STATE OF MICHIGAN, COUNTY OF OAKLAND
CHARTER TOWNSHIP OF WEST BLOOMFIELD

ORDINANCE NO. C-614-B

TEXT AMENDMENT TO ZONING ORDINANCE
(Condemnation Nonconformities)

An Ordinance to amend the Zoning Ordinance, codified in Chapter 26 of the Charter Township of West Bloomfield Code of Ordinances, to provide regulations for lots, buildings, structures and improvements that become nonconforming as a result of property acquisitions for public purposes by public agencies.

THE CHARTER TOWNSHIP OF WEST BLOOMFIELD ORDAINS:

Section 1 of Ordinance

Section 26-26, Nonconforming lots, structures and uses, in Article II of the Zoning Ordinance, codified in Chapter 26 of the Charter Township of West Bloomfield Code of Ordinances, is amended by adding a new subsection (i) to read as follows:


(a) - (h) [Unchanged]

(i) Condemnation nonconformities. The regulations in this subsection (i) shall apply to lawfully existing and conforming lots, buildings, structures and improvements that become nonconforming with one or more regulations in this chapter as a result of a property acquisition for a public purpose by a public agency, referred to in this section as “acquisition.” When used in this section, “improvement” means conditions required on a lot by this chapter or an approval granted under it, including but not limited to landscaping, landscaped yards, screen walls or fences, greenbelts, site lighting, trash containers and enclosures, open spaces and preservation areas.

(1) Subject to and conditioned on issuance of a certificate of occupancy under subsection (5), the size, width and percentage of a lot covered by buildings, structures and/or impervious surfaces that results from an acquisition shall be considered to be in conformity with those regulations in section 26-56 or other provisions of this chapter, with that size and width thereafter considered as the minimums required and the coverage thereafter considered as the maximum allowed by this chapter.

(2) Subject to and conditioned on issuance of a certificate of occupancy under subsection (5), the setbacks of a building or structure that result from an acquisition shall be considered to be in conformity with the setback regulations in section 26-56 or other regulations in this chapter, with those setbacks thereafter considered as the minimums required by this chapter.

(3) Subject to and conditioned on a planning commission determination under
subsection (6), if an acquisition results in alteration or removal by or at the direction of the acquiring public agency of part of a building, structure or improvement, any parts remaining shall be considered to be in conformity with the regulations in this chapter.

(4) A property owner that desires to alter or remove part of a building, structure or improvement after an acquisition may apply to the planning commission for a determination that any parts remaining be considered to be in conformity with the regulations in this chapter as provided in subsection (6).

(5) The existence, nature and extent of a conforming lot, building or structure status recognized in subsections (1) and (2) must be documented by a certificate of occupancy applied for and issued as provided in section 26-305.

(6) The existence, nature and extent of a conforming building, structure or improvement status recognized in subsections (3) and (4) must be documented by and shall be subject to conditions imposed in a planning commission determination as provided in this subsection, which shall be by a site plan or amendment approval under section 26-40 for all lots except one-family residences.

a. Applications shall include an accurate plan of the lot that shows and describes:

1. The pre-acquisition compliance with this chapter of the building, structures and improvements for which conforming status is recognized and sought.

2. The portions of the lot acquired by the public agency and any restrictions on that area if acquired by easement.

3. Any removals or alterations by or at the direction of the acquiring public agency.

4. Any removals or alterations that are not by or at the direction of the acquiring public agency.

5. For each building, structure and improvement for which conforming status is recognized and sought that does not comply with a regulation of this chapter, the nature and extent of noncompliance and the extent and manner in which applicant proposes to partially satisfy the regulation.

b. For each building, structure and improvement for which conforming status is recognized and sought under subsection (3), the planning commission shall determine the requirements and any conditions determined to be necessary for such status based on providing for compliance with this chapter to the extent reasonable and possible, recognizing that full compliance with all regulations may not be possible and that said determination may involve prioritizing the
importance of multiple regulations for which the conforming use status is sought. Buildings, structures and improvements that do not satisfy the requirements and conditions for conforming status determined by the planning commission shall be considered to be nonconforming structures and subject to the provisions in section 26-26(d).

c. For each building, structure and improvement for which conforming status is sought under subsection (4), the planning commission may determine the requirements and any conditions determined to be necessary for such status based on providing for compliance with this chapter to the extent reasonable and possible, recognizing that full compliance with all regulations may not be possible and that said determination may involve prioritizing the importance of multiple regulations for which the conforming use status is sought. Buildings, structures and improvements that the planning commission does not make a determination on or that do not satisfy the requirements and conditions for conforming status determined by the planning commission shall be considered to be nonconforming structures and subject to the provisions in section 26-26(d).

(7) The regulations in this subsection (i) are not intended to and do not limit the availability of variance relief from the zoning board of appeals.

Section 2 of Ordinance

Should any section, subdivision, sentence, clause or phrase of this ordinance be declared by the Courts to be invalid, the same shall not affect the validity of the ordinance as a whole or any other parts not invalidated.

Section 3 of Ordinance

Except as expressly set forth above, the Zoning Ordinance shall remain in full force and effect.

Section 4 of Ordinance

This Ordinance shall take effect upon the expiration of seven (7) days after publication, unless otherwise provided by law.

CERTIFICATION

I hereby certify that the foregoing ordinance was adopted by Board of Trustees of the Charter Township of West Bloomfield at a meeting of the Board duly called and held on September 22, 2008.

CHARTER TOWNSHIP OF WEST BLOOMFIELD

By: [Signature]

SHARON A. LAW, Township Clerk

INTRODUCED: September 8, 2008
ADOPTED: September 22, 2008
PUBLISHED: September 28, 2008