



ZONING BOARD OF APPEALS
CITY OF NOVI
Community Development Department
(248) 347-0415

Case No. 12-010 The Heights of Novi

Location: 22123 Solomon Blvd.

Zoning District: RM-1, Low Density, Low Rise Multi Family Residential District

The applicant is requesting exceptions from Sections 2503.2.B and 2903 of the Novi Zoning Ordinance and 28-7(a)(5) of the Novi Sign Ordinance to allow relocation of (2) 30 ft. flagpoles within 4 ft. and 10 ft. respectively of the proposed right-of-way line where 37.5 ft. is required and to allow display of (1) 50 sq. ft. commercial flag where a maximum 24 sq. ft. is allowed. The property is located west of Haggerty Road and south of Nine Mile Road.

Ordinance Sections:

CITY OF NOVI, CODE OF ORDINANCES, Section 2503.2.b of the Novi Zoning Ordinance requires an minimum flagpole setback of one-half the distance between the right-of-way and the principal building, Section 2903 requires that the height of a flagpole shall not exceed the distance to the nearest property line; and Section 28-7(a)(5) of the Sign Ordinance restricts the area of commercial flags to 24 sq. ft.

City of Novi Staff Comments:

The applicant appeared before the Zoning Board of Appeals regarding a sign request in November of 2011, but the flagpole relocation was not part of the request. The existence of the proposed right of way as well as the configuration of the entrance point for the complex are somewhat unique in nature. Staff is not opposed to the flag size request as long as the total number of flags is limited to (2). The flagpole location is a concern however as the height of the northernmost pole would extend very near if not into the existing road right of way. If the board is inclined to consider granting a variance, staff suggests consideration be given to a condition that the property owner remove or relocate the pole(s) if the "proposed right of way" is ever converted to public right of way.

Standards for Granting a Dimensional Variance:

A variance may be granted if a practical difficulty exists due to all of the following:

- There are unique circumstances or physical conditions of the property such as narrowness, shallowness, shape, water, topography or similar physical conditions and the need for the variance is not due to the applicant's personal or economic difficulty.
- The need is not self-created.
- 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.

- The requested variance is the minimum variance necessary to do substantial justice to the applicant as well as to other property owners in the district.
- The requested variance will not cause an adverse impact on surrounding property, property values or the use and enjoyment of the property in the neighborhood or zoning district.

Standards for Granting a Sign Variance

- The request is based upon circumstances or features that are exceptional and unique to the property and do not result from conditions that exist generally in the City or that are self-created.
- The failure to grant relief will unreasonably prevent or limit the use of the property and will result in substantially more than mere inconvenience or inability to attain a higher economic or financial return.
- The grant of relief will not result in a use of structure that is incompatible with or unreasonably interferes with adjacent or surrounding properties, will result in substantial justice being done to both the applicant and adjacent or surrounding properties, and is not inconsistent with the spirit of the ordinance.



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For Official Use Only

ZBA Case No: 12-010 ZBA Date: 4/10/12 Payment Received: \$ 300 (Cash)

Check # Include payment with cash or check written to "City of Novi."

TO BE COMPLETED BY APPLICANT - PLEASE PRINT

Please submit one original signed application and 13 copies of all supporting documentation relevant to the appeal,

Applicant's Name Andrew Barbas Date

Company (if applicable) Heights of Novi LLC

Address* 100 Galleria Offcentre, Suite 400 City Southfield ST MI ZIP 48034

*Where all case correspondence is to be mailed.

Applicant's E-mail Address: abarbas@yorkcommunities.com

Phone Number () 248-38-3777 FAX Number () 248-358-3779

Request is for:

[X] Residential Construction (New/ Existing) [] Vacant Property [] Commercial [] Signage

1. Address of subject ZBA case: 22123 Solomon Blvd., Novi, MI ZIP 48375

2. Sidwell Number: 5022 - 36-200-023 may be obtained from Assessing Department (248) 347-0485

3. Is the property within a Homeowner's Association jurisdiction? Yes [] No [X]

4. Zoning: [] RA [] R-1 [] R-2 [] R-3 [] R-4 [] RT [X] RM-1 [] RM-2 [] MH [] OS-1 [] OS-2 [] OSC [] OST [] OTHER

5. Property Owner Name (if other than applicant)

6. Does your appeal result from a Notice of Violation or Citation Issued? [] Yes [X] No

7. Indicate ordinance section(s) and variances requested:

- 1. Section 2503.2.B. Variance requested See attached
2. Section 2903 Variance requested See attached
3. Section 28-7.a.5 Variance requested See attached
4. Section Variance requested

8. Please submit an accurate, scaled drawing of the property showing:

- a. All property lines and dimensions correlated with the legal description.
b. The location and dimensions of all existing and proposed structures and uses on property.
c. Any roads, easements, drains, or waterways which traverse or abut the property and the lot area and setback.
d. Dimensions necessary to show compliance with the regulations of this Ordinance.

9. State the practical difficulties which prevent conformance with the Zoning Ordinance requirements (attach separate sheet if necessary):

See attached.

10. Describe any unique circumstances regarding the property (i.e., shape, topography, etc.) which are not common to other properties in the area and which prevent strict compliance with the Zoning Ordinance:

See attached.

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 scheduled ZBA meeting, or cancelled. A mock-up sign is NOT to be the 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.

Variance approval is void if permit not obtained within one hundred eighty (180) days of date of decision.

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

All property owners' within 300 feet of ZBA property address will be notified of the ZBA case and variance requests.

PLEASE TAKE NOTICE:

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

Construct New Home/Building Addition to Existing Home/Building Accessory Building
 Use Signage Other (Flagpole installation)

Applicants Signature

2-14-12
Date

Property Owners Signature

2-14-12
Date

DECISION ON APPEAL

_____ Granted _____ Denied Postponed by Request of Applicant _____ Board _____

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

Chairperson, Zoning Board of Appeals

Date

The Heights of Novi Apartments was acquired last September and has been undergoing significant renovations. Part of these renovations involved the redesign of the entrance landscaping. This included the redesign and landscaping of the entrance median.

Currently there are three flagpoles located on the roadway in the development approximately 125 feet from the roadway. They cannot be seen from the roadway, and because of the lack of visibility, flags have not been displayed. The redesign of the entrance median included the relocation and replacement of the development identification sign as well as the removal of one of the three flagpoles and the relocation of the remaining two 30 foot flagpoles to the far end of the entrance median. The new location of the flagpoles was shown on the site plan presented to the Community Development Department. Unfortunately, the new location of the flagpoles was not specifically pointed out to the Department and was not noted by the Department. The relocation of the sign required a variance to the city's sign ordinance, which was requested and received in November. If the Applicant had realized that there were variances required for the flagpoles, they would have been requested at the time. The purpose of this application is to request these additional variances in conjunction with the sign ordinance variances already granted.

The additional variances requested relate to the following:

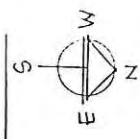
- Section 2503.2.B. – The ordinance requires that any flagpole “shall be located no closer to a public right-of-way than one-half the distance between the right-of-way and the principal building.” Even assuming that the principal building of the development is the building nearest to Nine Mile Road as opposed to some other building in the development, the flagpoles located behind the new sign, while not within the proposed right-of-way do not satisfy this specific requirement and accordingly the Applicant is requesting a variance from the ordinance provision. The relocated flagpoles will be four feet and ten feet from the proposed right-of way and the nearest building is 75 feet from the proposed right-of-way.
- Section 2903 – The ordinance requires that the height of the flagpole “shall not be greater than the distance to the nearest property line.” The sign and accessory building line setback ordinances generally refer to the “proposed right of way” as opposed to the “property line.” If the property line refers to the street line rather than the right of way, then the variance would not be required. However, because of the possible ambiguity in the ordinance, a variance is requested to the extent the two 30 foot flagpoles do not satisfy the requirements of this provision.
- Section 28-7.a.5 establishes the size restrictions for flags. Based on the height of the flagpole, a flag bearing the official designation of the United States of America may not exceed 50 square feet. In addition, the ordinance permits two commercial flags not exceeding 24 square feet each. The Applicant is requesting that it be permitted to display one commercial flag in addition to the United States flag and that it can be 50 square feet to match the size of the United States flag.

As explained in the original request for a variance, the original location of the entranceway sign limited the visibility of the sign and the proper identification of the property. This created a significant safety issue for traffic in the area. The design of the entry island where the sign is located included the two flags to aid in increasing the visibility of the property and to improve the aesthetics of the entry. The current location of the flagpoles does not enhance the property and the flags are certainly not very visible.

As also explained in the original application for a variance, the existence of a proposed right-of-way, in addition to the existing right-of-way, has set back the location of the buildings and other improvements farther than normal. In addition, the dimensions of the property restricted the size and setback of the entrance median. The flagpoles have been located as far back in the entrance median as is possible. It is also the most aesthetic practical location for the flags.

PROJECT: THE HEIGHTS OF NW 1
 9 MILE RD., NW 1, MI
 LANDSCAPE - ENTRY
 DATE: 10/20/03
 DRAWN BY: JAV
 CHECKED BY: JAV
 SCALE: 1/8" = 1'-0"

FIGURE 2 OF 3
 THE PLAN IS A LANDSCAPE CONCEPT AND IS NOT TO BE CONSIDERED A CONTRACT DOCUMENT. THE CLIENT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPLICABLE AGENCIES. THE CLIENT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPLICABLE AGENCIES. THE CLIENT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPLICABLE AGENCIES.



9 MILE RD., CENTERLINE OF ROAD

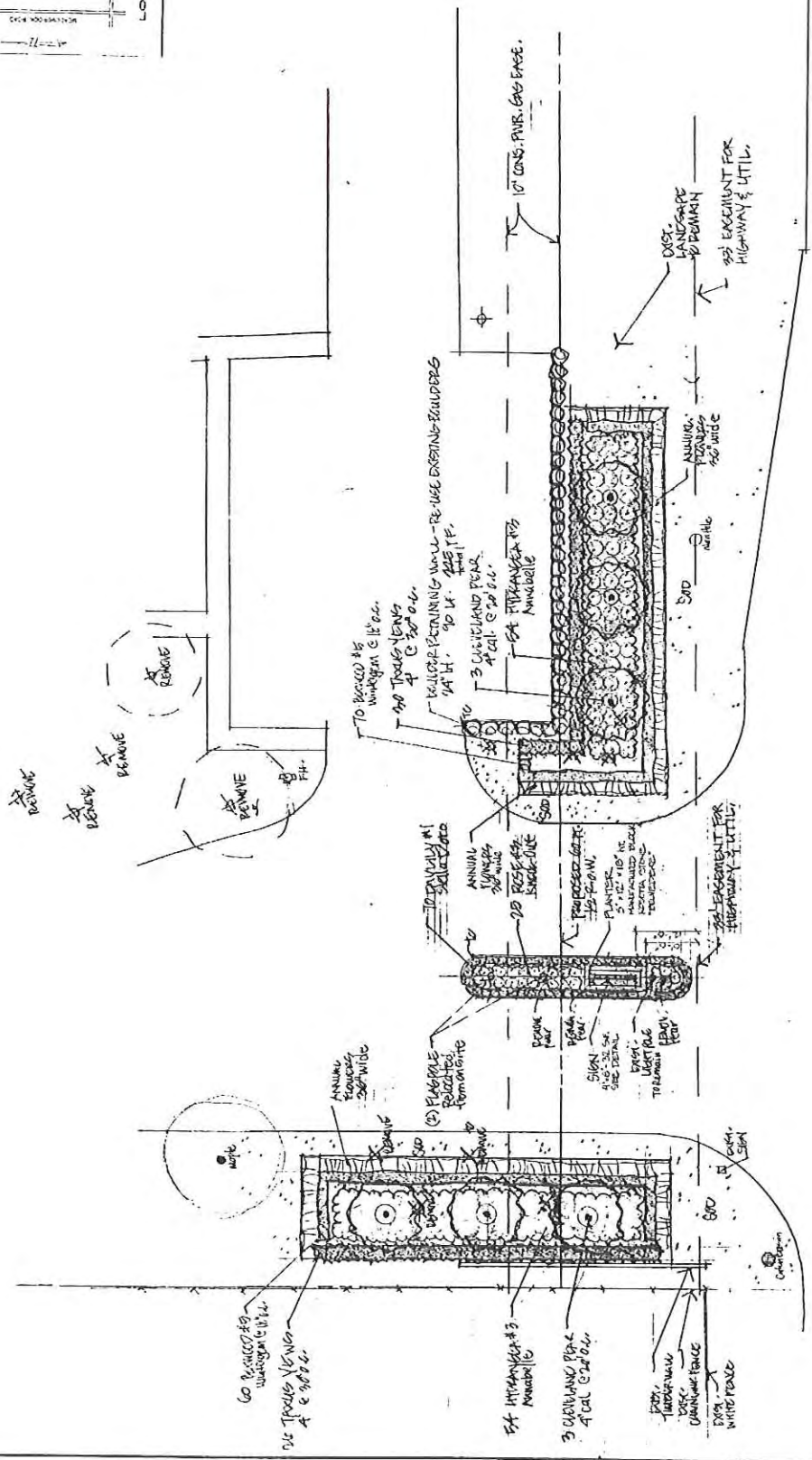
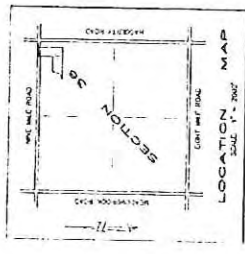


FIGURE 2 OF 3

City of Novi

Heights of Novi Flagpole



MAP INTERPRETATION NOTICE
 Map information depicted is not intended to replace or substitute for any official or primary source. This map was intended to meet National Map Accuracy Standards and use the most recent, accurate sources available to the people of the City of Novi. Boundary measurements and area calculations are approximate and should not be construed as survey measurements performed by a licensed Michigan Surveyor as defined in Michigan Public Act 132 of 1970 as amended. Please contact the City GIS Manager to confirm source and accuracy information related to this map. This map was produced under the terms of the City's Internet Site Use Policy available at <http://cityofnovi.org/Resources/SiteUserPolicy.asp>

0 310 620 1,240
 Feet
 1 inch = 617 feet

Map Produced Using the
 City of Novi, Michigan
 Internet Mapping Portal

Date: 03/20/2012

