

cityofnovi.org

CITY of NOVI CITY COUNCIL

Agenda Item E
July 7, 2008

SUBJECT: Consideration of Zoning Ordinance Text Amendment 18.226, to amend Ordinance No. 97-18 as amended, the City of Novi Zoning Ordinance at Article 31, Subsection 3107, "Miscellaneous" to modify the standards for the number of days a Zoning Board of Appeals ruling is valid. **Second Reading**

SUBMITTING DEPARTMENT: Community Development Department - Planning *Bauh*

CITY MANAGER APPROVAL:

BACKGROUND INFORMATION:

The attached language proposed for Section 3107 contains changes to ordinance provisions relating to the length of time certain Zoning Board of Appeals (ZBA) variances and other rulings are valid.

At the April 8th ZBA meeting, the members of the Board recommended changing the section of the Zoning Ordinance relating the maximum time frame allowed for applicants to apply for a building permit from the existing ninety days from the ZBA's ruling, to one-hundred eighty days. Relevant ZBA meeting minutes are attached. Under the proposed amendment, the existing ninety-day expiration for use variances would remain. The rationale behind the ZBA request was outlined in a memo dated April 15th, 2008 from ZBA Recording Secretary Robin Working and is as follows:

"In the past building plans or architectural drawings were required to be submitted along with a variance application. In an effort to be more customer service friendly the Board now considers granting a variance using a plot plan indicating the footprint of the building/home/addition being proposed. This approach saves the petitioner substantial money at the onset in the event a variance is not granted or a compromised variance is granted and thus creates the need for new plans to be drawn and submitted to the building division for approval for a permit to be issued.

Variances sometimes expire prior to a petitioner being able to finalize building plans or architectural drawings and submit them for permit approval per the existing ordinance. Without an extension being granted on the original variance, the order of the Board is no longer valid."

A public hearing was held by the Planning Commission on June 11th, 2008. At this meeting, the Planning Commission sent a recommendation of approval of the proposed text amendment to City Council. The City Council approved the first reading of the text amendment on June 23, 2008.

RECOMMENDED ACTION: Approval of Zoning Ordinance Text Amendment 18.226 to amend Ordinance No. 97-18 as amended, the City of Novi Zoning Ordinance at Article 31, Subsection 3107, "Miscellaneous" in order to modify the standards for the number of days a Zoning Board of Appeals ruling is valid. **Second Reading**

	1	2	Y	N
Mayor Landry				
Mayor Pro Tem Capello				
Council Member Crawford				
Council Member Gatt				

	1	2	Y	N
Council Member Margolis				
Council Member Mutch				
Council Member Staudt				

**EXCERPT
CITY COUNCIL DRAFT MINUTES
JUNE 23, 2008**

**EXCERPT FROM
REGULAR MEETING OF THE COUNCIL OF THE CITY OF NOVI
MONDAY, JUNE 23, 2008
COUNCIL CHAMBERS - NOVI CIVIC CENTER - 45175 W. TEN MILE RD**

Mayor Landry called the meeting to order at 7:00 P.M.

ROLL CALL: Mayor Landry, Mayor Pro Tem Capello, Council Members Crawford, Gatt, Margolis, Mutch, Staudt

- 2. Consideration of Zoning Ordinance Text Amendment 18.226, to amend Ordinance No. 97-18 as amended, the City of Novi Zoning Ordinance at Article 31, Subsection 3107, "Miscellaneous" to modify the standards for the number of days a Zoning Board of Appeals ruling is valid. First Reading**

Mr. Rumble said this was an opportunity to be more user friendly to the applicant. They currently had 90 days to submit for a building permit once they receive a Zoning Board of Appeals variance. He said there was a change in the past that required architectural plans to come along with Zoning Board variances and now they were allowed to go forward with plot plans, which was much more cost effective for the applicant. However, if they need more time once they get their variance to submit their application, the time period was being extended out to six months. He thought it would be very helpful to staff and the applicants.

Member Mutch asked if the change in the process was recommended by the ZBA. Mr. Rumble said yes, it came from some comments from staff to a ZBA member. Member Mutch said he would commend the ZBA because what Council had encouraged members to do was when they found problems or ways to resolve concerns with the process, to make those recommendations known to City Council. He thought they should continue to encourage that with all boards and commissions.

CM-08-06-099 Moved by Margolis, seconded by Gatt; CARRIED UNANIMOUSLY: To approve Zoning Ordinance Text Amendment 18.226, to amend Ordinance No. 97-18 as amended, the City of Novi Zoning Ordinance at Article 31, Subsection 3107, "Miscellaneous" to modify the standards for the number of days a Zoning Board of Appeals ruling is valid. First Reading

**Roll call vote on CM-08-06-099 Yeas: Mutch, Staudt, Landry, Capello, Crawford, Gatt, Margolis
Nays: None**

PROPOSED ORDINANCE AMENDMENTS – STRIKE VERSION

STATE OF MICHIGAN
COUNTY OF OAKLAND
CITY OF NOVI
ORDINANCE NO. 08- 18 -226

AN ORDINANCE TO AMEND APPENDIX A OF THE CITY OF NOVI CODE OF ORDINANCES, ORDINANCE 97-18, AS AMENDED, KNOWN AS THE CITY OF NOVI ZONING ORDINANCE, ARTICLE 31, SUBSECTION 3107, MISCELLANEOUS IN ORDER TO MODIFY THE STANDARDS FOR THE NUMBER OF DAYS A ZONING BOARD OF APPEALING RULING IS VALID

THE CITY OF NOVI ORDAINS:

ARTICLE 31. BOARD OF APPEALS.

Section 3100 – Section 3106. [Unchanged.]

Section 3107. Miscellaneous

No order of the Board permitting the erection of a building shall be valid for a period longer than one-hundred and eighty-nine (180~~90~~) days, 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 ninety (90) 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-hundred and eighty (180) days~~such period~~ and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

Such time limits shall be extended for those applicants requiring site plan review to a period of thirty (30) days after the date of final site plan approval has been given by the City.

PART III.

Savings Clause. The amendment of the Novi Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right accruing, accrued,

or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the Novi Code of Ordinances set forth in this Ordinance.

PART IV.

Severability. Should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

PART V.

Effective Date: Publication. The provisions of this Ordinance shall become effective fifteen (15) days after its adoption and shall be published within 15 days of its adoption by publication of a brief notice in a newspaper circulated in the City, stating the date of enactment and the effective date of the ordinance, a brief statement as to the subject matter of this Ordinance and such other facts as the Clerk shall deem pertinent, and that a copy of the Ordinance is available for public use and inspection at the office of the City Clerk.

MADE, PASSED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF NOVI, OAKLAND COUNTY, MICHIGAN, ON THE ___ DAY OF _____, 2007.

DAVID LANDRY, MAYOR

MARYANNE CORNELIUS, CITY CLERK

Ayes:
Nays:
Abstentions:
Absent:

PROPOSED ORDINANCE AMENDMENTS – CLEAN VERSION

STATE OF MICHIGAN

COUNTY OF OAKLAND

CITY OF NOVI

ORDINANCE NO. 08- 18 -226

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MADE, PASSED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF NOVI, OAKLAND COUNTY, MICHIGAN, ON THE ___ DAY OF _____, 2007.

DAVID LANDRY, MAYOR

MARYANNE CORNELIUS, CITY CLERK

Ayes:
Nays:
Abstentions:
Absent:

**ZONING BOARD OF APPEALS MEETING MINUTES
EXCERPT
APRIL 8, 2008**

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[1] could just throw under there, review it as part of our
[2] packet process and just approve it, but it's my
[3] understanding that since we're a quasi judicial board,
[4] the City Attorney does not recommend that and that's
[5] their prerogative and so if that's their recommendation
[6] then I will go with that.
[7] So, at this point I would ask the Board to
[8] consider directing the Building Department to looking
[9] into recommending to the Ordinance Review Committee and
[10] City Council to review this 90-day rule and possibly
[11] extend it to six months or whatever their recommendation
[12] may be. If that's the direction of the Board, maybe
[13] intent, might try something differently, but if it can be
[14] reviewed and streamline our processes I think we would be
[15] much appreciative.
[16] MEMBER BAUER: Second.
[17] CHAIRPERSON FISCHER: There is apparently
[18] a motion and a second. All in favor of giving that
[19] direction say aye?
[20] BOARD MEMBERS: Aye.
[21] CHAIRPERSON FISCHER: Does the Building
[22] Department wish to comment before that actually?
[23] MR. BOULARD: My only question would be if
[24] there would be direction to consider a time other than

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[1] the six months?
[2] CHAIRPERSON FISCHER: My take is that you
[3] guys are the professionals. Whatever you feel an
[4] appropriate time frame would be is fine with us. If you
[5] still think it's 90, that's fine, come back and tell us.
[6] But I am just looking at some direction from you whether
[7] or not we can recommend to that in ordinance review as to
[8] extending that so we don't get as many of these.
[9] MR. BOULARD: I heard six months. I
[10] assume there is some reasoning and some experience that
[11] would lead to that and I just wondered if there is
[12] anything you all wanted to add to that?
[13] CHAIRPERSON FISCHER: My only comment
[14] would be that oftentimes it's 90 days and we approve for
[15] another 90 days and that seems to take care of the issue.
[16] Other than that I have no experience in that.
[17] Any other members wish to comment on that?
[18] VICE-CHAIRPERSON SANGHVI: I think 180
[19] days is a very good idea because you don't know what the
[20] weather is going to be like when you give 90 days in
[21] December.
[22] CHAIRPERSON FISCHER: Exactly. It will
[23] give them a change of a season possibility and stuff like
[24] that.

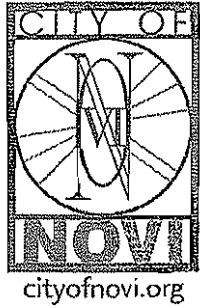
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[1] VICE-CHAIRPERSON SANGHVI: They might even
[2] change the (unintelligible).
[3] CHAIRPERSON FISCHER: Seeing no other
[4] business before the Board I would like -- You have
[5] business?
[6] MEMBER BAUER: Yes.
[7] CHAIRPERSON FISCHER: Okay.
[8] MEMBER BAUER: Paradise Park where do we
[9] stand?
[10] MS. WORKING: Members of the Board, the
[11] Board gave the Petitioner the option to return in April
[12] or May. The Petitioner chose to return in May. So, he
[13] has been sent a letter regarding that. I have spoken to
[14] him on the phone and he will receive another meeting
[15] notification to remind him to show up in May. Those
[16] letters will go out the third week of this month along
[17] with the regular agenda items for the month of May.
[18] CHAIRPERSON FISCHER: Seeing no other
[19] business, I'll entertain a motion to adjourn.
[20] MEMBER WROBEL: Motion to adjourn.
[21] VICE-CHAIRPERSON SANGHVI: Second.
[22] CHAIRPERSON FISCHER: All in favor say
[23] aye?
[24] BOARD MEMBERS: Aye.

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[1] (The meeting was adjourned at
[2] 10:32 p.m.)
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**PLANNING COMMISSION MINUTES
EXCERPT JUNE 11, 2008**



PLANNING COMMISSION

CITY OF NOVI

Text Amendment 18.226 Excerpt

Regular Meeting

Wednesday, June 11, 2008 | 7 PM

Council Chambers | Novi Civic Center | 45175 W. Ten Mile

(248) 347-0475

CALL TO ORDER

The meeting was called to order at or about 7:00 PM.

ROLL CALL

Present: Members Brian Burke, Victor Cassis, David Greco, Michael Lynch, Michael Meyer, Mark Pehrson, Wayne Wrobel

Absent: John Avdoulos (Excused), Andrew Gutman (Excused)

Also Present: Barbara McBeth, Deputy Director of Community Development; Kristen Kapelanski, Planner; Lindon Ivezaj, Civil Engineer; Kristin Kolb, City Attorney

PUBLIC HEARINGS

ZONING ORDINANCE TEXT AMENDMENT 18.226

The Public Hearing was opened for Planning Commission's recommendation to City Council for an ordinance to amend Ordinance No. 97-18, as amended, the City of Novi Zoning Ordinance to modify the standards for the number of days certain Zoning Board of Appeals rulings are valid.

Member Wrobel asked whether he should recuse himself from hearing this Public Hearing because he also sits on the ZBA. Chair Cassis did not think that was necessary.

Planner Kristen Kapelanski said these changes relate to Section 3107 of the Zoning Ordinance. Staff suggests that modifications be made regarding the length of time ZBA variances are valid. The members of the ZBA recommended changing the time frame for a building permit to be applied for and used from ninety days to 180 days, as variances sometimes expire prior to an Applicant being able to finalize his plans. Without the extension from the board, the variance is no longer valid. Under the proposed text amendment, the use variance would remain at ninety days.

No one from the audience wished to speak and no correspondence was received so Chair Cassis closed the Public Hearing.

Member Lynch asked whether the need for this text amendment was necessary because the City's process is too slow. He said the easy thing to do is to extend the timeframe a variance is valid. He wanted to ensure that the City continues to monitor its own process and streamline it where possible. Deputy Director of Community Development Barbara McBeth responded that previously the requests for variances could not go forward without the plans; now the ZBA will consider requests based on the plot plan first. That said, the plans will be reviewed only after a request has been granted, potentially saving homeowners substantial money because now they aren't developing building plans until they know the variances have been granted. This is more customer-service friendly. Member Lynch was glad to have this explanation be part of the record.

Member Wrobel said this was to help the residents out with their building process. Not everything runs like clockwork, especially when residents are trying to manage their projects on their own.

Moved by Member Pehrson, seconded by Member Burke:

ROLL CALL VOTE ON TEXT AMENDMENT 18.226 POSITIVE RECOMMENDATION MOTION MADE BY MEMBER PEHRSON AND SECONDED BY MEMBER BURKE:

In the matter of Zoning Ordinance Text Amendment 18.226 relating to standards for the number of days certain ZBA rulings are valid, motion to send a positive recommendation to City Council. Motion carried 7-0.