

Based on the provisions of the Zoning Enabling Act (MZEA), being MCL 125.3601-et.seq., in conjunction with MCL 213.54(2), of the Michigan Uniform Condemnation Procedures Act (UCPA), it is the request of the Road Commission for Oakland County (RCOC), to include as a "new business item" a proposed specific zoning variance based upon the provisions contained in MCL 213.54(2) of the UCPA.

This Board did grant site specific variances for the Michigan Caterpillar and Tractor (Michigan CAT) location at its September 14, 2010 ZBA meeting; as well as for the Gagliano Enterprises (Collex Collision) property, which were granted at the April 12, 2011 ZBA meeting.

The RCOC has submitted this Application for an amendment or confirmation of previous variance approval that will conform with the language contained in MCL 213.54(2).

The RCOC is requesting that the City of Novi ZBA enact the following:

The variances granted on September 14, 2010 for Michigan CAT and on April 12, 2011 for Gagliano Enterprises (Collex Collision) are granted pursuant to an Application submitted by the Road Commission for Oakland County, under the authority of MCL 213.54(2), and are subject to the requirements of MCL 213.54(2), and includes the following:

"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 those zoning variances were granted. However, if the property was also nonconforming for other reasons, the grant of these variance have no effect on the status of those other preexisting nonconformities. Under MCL 213.54(2), an owner shall not increase the nonconformity for which a zoning variance is granted under this section, without the consent of the governmental entity. An agency (RCOC), 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."

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

BOARD OF COUNTY ROAD COMMISSIONERS
FOR THE COUNTY OF OAKLAND,

Plaintiff,
v.

09-104353-CC
Hon. Shalina Kumar

GAGLIANO ENTERPRISES, LLC, COUGAR
CUTTING PRODUCTS, INC. and BANK OF
AMERICA, NA,

Defendants,
and

COLLEX COLLISION EXPERTS, INC.,

Third Party Joinder.

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**ORDER ALLOWING PARTIES TO PROCEED WITH
ZONING BOARD OF APPEALS VARIANCE APPLICATIONS BEFORE
THE CITY OF NOVI ZONING BOARD OF APPEALS**

At a session of said Court, held at the Courthouse in the City of Pontiac, Michigan on the ___ day of ~~FEB 28 2011~~, 2011.

SHALINA KUMAR

PRESENT: _____
CIRCUIT COURT JUDGE

Both parties having appeared through counsel at a status conference by Order of the Court, and the parties having appeared for Facilitation with former Judge Gene Schnelz as ordered by the Court on September 8, 2010; and the parties having made significant progress through their respective engineering experts towards a mutually acceptable application for submission to the City of Novi Zoning Board of Appeals ("ZBA"), and the parties wishing to proceed with their application for submission to the ZBA for consideration thereof; and the Court being fully advised in the premises;

NOW, THEREFORE, IT IS HEREBY ORDERED that this Court's Order of September 8, 2010 is hereby modified to allow the parties to proceed with their ZBA zoning variance applications for submission at the next available meeting of the City of Novi ZBA.

IT IS FURTHER ORDERED that this Order does not affect any other matters pertaining to any scheduling conference or any other substantive matter involving the pending condemnation action.

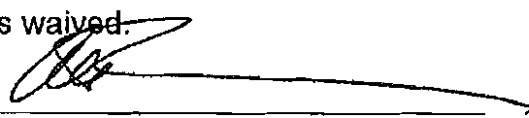


CIRCUIT COURT JUDGE


Approved as to form and content. Notice of entry is waived.



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