



ZONING BOARD OF APPEALS
CITY OF NOVI
 Community Development Department

Case No. PZ13-0007

Location: 156 Rexton

Zoning District: R4, One Family Residential District

The applicant is requesting a variance of 30 feet from the requirements of the CITY OF NOVI, CODE OF ORDINANCES, Section 2515.1.a(2) to allow a fence within an exterior side yard setback on a corner lot. The fence is adjacent to the property line. The property is located north of South Lake Drive and east of West Park Drive.

Ordinance Sections:

CITY OF NOVI, CODE OF ORDINANCES, Section 2515.1.a(2) stipulates that fences shall not extend toward the front of a lot nearer than the minimum front yard setback distance and Section 2400(c) that exterior side yard abutting a street shall be provided with a setback equal to the front yard setback in the R4 Zoning District. In this case a setback of 30 feet would be required.

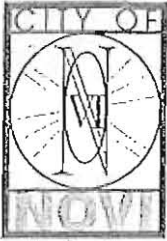
City of Novi Staff Comments:

The applicant purchased a home on a corner lot and installed fencing to enclose the rear yard. As the lot faces 2 streets the front yard setback applies to the yard facing the street on which the property is addressed (in this case the south). The west property line also adjoins a street creating an exterior side yard on this side. The Zoning Ordinance specifies that exterior side yards are to be treated as front yards with respect to required dimensions and allowable uses including installation of fences. While the Michigan Building Code exempts fences 6 feet in height or less from the Building Permit and inspection requirement, such installation still must comply with the Zoning Ordinance. The existing exterior side yard setback appears to be approximately 26 feet. The request is to place the fence adjacent to the property line.

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 because _____.
- The need is not self-created because _____.
- 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 because _____.
- 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 because _____.
- 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 because _____.



cityofnovi.org

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

For Official Use Only

ZBA Case No: P2130007 ZBA Date: 3/12/13 Payment Received: \$ _____ (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 Ralf and Erin Siemens Date 12/27/2012

Company (if applicable) _____

Address* 156 Rexton St. City Novi ST MI ZIP 48377

*Where all case correspondence is to be mailed.

Applicant's E-mail Address: ralfsiemens@mac.com

Phone Number (248) 252-3126 FAX Number () _____

248 421 6456

Request is for:

Residential Construction (New/ Existing) _____ Vacant Property _____ Commercial _____ Signage

1. Address of subject ZBA case: 156 Rexton St. ZIP 48377

2. Sidwell Number: 5022 - 03 - 127 - 005 _____ 03-127-005 may be obtained from Assessing Department (248) 347-0485

3. Is the property within a Homeowner's Association jurisdiction? Yes _____ No

4. Zoning: RA R-1 R-2 R-3 R-4 RT 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 No

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

1. Section 2515, 1, a. (2) Variance requested allow fence to extend toward the front of the lot beyond minimum front yard setback distance to the edge of property line 6 ft front

2. Section 2400 Variance requested side-yard setback 7' (side-fence sits on the property line) - variance requested = 3 feet

3. Section _____ Variance requested _____

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):

The shape of and location of our lot is such that a large portion of the space falls along the side frontage of the house. Our home is set high on its foundation, so privacy is a concern as the inside of our home is visible to passersby on all sides and foot traffic in our neighborhood is heavy. We have had issues with an individual in the neighboring condominium complex harassing us and have filed repeated trespassing complaints with the Novi police department. A fence turned out to be a necessity to deter that individual from getting closer to our home and is required to contain our pets and children. The placement of our home on the property and resulting shape of our available yard is such, that to follow strict conformance with the zoning ordinance, would mean that we would give up a large amount of our property to a side yard that would be unusable by our family because of vehicle traffic coming around that corner and the foot traffic that already has a tendency to use our yard as a throughway and rest stop for their animals.

Note that our variance request does not impede on the drain that is adjacent to the property, nor does it impact visibility for vehicle traffic coming around the corner. There are no homes directly across the street from our side fence, so the fence's placement should not be an issue for any other homeowners in our subdivision.

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:

The home is in an older subdivision around the lake (Lake Wall Subdivision), so it is not platted like the newer subdivisions in Novi. Each property has a unique shape and home placement. Our lot is a double lot on a corner across the street from a wooded area. The wooded area cannot be developed, so the placement of the fence is not an issue for any neighbors directly across the street. The yard directly behind the house is a small percentage of the total property with most of our useable property situated along the west side of the home. Strict conformance to code would have required us to surrender a significant amount of our property to a useless side yard had we not included that in our fence enclosure. The location of the fence does not obstruct the view of traffic on that corner as the corner of the house is set far back from the street corner and it has never been an issue for any of our neighbors. In fact, the neighbor on the corner of Amis and Northhaven assisted in the construction of the fence.

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

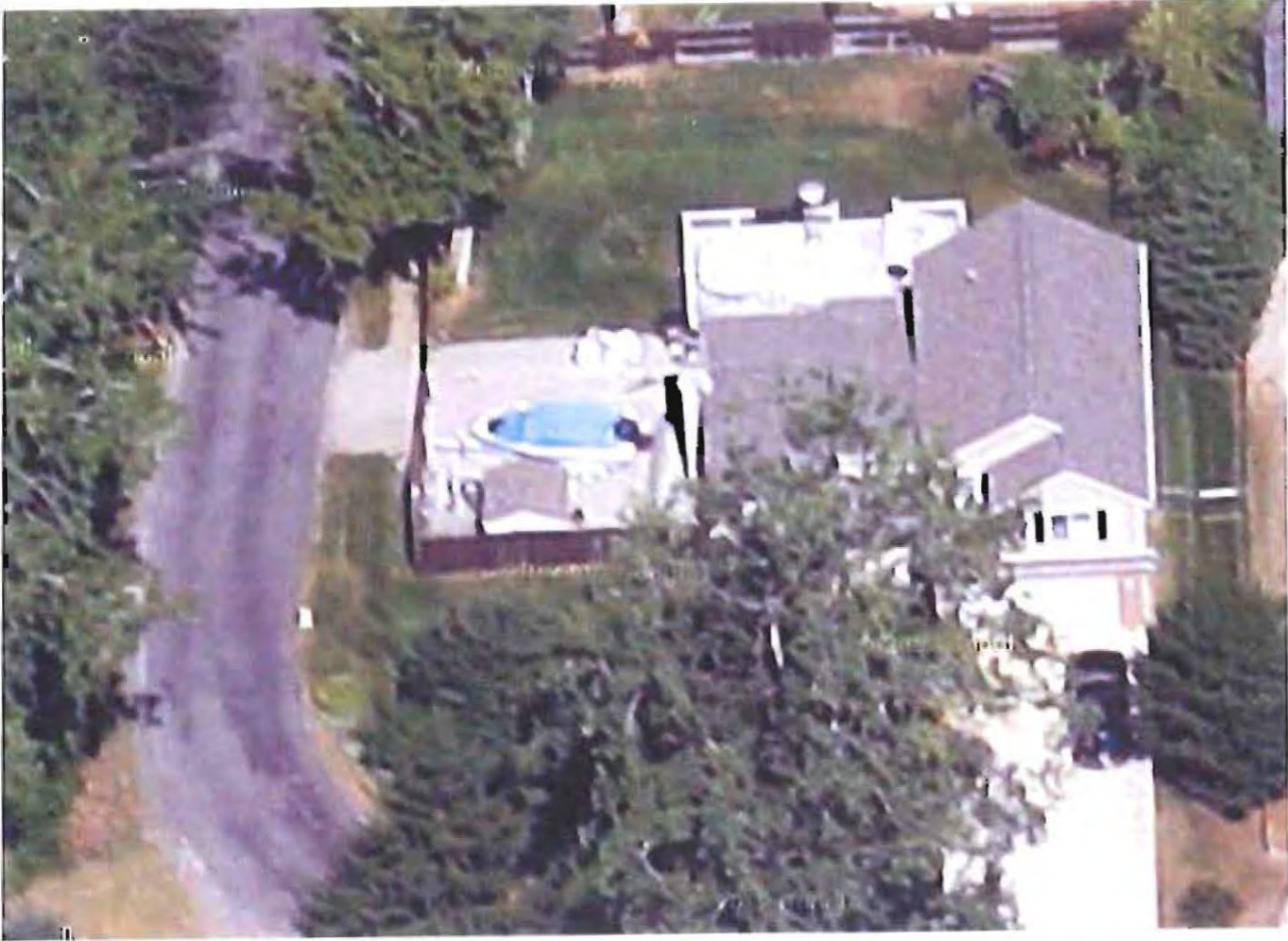

Applicants Signature

12/27/2012
Date


Property Owners Signature

12/27/2012
Date

DECISION ON APPEAL



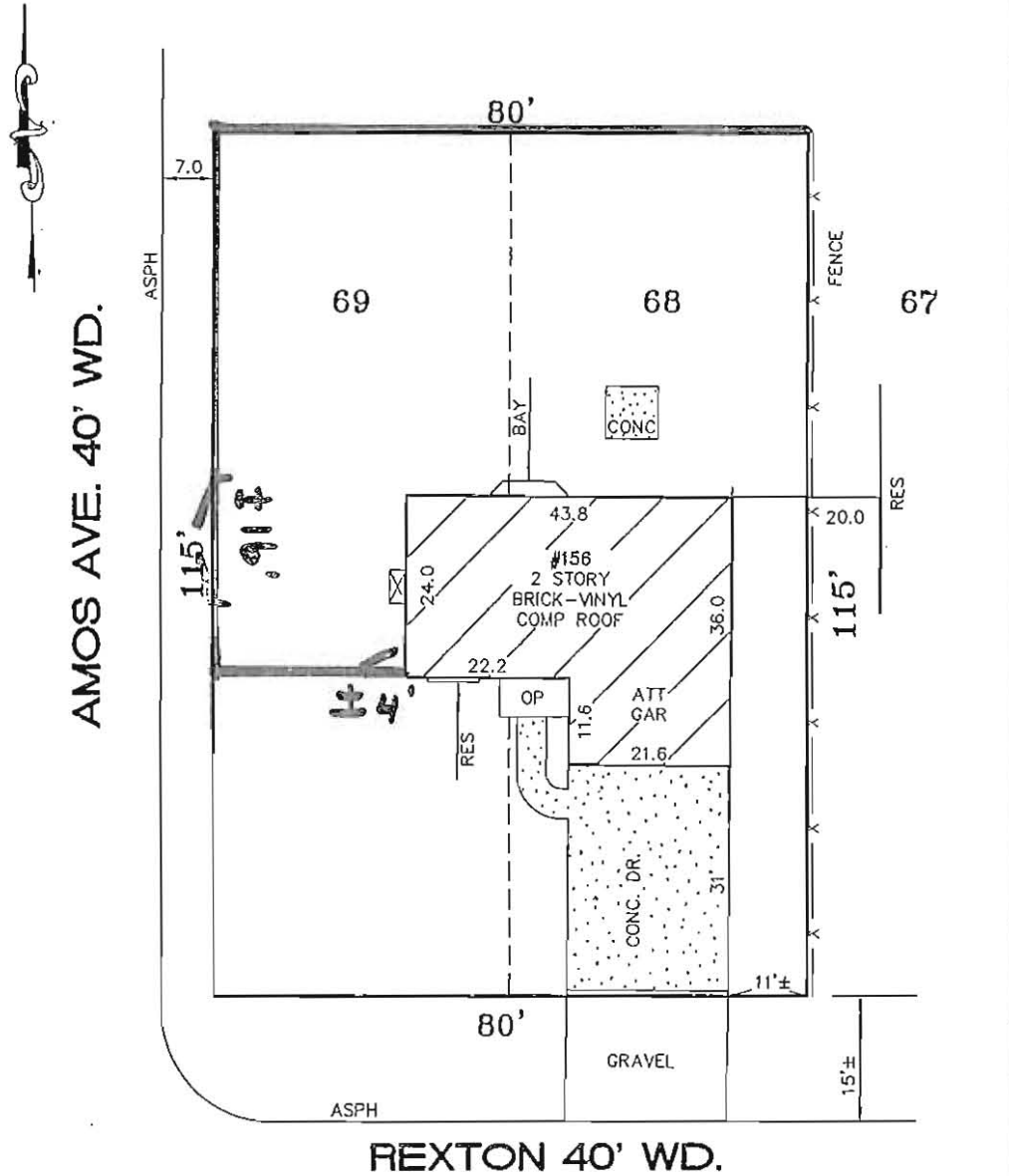


MORTGAGE REPORT for:

SALLIEMAE HOME LOANS, INC.

CONSULTING MUNICIPAL & CIVIL ENGINEERS • SURVEYORS • 28304 HAYES • ROSEVILLE, MI 48066 • (586)774-3000
 LEGAL DESCRIPTION OF PROPERTY (AS FURNISHED BY CLIENT)

Lots 68 and 69, LAKE WALL SUB-DIVISION, part of the N.W. 1/4 of Section 3, Township of Novi (now City of Novi), Oakland County, Michigan. Recorded in Liber 20 of Plats, Page 15 of Oakland County Records.

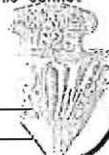


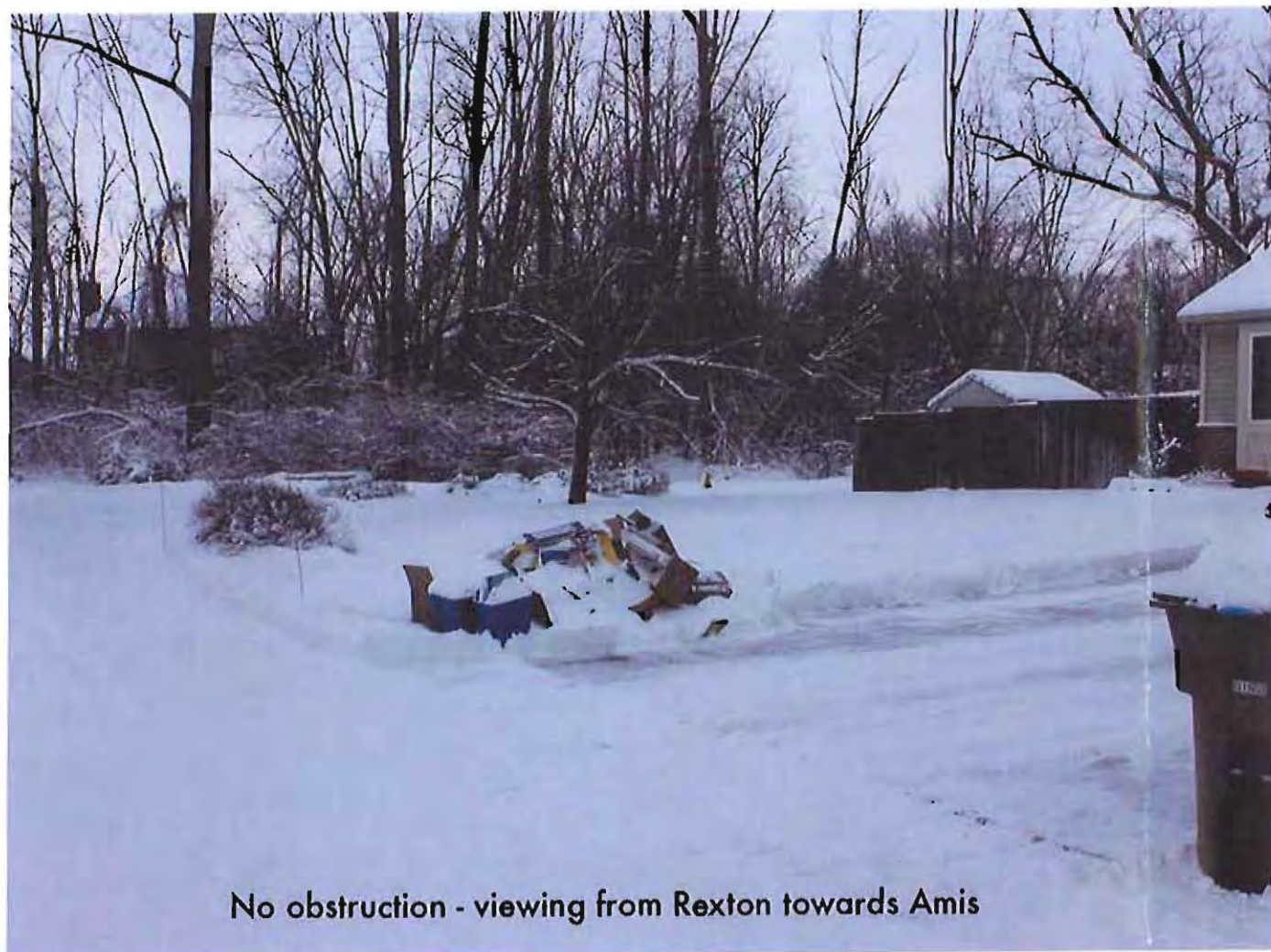
CERTIFICATE: We hereby certify to: SALLIEMAE HOME LOANS, INC.
 that we have inspected the above-described property in accordance with the description furnished and confirmed to be correct by mortgagee or mortgagee's title company for the purpose of a new mortgage loan to be made by RALF SIEMENS mortgagor, and that the buildings located thereon do not encroach on the adjoining property, nor do the buildings on the adjoining property encroach upon the property heretofore described, except as shown. The location of fences, driveways, other buildings, and non-permanent structures shown are only approximate. Any easements shown are either recorded in the subdivision plat or appear in the instrument referenced in the title policy, if both have been furnished to us. This report does not locate or identify the existence or absence of utilities entering into or crossing above or below the property. This report is to be used for mortgage purposes only and not for the purpose of establishing property lines, nor for construction purposes. No property lines were established and no property corners were set. This is not an ALTA type survey. This cannot be used for future refinance purposes or transferred to any future property owners.

REVISED _____
 DRAWN BY TML _____
 SCALE 1"=20' _____

George G. Jerome
 GEORGE G. JEROME
 PROFESSIONAL LAND SURVEYOR
 NO. 19837

DATED 05-05-06
 JOB NO. 227538





No obstruction - viewing from Rexton towards Amis



Corner of Rexton & Amis



Common for commercial & utility vehicles to park alongside on Amis (viewed from deck)



View from Amis



Passage to backyard on the other side



View from shared backfence along Amis



Along backfence from Amis



Survey stake at corner of backfence & Amis



No obstruction - viewing from Amis towards Rexton