
Silt fence along side & rear lot lines as necessary to protect existing lawn & landscaping on adjacent property.

Setbacks:

Front	- 40'
Side	- 10'
Side total	- 50'
Rear	- 15'

Check title policy for subdivision deed restrictions that may affect setback requirements



LEGAL DESCRIPTION
LOT 15 OF, "PIONEER MEADOWS", A SUBDIVISION OF PART OF THE NORTHWEST 1/4 OF SECTION 21, T.1N., R.8E., NOVI TOWNSHIP (NOW CITY OF NOVI), OAKLAND COUNTY, MICHIGAN, AS RECORDED IN LIBER 90 OF PLATS ON PAGE 12. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

Note: Water table is at 957.0 per Soils Engineer testing.

Note: A "Right-of-Way Permit" is required from the City of Novi Engineering Department must be issued prior to issuance of Building Permit.

REVISED
10/2/15

LEGEND

000.00	= EXISTING ELEV.
000.00	= PROPOSED ELEV.
---	= DRAINAGE COURSE
---	= SILT FENCE
---	= BRICK LEDGE
---	= EXISTING CONTOUR

Neighbors,

In regards to the fence we have put up in the rear of our home at 47289 Sierra Dr. We are asking that you sign this paper stating that the fence is in no way impeding upon you or your property in any way . Also that you agree the fence , bushes, & flowers we planted around the fence are all appealing to the eye & you would be sad to see it go if the applied variance is not approved .

Thank You, Marco & Kelly DiMichele

1. Stephen J Kruse 47269 SIERRA DR. NOVI, MI 48574
2. Bernard & Linda Alick 47296 SIERRA DR. NOVI MI 48374
- 3.



