



**ZONING BOARD OF APPEALS**  
**Thursday, November 19, 2020**  
**City of New Buffalo**  
**224 W. Buffalo Street**  
**New Buffalo MI 49117**

**AGENDA**

1. Call to Order
2. Roll Call
3. Approval of Agenda
4. Approval of Previous Minutes- May 22, 2020
5. Public Comment
6. Public Hearing
  - a. Variance Request 116 N. Smith Street 11-62-0340-0099-02-8
  - b. Variance Request 120 W. Buffalo Street 11-62-0340-0259-02-5
  - c. Variance Request 123 S. Thompson Street 11-62-6750-0147-04-4
  - d. Variance Request 529 N. Drive 11-62-0009-0003-16-6
7. New Business
  - a. Variance Request 116 N. Smith Street 11-62-0340-0099-02-8
  - b. Variance Request 120 W. Buffalo Street 11-62-0340-0259-02-5
  - c. Variance Request 123 S. Thompson Street 11-62-6750-0147-04-4
  - d. Variance Request 529 N. Drive 11-62-0009-0003-16-6
8. Adjournment

The Special Meeting for May 22, 2020 of the Zoning Board of Appeals was called to order by Vice-Chair, Arlene Pokuta at 5:03 pm on a virtual Zoom meeting hosted by New Buffalo City Hall, 224 W. Buffalo Street, New Buffalo, MI 49117.

**Roll Call**

Members present: All board members present. Vice-Chair, Arlene Pokuta; Boardmembers Richard Cooper, Mark Joseph, Thomas Smith and Brandon McSmith

Staff present: City Manager, David Richards; City Clerk, Ann Fidler; Deputy Clerk, Nancy Griffin.

**Approval of Agenda**

Motion by Boardmember Smith, seconded by Joseph to approve the agenda:  
roll call vote, motion carried, 5/0.

**Approval of Previous Minutes**

Motion by Boardmember Smith, seconded by Cooper to approve the previous minutes from January 7, 2020:  
roll call vote, motion carried, 5/0.

**Public Comment**

None

**Open Public Hearing**

Motion by Boardmember Smith, seconded by Joseph to open public hearing:  
roll call vote, motion carried, 5/0.

**Public Hearing**

**Variance Request 718 W. Indiana Street 11-62-8270-0017-00-4 allowing a six-foot (6') privacy fence to shield use of a proposed pool in the front yard of W. Indiana Street.**

No comments

**Close Public Hearing**

Motion by Boardmember Joseph, seconded by Smith to close public hearing:  
roll call vote, motion carried, 5/0.

**New Business**

**Variance Request 718 W. Indiana Street 11-62-8270-0017-00-4 allowing a six-foot (6') privacy fence to shield use of a proposed pool in the front yard of W. Indiana Street.**

Motion by Vice-Chair Pokuta, seconded by Smith to **approve** the variance request for 718 W. Indiana Street 11-62-8270-0017-00-4 allowing a six-foot (6') privacy fence to shield use of a proposed pool in the front yard of W. Indiana Street according to the following findings:

- The circumstances of this property are not comparable to adjacent properties as it experiences two (2) front yards

- The variances will have limited detriment to adjacent properties and the neighborhood
  - The variance will not impair the intent and purpose of the Zoning Ordinance:
- roll call vote, motion carried, 5/0.

**Board Comments**

Mark Joseph asked if the property was a short-term rental and the answer was yes.

**Adjournment**

Motion by Boardmember Joseph, seconded by Smith to adjourn the meeting at 5:18 pm.

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**Arlene Pokuta, Zoning Board of Appeals Vice-Chair**

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**Ann M. Fidler, City Clerk**



City of New Buffalo  
**Zoning Board of Appeals  
Staff Report**

**Hearing Date:** November 19, 2020

**Project Number:** 11.19.2022

**Applicant:** Anthony Zeoli

**Subject Property Address:** 116 N Smith Street, New Buffalo, MI 49117

**Nature of the Request:** Allow construction of a pool within 10' of a lot line or main structure and 1' from the property line.

**Zoning District:** R1 Residential

### **Overview**

The applicant requests the opportunity to construct a 18'x36' pool within 1' of the property line and 6' from the existing coach house. below.

*The property at 116 N. Smith Street is currently being renovated and utilized as a single family residence and the dwelling constitutes an allowable primary structure. The applicant requests to construct a pool within 1' of the property line and within 6' of the existing coach house. The property encompasses 117 S. Mayhew and 112 N. Smith Street or 19,975 square feet. The pool must be surrounded by a 4' structure with gates.*

**Recommendation:** Upon review of the application materials, validation of the facts reported, site inspections and evaluation of each of the criteria required for review and noted in this staff report, it is the recommendation of the Zoning Administrator to approve both the requested side yard setback variance and allow the variance to construct the pool within 6' of the coach house.

Zoning Ordinance Provisions

**Section 3-14, SWIMMING POOLS**

B. Swimming pools shall not be located less than 10' from any lot line or any main building. The coach house is an accessory building and does not require a variance.

### **Section 21-5 JURISDICTION**

The Zoning Board of Appeals shall not have the power to make any change in the terms of this Ordinance, but does have power to act on those matters where this Ordinance provides for an administrative review, interpretation, and to authorize a variance as defined in this Section and the laws of the State of Michigan. The powers of the Zoning Board of Appeals include:

#### **B. Granting of Variances**

A variance from the specific requirements of this Ordinance may be granted by the Zoning Board of Appeals in accordance with the requirements and procedures of this Article.

### **SECTION 21-8 VARIANCE PROCEDURES**

#### **A. Authority for Variances**

The Zoning Board of Appeals, after public hearing, shall have the power to grant requests for variances from the provisions of this Ordinance where it is proved by the applicant that there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of the Ordinance relating to the construction, equipment, or alteration of buildings or structures so that the spirit of the Ordinance shall be observed, public safety secured and substantial justice done.

#### **B. Granting of Non-Use Variances**

A non-use variance may be allowed by the Zoning Board of Appeals only in cases where there is reasonable evidence of practical difficulty in the official record of the hearing and that all of the following conditions are met:

1. That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same zoning district;

*There are no apparent extraordinary circumstances applying to the subject property making compliance impossible. The proposed pool is 18'x36' and it seems a smaller pool may require a lesser variance and be a reasonable request unless the property owner can explain why a pool of such large dimensions is essential.*

2. That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations. Unique circumstances include: exceptional narrowness, shallowness or shape of a specific property on the effective date of this Article, or by reason of exceptional topographic conditions or other extraordinary situation on the land, building or structure or by reason of the use or development of the property immediately adjoining the property in question, the literal enforcement of the requirements of this Article would involve practical difficulties;

*The location of the coach house presents a dimensional, topographical or other characteristics that should be considered a practical difficulty.*

3. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.

*This variance is not necessary for the preservation and enjoyment of any substantial property right similar to that possessed by other properties in the same zoning district.*

4. The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.

*The variance will not be detrimental to adjacent properties nor the surrounding neighborhood.*

5. The variance will not impair the intent and purpose of this Ordinance.

*Granting a variance will impair the intent and purpose of the City of New Buffalo's Zoning Ordinance by limiting the authority of the building permitting and inspection process.*

6. That the immediate practical difficulty causing the need for the variance request was not created by any action of the applicant.

*The variance requested is not created by the proposed actions of the property owner.*

## **SECTION 21-6 DECISIONS**

### **D. Decisions**

1. The concurring vote of a majority of the membership of the Board shall be required to reverse an order, requirement, decision, or determination of an administrative official or body, or to decide in favor of the applicant a matter upon which the Board is required to pass, or to effect a variation in the ordinance; except that a concurring vote of two-thirds (2/3) of the membership shall be necessary to grant a use variance.

2. The Zoning Board of Appeals shall render its decision upon any appeal or application submitted to it within sixty (60) days after the hearing thereon.

3. All decisions of the Zoning Board of Appeals shall become final five (5) days after the date of entry of an order, unless the Board shall find, and so certify on the record, that it is necessary to cause such order to have immediate effect, in order to preserve property or personal rights.

4. Any variance granted by the Board shall only be valid for a period of twelve (12) months from the date of approval, unless substantial construction, as determined by the Board, has occurred and is progressing meaningfully toward completion. The Board may grant up to an additional twelve (12) month extension, if requested by the property owner in writing prior to the expiration of the original twelve (12) month period, upon showing that the expiration of the variance will cause an undue hardship on the owner.

### **E. Record of Actions**

For each decision of the Zoning Board of Appeals, a record shall be prepared. Such record shall include, at a minimum, the following items:

1. Description of the applicant's request.
2. The Zoning Board of Appeal's motion including an explanation of how the request meets each standard outlined in Sec. 21-8 B, for Non-Use Variances, or Sec. 21-8 C, for Use Variances, or conversely, an explanation of how the request does not meet each said applicable standard.
3. The Board's vote on the motion.
4. A summary or transcription of all relevant material and evidence presented at hearing; and,
5. Any conditions attached to an affirmative decision.

Respectfully submitted,

David Richards, City Manager



City Staff  
Use Only

Project Name  
Project Number  
Review Fee Paid  
Escrow Fee Paid

**APPLICATION TO: PLANNING COMMISSION ZONING BOARD OF APPEALS**

224 W Buffalo St, New Buffalo, MI 49117 City Hall: 269-469-1500 Building Dept: 269-469-7144 Facsimile: 269-469-7917

Instructions: Fill-in all blanks and 'X' applicable boxes ( ). Incomplete applications cannot be processed.

**I. Applicant and Owner Information**

A) Applicant(s) principal contact:

Name Anthony Zeoli  
Address   
Telephone 

E) Property owner(s) principal contact:

Name Anthony Zeoli  
Address   
Telephone 

B) Applicant(s) secondary contact:

Name N/A  
Address \_\_\_\_\_  
Telephone \_\_\_\_\_

F) Architect (if applicable):

Name N/A  
Address \_\_\_\_\_  
Telephone \_\_\_\_\_

C) Agent or Attorney (if applicable):

Name Self Represented (attorney)  
Address \_\_\_\_\_  
Telephone \_\_\_\_\_

G) Engineer (if applicable):

Name N/A  
Address \_\_\_\_\_  
Telephone \_\_\_\_\_

D) Is the property held in Trust\*:

Yes - Answer below  No - Skip below

Name of Trust \_\_\_\_\_  
Address \_\_\_\_\_  
Telephone \_\_\_\_\_

H) Applicant is (check one):

Property owner  
Attorney  
Agent  
Engineer  
Other: \_\_\_\_\_

\* Trusts: Provide an attached statement from the trustee verifying the names of all the beneficial owners.



**II. Purpose of Application**

A) This application is a request for the following action:

- |  |  |                      |
|--|--|----------------------|
| Rezoning of Property                     | Subdivision Approval                                     | Site Plan Approval   |
| Rezoning Amendment                       | <input checked="" type="checkbox"/> Variance(s) Approval | Special Use Approval |
| Lot Split – Subdivision or Land Division | Other: _____   |                      |

B) The reasons for the requested action(s) are as follows:

Requesting a variance from the building requirement that there be a 10 ft setback from any structure/lot line to permit the building of an 18 ft x 36 ft pool within 1 ft from the adjacent lot line of the property and within 6 ft of the existing coach house on the premises. A general depiction of the proposed project is attached.

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C) The specific section(s) of the City Zoning Ordinance or City General Ordinances which addresses the amendment, variance, or other action which is being requested:

Existing 10' setback rules.

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D) The following two questions are only for applications which contain a request for a zoning variance:

1. Are the conditions which prevent the development of the property the result of action by an individual who has or had a property interest in the subject property:      Yes      No

2. If the conditions were self-imposed (not hardship), explain why the variance should be granted:

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**III. Site and Surrounding Property Information**

A) Common address or property location of subject property:

116 N Smith Street, New Buffalo, MI 49117 (Note premises also encompasses 117 S Mayhew and 112 N Smith)

B) Legal description (attach an additional sheet if necessary):

See Attached.

C) Permanent Real Estate Tax Identification Number: See Attached.

D) Parcel Size: 19,975 Square feet

\_\_\_\_\_ Acres

\_\_\_\_\_ Dimension of lot frontage

\_\_\_\_\_ Dimension of lot depth

E) What are the current land uses and zoning on the property and the adjoining properties:

	Current zoning	Current land use
1. On Site:	<u>Residential; Single Family</u>	<u>Residential; Single Family</u>
2. Adjoining property:		
a) North of Site	<u>Residential; Single Family</u>	<u>Residential; Single Family</u>
b) South of Site	<u>Residential; Single Family</u>	<u>Residential; Single Family</u>
c) East of Site	<u>Residential; Single Family</u>	<u>Residential; Single Family</u>
d) West of Site	<u>Residential; Single Family</u>	<u>Residential; Single Family</u>

F) Describe any existing structures or other improvements and physical attributes of the site:

Front SF House; Separate Coach House

IV. Description of the Proposed Development

A) Please describe the proposed use of the land and/or building assuming approval of the request: Residential; Single Family; Only adding a new pool.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

B) What is the proposed time frame for the build-out of this development: 4 Months

C) For each intended use please fill-in the number of buildings, square footage of each building, the total square footage of the development, and the required number of parking spaces; as well as the number and size of the water and the sewer connections:

Building Use	Number of Buildings	Building Area (sq ft)	Total Building (sq ft)	Required Parking Spaces	Water Connections and Sizes	Sewer Connections and Sizes
Single Family R-1	N/A					
Two Family R-2	N/A					
Mufty-Family R-3	N/A					
Central Business CBD	N/A					
Gen. Commercial GCD	N/A					
Waterfront Marina WM	N/A					
General Industrial I-1	N/A					
TOTAL	N/A					

D) If this application is for a development please provide information concerning the amount of traffic and the proposed road configuration it will have:

- 1) Average daily traffic count for the proposed development: N/A
- 2) Peak traffic flow count for the proposed development: N/A
- 3) How many lineal feet of roadway is proposed to be developed: N/A
- 4) How many cul-de-sacs will be constructed as part of this project: N/A
- 5) How many curb cuts to City, County or State roads are proposed: N/A

E) Does the request contemplated in this application concern any hazardous materials:  
 No Yes – describe the type and quantity of materials (attach extra pages if necessary):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

V. Attachments

- A)  Plat of Survey with legal description.
- B) \_\_\_\_\_ Site plan of proposed use of project showing traffic patterns, parking locations and court, drainage patterns including detention areas, landscaping plans, exterior lighting locations and illumination pattern, building facade portrait and building size and location dimensions.
- C) \_\_\_\_\_ Floodplain map (engineer's drawing or FEMA map showing location of subject property).
- D)  Application fee in the amount of \$ 350.
- E) \_\_\_\_\_ High Risk Dune Area Designation and/or Soil Conservation Analysis (if applicable).
- F) \_\_\_\_\_ Application for permits (specify type):
  - 1) Michigan DOT \_\_\_\_\_
  - 2) County Road Commission \_\_\_\_\_
  - 3) County Health Department \_\_\_\_\_
  - 4) State Dept. of Public Health \_\_\_\_\_
  - 5) Michigan DEQ \_\_\_\_\_
  - 6) Others \_\_\_\_\_
- G) \_\_\_\_\_ Sand Dune Permit for Construction (if applicable).

VI. Additional Information - Please describe the reasons this petition should be granted and include any additional comments or pertinent information (attach additional pages if necessary):

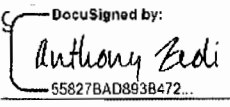
We are rennovating this old house to eventually become our vacation home and potentially a permanent one. The proposed location in the attached is the most ideal location for the pool and we would just really like to be able to put in the proposed pool to better enjoy the house. For reference , the lot line adjacent to the proposed pool location does not butt up against any neighboring structures and would not inconvenience their use or privacy.

**VII. Signature and Declaratory Statement**

A) Required attendance at public hearing(s) and/or meeting(s): The Planning Commission and Zoning Board of Appeals (ZBA) have established a policy requiring the applicant or a designated representative of the applicant to be present at any meeting or public hearing at which their application is to be considered. Failure of the applicant or designee of the applicant to appear may postpone consideration of the application by the Planning Commission or ZBA.

B) Declaratory Statement:

I, Anthony Zeoli, hereby certify that all information contained in this application and accompanying documentation is true and correct to the best of my knowledge and further, I acknowledge the required attendance of the applicant as set forth in paragraph A above. I furthermore grant permission for identified members of the City of New Buffalo's Planning Commission or Zoning Board of Appeals to visit the site(s) referenced in this application.

C) Applicant Signature:  Date: 10/1/2020

D) Notary Public Certification Statement:

I, \_\_\_\_\_, Notary Public in and for the State of Michigan this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ the above captioned applicant appeared before me and under oath, stated that all matters contained in this application are true.

My commission expires: \_\_\_\_\_

**VIII. City Staff Review**

A) Fire Department approval of Site and Building Plans, except for single family dwellings: This application and associated documentation must be reviewed by the Fire Chief or his designee, which can be arranged by calling the Fire Department: 269-469-4993.

Review Date: \_\_\_\_\_

Approval:      Yes              No              Signature: \_\_\_\_\_

Conditions:    Attached      None            Title: \_\_\_\_\_

B) Note to applicant: The original application must be filed in the Office of the Zoning Administrator, where the following signatures are required for verification that this is a complete and valid application to be considered by the Planning Commission or the Zoning Board of Appeals.

Building Inspector: \_\_\_\_\_

Date: \_\_\_\_\_

Zoning Administrator:  \_\_\_\_\_

Date: 10/25/2020

Initial meeting date: \_\_\_\_\_

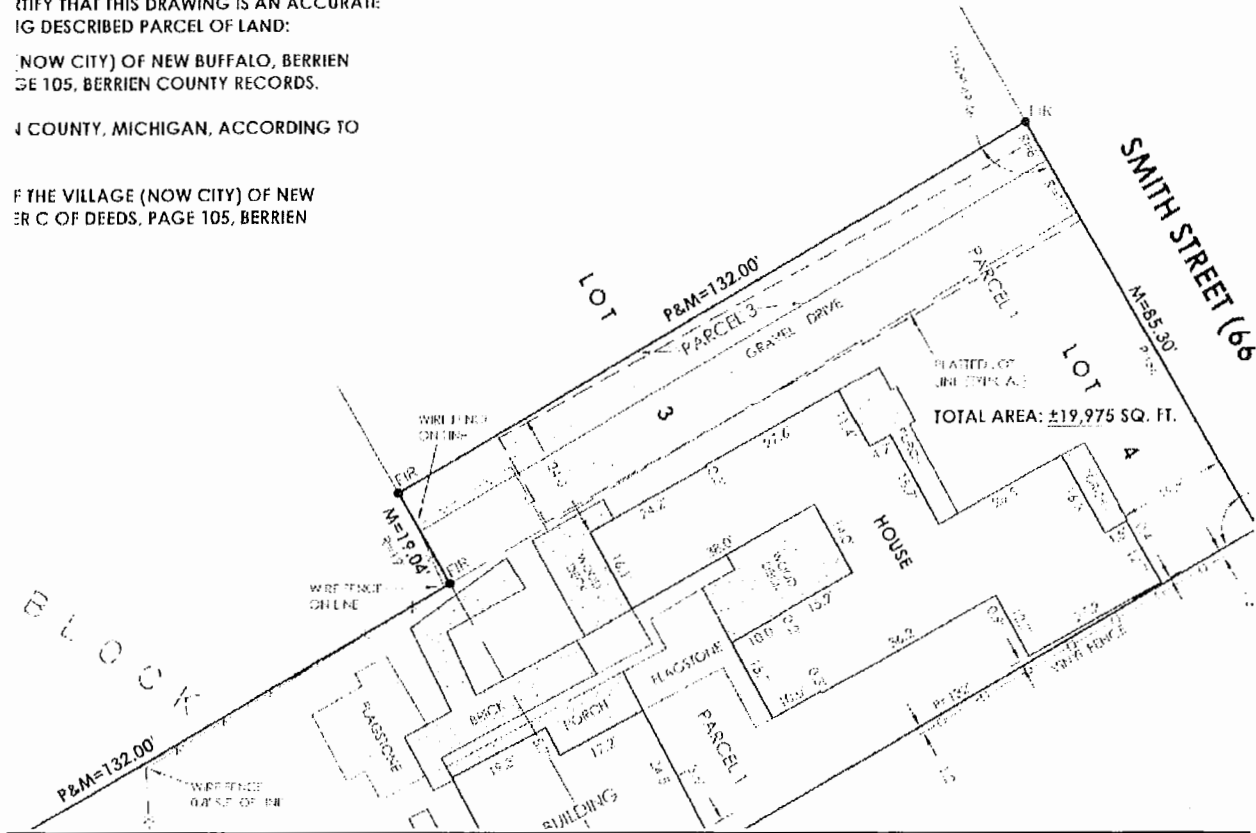
**EXISTING**

CERTIFY THAT THIS DRAWING IS AN ACCURATE  
EXISTING DESCRIBED PARCEL OF LAND:

(NOW CITY) OF NEW BUFFALO, BERRIEN  
COUNTY RECORDS, PAGE 105, BERRIEN

WASHTENAW COUNTY, MICHIGAN, ACCORDING TO

DEED FOR THE VILLAGE (NOW CITY) OF NEW  
BUFFALO, COUNTY OF DEEDS, PAGE 105, BERRIEN



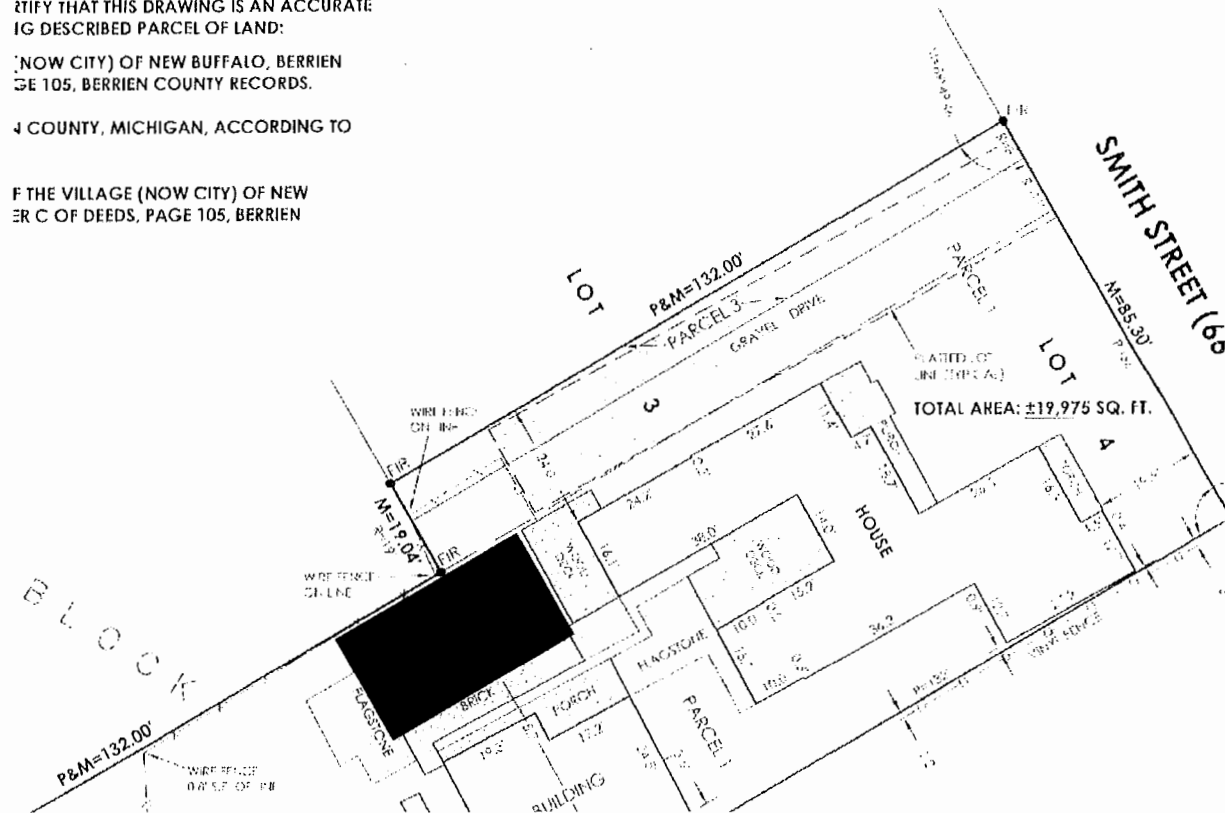
**PROPOSED (Pool Location In Black)**

CERTIFY THAT THIS DRAWING IS AN ACCURATE  
EXISTING DESCRIBED PARCEL OF LAND:

(NOW CITY) OF NEW BUFFALO, BERRIEN  
COUNTY RECORDS, PAGE 105, BERRIEN

WASHTENAW COUNTY, MICHIGAN, ACCORDING TO

DEED FOR THE VILLAGE (NOW CITY) OF NEW  
BUFFALO, COUNTY OF DEEDS, PAGE 105, BERRIEN



**Legal Description:**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF BERRIEN, STATE OF MICHIGAN, AND IS DESCRIBED AS FOLLOWS:

Situated in the City of New Buffalo, County of Berrien, State of Michigan

Parcel 1: Lot 4 and the Southerly 11 feet of Lot 3, Block 9, Original Plat of the Village (now City) of New Buffalo, according to the plat thereof as recorded in Liber C of Deeds, Page 105, Berrien County Records.

Parcel 2: Lot 9, Block 9, Original Plat of the Village (now City) of New Buffalo, according to the plat thereof as recorded in Liber C of Deeds, Page 105, Berrien County Records.

Parcel 3: The Southerly 8 feet of the Northerly 55 feet of Lot 3, Block 9, Original Plat of the Village (now City) of New Buffalo, according to the plat thereof as recorded in Liber C of Deeds, Page 105, Berrien County Records.]

**Tax PINs**

117 S Mayhew - 11-62-0340-0105-00-1

112 N Smith - 11-626-0340-0098-05-6

116 N Smith - 11-62-0340-0099-02-8

# CERTIFICATE OF SURVEY

I, MATTHEW REINKING, A LICENSED PROFESSIONAL SURVEYOR, NUMBER 54057, IN MICHIGAN, CERTIFY THAT THIS DRAWING IS AN ACCURATE REPRESENTATION OF A BOUNDARY SURVEY PERFORMED UNDER MY DIRECTION FOR THE FOLLOWING DESCRIBED PARCEL OF LAND:

PARCEL 1: LOT 4 AND THE SOUTHERLY 11 FEET OF LOT 3, BLOCK 9, ORIGINAL PLAT OF THE VILLAGE (NOW CITY) OF NEW BUFFALO, BERRIEN COUNTY, MICHIGAN, ACCORDING TO THE PLAT THEREOF AS RECORDED IN LIBER C OF DEEDS, PAGE 105, BERRIEN COUNTY RECORDS.

PARCEL 2: LOT 9, BLOCK 9, ORIGINAL PLAT OF THE VILLAGE (NOW CITY) OF NEW BUFFALO, BERRIEN COUNTY, MICHIGAN, ACCORDING TO THE PLAT THEREOF AS RECORDED IN LIBER C OF DEEDS, PAGE 105, BERRIEN COUNTY RECORDS.

PARCEL 3: THE SOUTHERLY 8 FEET OF THE NORTHERLY 55 FEET OF LOT 3, BLOCK 9, ORIGINAL PLAT OF THE VILLAGE (NOW CITY) OF NEW BUFFALO, BERRIEN COUNTY, MICHIGAN, ACCORDING TO THE PLAT THEREOF AS RECORDED IN LIBER C OF DEEDS, PAGE 105, BERRIEN COUNTY RECORDS.

*Matthew Reinking*

MATTHEW REINKING  
LICENSED PROFESSIONAL SURVEYOR No. 54057

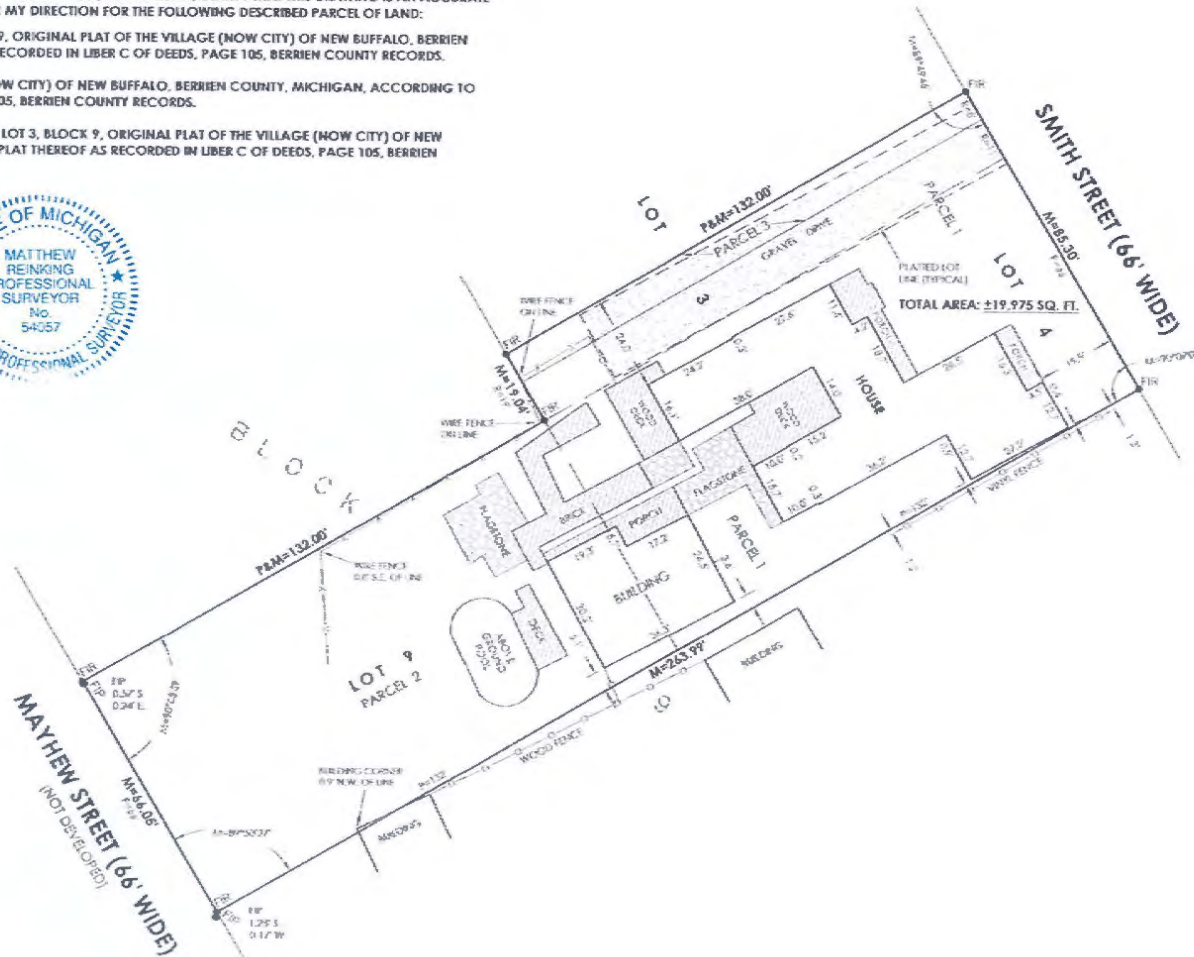


2/27/2019

DATE OF CERTIFICATE

CERTIFIED TO:

ANTHONY ZEDU  
PREMIER TITLE  
CHICAGO TITLE INSURANCE COMPANY



## LEGEND

- R = RECORDED
- P = PLATTED
- M = MEASURED
- IR = FND. IRON ROD
- IB = FND. IRON PIPE



SCALE: 1" = 30'



THIS SURVEY WAS BASED ON THE INCORPORATED LEGAL DESCRIPTION AS APPEARS ON A CERTAIN PREVIOUS SURVEY AND WHEREIN COMPARED WITH THE RECORDS OF THE COUNTY RECORDS AND THE RECORDS OF THE COUNTY RECORDS, AND THE RECORDS OF THE COUNTY RECORDS, AND THE RECORDS OF THE COUNTY RECORDS.

NO.	REVISION DESCRIPTION:	BT:	DATE:
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**ABONMARCHÉ**

16 West Main Street  
Benton Harbor, MI 49023  
1-269-927-2299  
1-269-927-1017  
abonmarche.com  
L2706/1071-ABONMARCHÉ/2019/05/10  
E-Verify Available for Hiring

PROJECT:  
**LOTS 4 & 9, PART OF LOT 3  
BLOCK 9  
PLAT OF NEW BUFFALO  
BERRIEN COUNTY, MI**

SUBJECT:  
**BOUNDARY SURVEY  
AND LOCATION  
116 N. SMITH STREET  
NEW BUFFALO, MICHIGAN**

DATE: 2/27/2019  
SCALE: HORIZ. 1" = 30'  
VERT. NONE  
JOB NO.: 19-0252



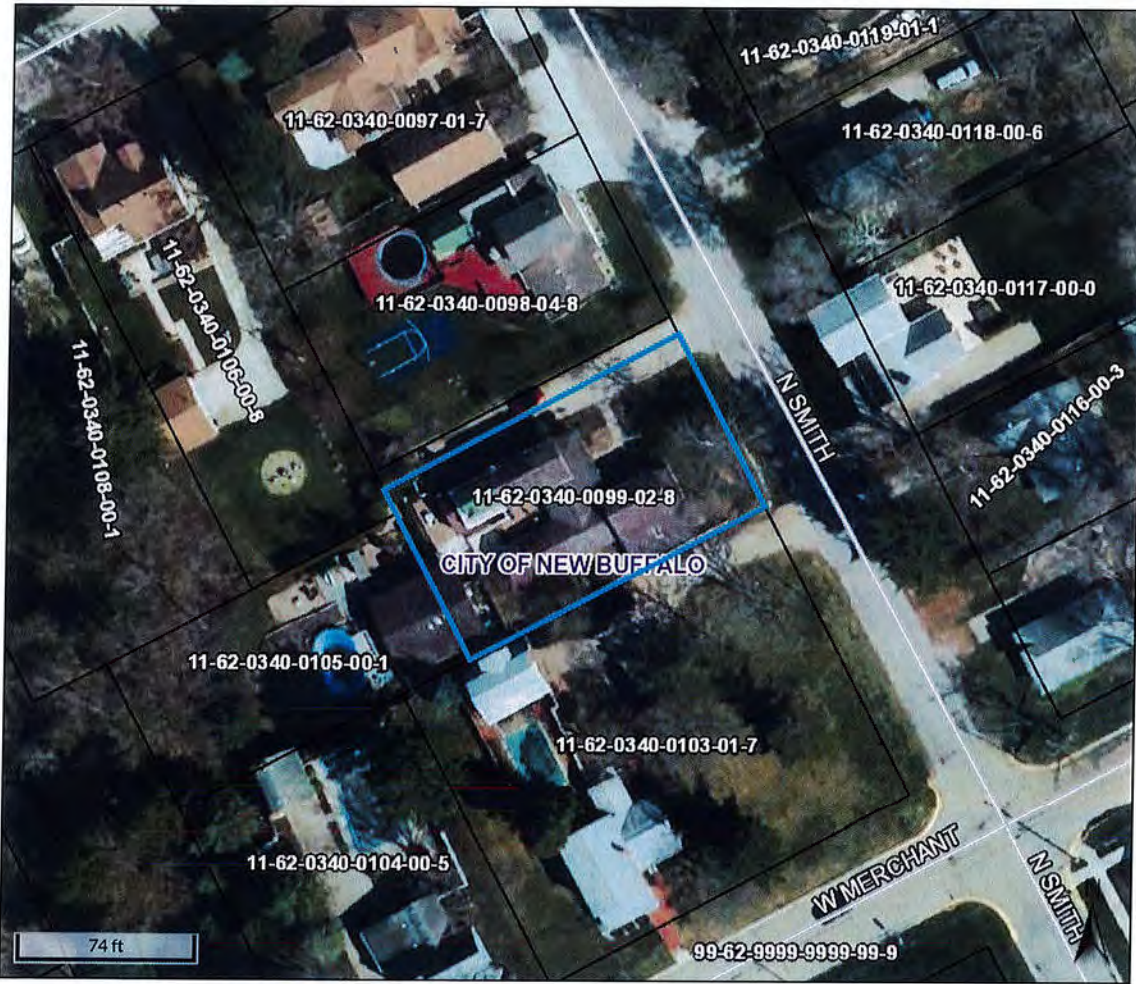
*City of New Buffalo, MI  
Sunday, October 25, 2020*

## Appendix A. Zoning Ordinance

### Article 3. General Provisions

#### Section 3-14. Swimming pools.

- A. Every person owning land on which there is located a swimming pool, spa, hot tub, or similar device (below ground or above ground) which contains 24 inches or more of water in depth at any point, shall ensure that such device is made inaccessible to small children by means of a fence or enclosure surrounding the device or due to the height of the side walls, which means shall be approved by the Zoning Administrator. Such side walls, fence or enclosure, including the gates, shall not be less than four feet or greater than six feet above grade. All gates shall be self-latching with latches placed no less than four feet above grade or otherwise made inaccessible from the outside to small children.
- B. Swimming pools shall not be located less than 10 feet from any lot line or any main building.
- C. Swimming pools, spas, hot tubs and similar devices shall not be located in any front yard.
- D. No pool, spa, hot tub, or similar device regulated by this section shall be constructed, installed, enlarged, or altered until a permit has been obtained from the Zoning Administrator.



Overview

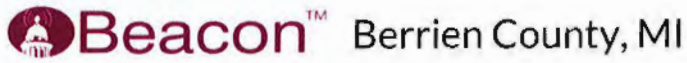


Legend

- Railroads
- Roads
  - <all other values>
  - Interstate
  - Major Arterial
  - Minor Arterial
  - Roads
- ▭ Parcels
- ▭ Lakes
- Rivers
- ▭ Parcel
- ▭ Lake Michigan

Parcel ID	11-62-0340-0099-02-8	Alternate ID	n/a	Owner Address	ZEOLI ANTHONY J
Sec/Twp/Rng	n/a	Class	401		2558 W CORTLAND AVE
Property Address	116 N SMITH ST NEW BUFFALO	Acreage	n/a		CHICAGO, IL 60647
District	11200				
Brief Tax Description	LOT 4 & THE SLY 11' OF LOT 3 BLK 9 VILLAGE PLAT OF NEW BUFFALO				
	(Note: Not to be used on legal documents)				

Date created: 10/25/2020  
 Last Data Uploaded: 10/25/2020 1:04:54 AM



**Summary**

Parcel Number 62-0340-0099-02-8  
 Property Address 116 N SMITH ST  
 NEW BUFFALO MI 49117  
 Brief Tax Description LOT 4 & THE SLY 11' OF LOT 3 BLK 9 VILLAGE PLAT OF NEW BUFFALO  
 (Note: Not to be used on legal documents)  
 Class 401  
 School District 11200  
 Map # 009-2  
 Acres 0.00  
 Liber/Page 3230/1971  
 Plate Number 87

**Owners**

Owner Tax Payer  
 ZEDLI ANTHONY J  
 2558 W CORTLAND AVE  
 CHICAGO, IL 60647

**Valuation**

Year	Assessed Value	State Equalized Value	Taxable Value
2019	\$183,500	\$183,500	\$136,711
2018	\$154,600	\$154,600	\$134,162
2017	\$143,300	\$143,300	\$131,018

Berrien County assumes no legal responsibility for the information contained herein, which is provided "AS IS" with no warranties of any kind.

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[GDPR Privacy Notice](#)

Last Data Upload: 10/25/2020 1:04:54 AM

[Version 2.3.92](#)



PAID  
OCT 07 2020  
City of New Buffalo



PAID  
OCT 07 2020  
City of New Buffalo

EMAIL: [manager@cityofnewbuffalo.org](mailto:manager@cityofnewbuffalo.org)  
WEBSITE: [www.cityofnewbuffalo.org](http://www.cityofnewbuffalo.org)  
Authority: 1972 PA 230  
Completion: Mandatory to obtain permit  
Penalty: Permit cannot be issued

269-469-1500  
269-469-7917

**ZONING PERMIT APPLICATION**

A drawing (site plan shown from a "bird's eye" view) indicating property lines, location of all buildings presently on the property and location of the proposed new structure(s), must be submitted with this application. The site plan should also include measurements from your new project to property lines and distances between all buildings. The project must be marked in some way (in ground with stakes or on ground with painted markings). "Change of Use" applicants are exempt from providing a site plan as indicated and instead, will provide a statement of the proposed new use of the existing structure.

**I. Job Location**

JOB Address 116 N Smith Street, New Buffalo, MI 49117	Name of Owner Anthony Zeoli
Name of City, Village or Township in which job is located: ( )	County Berrien

**II. Applicant (Contractor/Property Owner Information)**

Anthony Zeoli  
 Contractor  Owner  
 116 N Smith Street  
 Address  
 New Buffalo City, State MI Zip 49117  
 Telephone Work/Cell Phone Fax

**III. Type of job (PLEASE MARK AS MANY AS ARE APPLICABLE)**

<input type="checkbox"/> New	<input type="checkbox"/> Single Family or Two Family Home Circle One	<input type="checkbox"/> Outbuilding (Barn/ Shed/ Carport) Circle One
<input type="checkbox"/> Addition	<input type="checkbox"/> Mobile Home or Prefab Circle One	<input type="checkbox"/> Garage (Attached/ Detached) Circle One
<input type="checkbox"/> Alteration/Remodel Circle One	<input type="checkbox"/> Fence - Indicate Type Here	<input checked="" type="checkbox"/> Not (XXX) Below Ground Circle One
<input type="checkbox"/> Change of Use (Current Use _____)	<input type="checkbox"/> Foundation Only	<input type="checkbox"/> Commercial Building
<input type="checkbox"/> Other _____	<input type="checkbox"/> Deck/Porch Circle One (Attached/ Detached) Circle One	

**IV. Project Dimensions**

18 Project Width    36 Project Length    \_\_\_\_\_ Project Height (from grade to highest point)    \_\_\_\_\_ # of Floors    \_\_\_\_\_ Total Square Feet

**V. Zoning Questions (PLEASE CIRCLE YES OR NO)**

Does this property have frontage on two roads?	YES	<input checked="" type="checkbox"/> NO
Does this property have lake frontage?	YES	<input checked="" type="checkbox"/> NO
Is there a dwelling presently on this property?	<input checked="" type="checkbox"/> YES	NO
Is there an accessory building presently on this property?	<input checked="" type="checkbox"/> YES	NO
Is the construction located within 500 ft of a lake, stream, or natural body of water?	YES	<input checked="" type="checkbox"/> NO
Will the construction require the moving of one surface acre or more of land?	YES	<input checked="" type="checkbox"/> NO
If construction is for an accessory building, will it contain animals?	YES	<input checked="" type="checkbox"/> NO



## ZONING BOARD OF APPEALS

### STAFF REPORT

**Meeting Date:** November 19, 2020

**Project Number:** 11.19.2024

**Project Name:** A&N Mortgage

**Applicant:** Ms. Neena Vlamis, [REDACTED]

**Property Location:** 120 W. Buffalo, 11-62-0340-259-02-5

**Dimensions:** 132'x132, or approximately 17,427 SF

**Proposed Use:** Commercial – Professional Business Services

**Zoning:** CBD – Central Business District

**Action Requested:** (1) 5' landscape buffer on the commercial side instead of 10'; (2) 10' landscape buffer on the residential side instead of 30'.

#### OVERVIEW

The applicant requests variances to reduce the setbacks on the commercial and residential sides of the property at 120 W. Buffalo to accommodate the construction of a professional office building. Section 10.3 of the City's Zoning Ordinance specifies the required zoning standards. The application submitted is complete.

#### VARIANCES REQUESTED

##### Section 10.3 – Central Business District Site Development Requirements

"Side yard setback:

When abutting non-residentially used or zoned property: 10', however, the Planning Commission may approve up to a zero setback if it can be demonstrated that the lesser setback will not adversely affect adjoining properties, and specifically light availability to existing or proposed buildings employing a common party no side yard shall be required."

When abutting residentially zoned property, 30'.”

In addition, Section 3-28 – LANDSCAPED BUFFER states in order to provide protective screening for residential areas adjacent to or near non-residential areas, a landscaped buffer shall be provided by the no-residential property owners. Such requirements shall be a strip at least 10' in width which is planted and maintained with evergreens ....

### **FINDINGS/RECOMMENDATION**

The circumstances of this property are comparable to the adjacent property.

The applicant has proposed a reasonable solution to the side yard setbacks proposed for the project even agreeing to landscaped buffers in the setbacks requested.

The variances preserve the substantial property rights indistinguishable from other property in the same zoning district.

The variances will have limited detriment to adjacent properties and the surrounding neighborhood.

The variances will not impair the intent and purpose of the Zoning Ordinance.

After review of the application materials, confirmation of the facts reported, site inspections and evaluation of the site development requirements, it is recommended to approve the following variances: (1) 5' landscape buffer on the commercial side instead of 10' (2) 10' landscape buffer on the residential side instead of 30' in compliance with 2 sections allowed by the Zoning Ordinance.

### **Section 21-5 JURISDICTION**

The Zoning Board of Appeals shall not have the power to make any change in the terms of this Ordinance, but does have power to act on those matters where this Ordinance provides for an administrative review, interpretation, and to authorize a variance as defined in this Section and the laws of the State of Michigan. The powers of the Zoning Board of Appeals include:

#### **B. Granting of Variances**

A variance from the specific requirements of this Ordinance may be granted by the Zoning Board of Appeals in accordance with the requirements and procedures of this Article.

### **SECTION 21-8 VARIANCE PROCEDURES**

#### **A. Authority for Variances**

The Zoning Board of Appeals, after public hearing, shall have the power to grant requests for variances from the provisions of this Ordinance where it is proved by the applicant that there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of the Ordinance relating to the construction, equipment, or alteration of buildings or structures so that the spirit of the Ordinance shall be observed, public safety secured and substantial justice done.

#### **B. Granting of Non-Use Variances**

A non-use variance may be allowed by the Zoning Board of Appeals only in cases where there is reasonable evidence of practical difficulty in the official record of the hearing and that all of the following conditions are met:

1. That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same zoning district;

*There are no apparent extraordinary circumstances applying to the subject property making compliance impossible. In fact the property is located in the CBD and the applicant has proposed to create acceptable side yard setbacks not required of existing properties. .*

2. That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations. Unique circumstances include: exceptional narrowness, shallowness or shape of a specific property on the effective date of this Article, or by reason of exceptional topographic conditions or other extraordinary situation on the land, building or structure or by reason of the use or development of the property immediately adjoining the property in question, the literal enforcement of the requirements of this Article would involve practical difficulties;

*The literal enforcement of the Zoning Ordinance would require construction of a project must less desirable than that proposed.*

3. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.

*These variances preserve the enjoyment of any substantial property right similar to that possessed by other properties in the same zoning district.*

4. The variances will not be detrimental to adjacent property and the surrounding neighborhood.

*The variances will not be detrimental to adjacent properties nor the surrounding neighborhood in fact the project will present a significant improvement.*

5. The variances will not impair the intent and purpose of this Ordinance.

*Granting the variances will not impair the intent and purpose of the City of New Buffalo's Zoning Ordinance by limiting the authority of the building permitting and inspection process.*

6. That the immediate practical difficulty causing the need for the variances request was not created by any action of the applicant.

*The variances requested are an improvement to the subject property and surrounding neighborhood.*

## **SECTION 21-6 DECISIONS**

### **D. Decisions**

1. The concurring vote of a majority of the membership of the Board shall be required to reverse an order, requirement, decision, or determination of an administrative official or body, or to decide in favor of the applicant a matter upon which the Board is required to pass, or to effect a variation in

the ordinance; except that a concurring vote of two-thirds (2/3) of the membership shall be necessary to grant a use variance.

2. The Zoning Board of Appeals shall render its decision upon any appeal or application submitted to it within sixty (60) days after the hearing thereon.

3. All decisions of the Zoning Board of Appeals shall become final five (5) days after the date of entry of an order, unless the Board shall find, and so certify on the record, that it is necessary to cause such order to have immediate effect, in order to preserve property or personal rights.

4. Any variance granted by the Board shall only be valid for a period of twelve (12) months from the date of approval, unless substantial construction, as determined by the Board, has occurred and is progressing meaningfully toward completion. The Board may grant up to an additional twelve (12) month extension, if requested by the property owner in writing prior to the expiration of the original twelve (12) month period, upon showing that the expiration of the variance will cause an undue hardship on the owner.

#### **E. Record of Actions**

For each decision of the Zoning Board of Appeals, a record shall be prepared. Such record shall include, at a minimum, the following items:

1. Description of the applicant's request.
2. The Zoning Board of Appeal's motion including an explanation of how the request meets each standard outlined in Sec. 21-8 B, for Non-Use Variances, or Sec. 21-8 C, for Use Variances, or conversely, an explanation of how the request does not meet each said applicable standard.
3. The Board's vote on the motion.
4. A summary or transcription of all relevant material and evidence presented at hearing; and,
5. Any conditions attached to an affirmative decision.

Respectfully submitted,

David Richards, City Manager



City of New Buffalo, MI  
Tuesday, October 27, 2020

## Appendix A. Zoning Ordinance

### Article 10. CBD Central Business District

#### Section 10-3. Site development requirements.

All permitted uses and special land uses are subject to the following site development requirements:

- A. Site plan review is required in accordance with Article 19.
- B. Parking is required in accordance with Article 15.
- C. Signs are permitted in accordance with the requirements of Article 16.
- D. Setbacks, height, area, and lot dimensions are required as noted below.  
[Amended 3-18-2003 by Ord. No. 141]

#### **CBD SETBACK, HEIGHT, AREA AND LOT REQUIREMENTS**

Minimum lot size	8,000 square feet
Minimums lot width	66 feet
Maximum building height	35 feet
Front yard setback	None required
Side yard setback	When abutting nonresidentially used or zoned property: 10 feet, however, the Planning Commission may approve up to a zero setback if it can be demonstrated that the lesser setback will not adversely affect adjoining properties, and specifically light availability to existing or proposed buildings. Where abutting lots have buildings employing a common party wall no side yard shall be required.
Rear yard setback	When abutting residentially zoned property: 30 feet 25 feet
Maximum lot coverage	70% of the total lot area

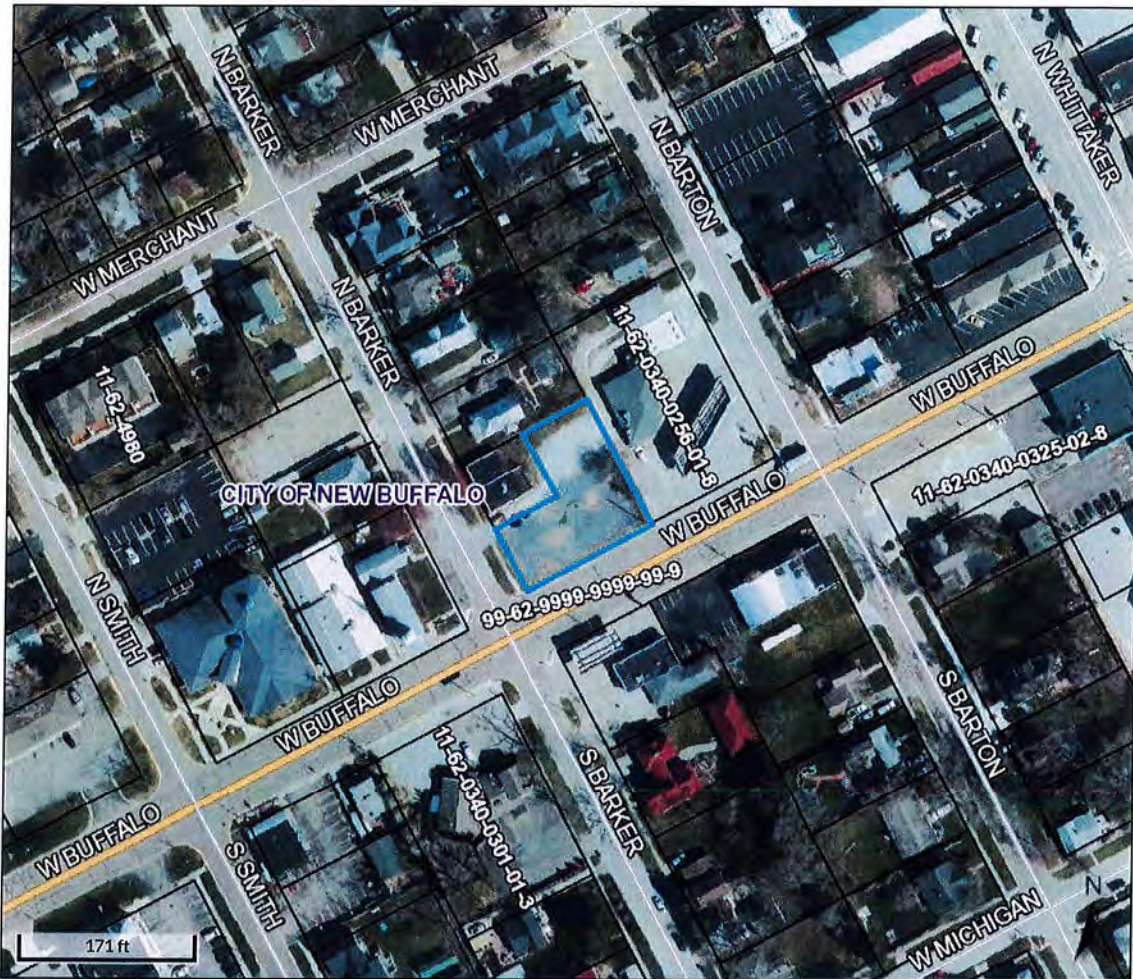
*City of New Buffalo, MI  
Wednesday, October 28, 2020*

## Appendix A. Zoning Ordinance

### Article 3. General Provisions

#### Section 3-28. Landscaped buffer.

- A. In order to provide protective screening for residential areas adjacent to or near nonresidential areas, a landscaped buffer shall be provided by the nonresidential property owners. Such requirement shall be a strip at least 10 feet in width which is planted and maintained with evergreens, such as spruce, pines, or firs at least five feet in height, or a hedge of evergreens at least five feet in height, situated so as to provide an effective sound and visual permanent buffer. The portion of the landscaped area not covered by plantings shall be kept in a healthy growing condition, neat and orderly in appearance.
  
- B. Any shrubs, bushes or other growing plants which project into or across adjacent land may be trimmed back to the property line by the adjacent property owner.



Overview



Legend

- Railroads
- Roads
  - <all other values>
  - Interstate
  - Major Arterial
  - Minor Arterial
- Roads
- Parcels
- Lakes
- Rivers
- Parcel
- Lake Michigan

Parcel ID	11-62-0340-0259-02-5	Alternate ID	n/a	Owner Address	VARTANIAN JOSEPH & MARTIN ARONA
Sec/Twp/Rng	n/a	Class	202		1165 N CLARK ST STE 700
Property Address	120 W BUFFALO ST	Acreage	n/a		CHICAGO, IL 60610
	NEW BUFFALO				

District 11200  
 Brief Tax Description LOT 7 & THE ELY 1/2 OF LOT 8 BLK 22 VILLAGE PLAT OF NEW BUFFALO  
 (Note: Not to be used on legal documents)

Date created: 10/26/2020  
 Last Data Uploaded: 10/26/2020 1:06:00 AM

Developed by  Schneider  
 GEOSPATIAL



**Summary**

Parcel Number 62-0340-0259-02-5  
 Property Address 120 W BUFFALO ST  
 NEW BUFFALO MI 49117  
 Brief Tax Description LOT 7 & THE ELY 1/2 OF LOT 8 BLK 22 VILLAGE PLAT OF NEW BUFFALO  
 (Note: Not to be used on legal documents)  
 Class 202  
 School District 11200  
 Map # 010-1  
 Acres 0.00  
 Liber/Page 2995/71  
 Plate Number 87 COMB

**Owners**

Owner Tax Payer  
 VARTANIAN JOSEPH & MARTIN ARONA  
 1165 N CLARK ST STE 700  
 CHICAGO, IL 60610

**Valuation**

Year	Assessed Value	State Equalized Value	Taxable Value
2019	\$31,500	\$31,500	\$19,564
2018	\$31,500	\$31,500	\$19,200
2017	\$31,500	\$31,500	\$18,750

Berrien County assumes no legal responsibility for the information contained herein, which is provided "AS IS" with no warranties of any kind.

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[GDPR Privacy Notice](#)



Last Data Upload: 10/26/2020 1:06:00 AM

[Version 2.3.92](#)



City Staff Use Only	Project Name
	Project Number
	Review Fee Paid
	Escrow Fee Paid

**APPLICATION TO: PLANNING COMMISSION ZONING BOARD OF APPEALS**

224 W Buffalo St, New Buffalo, MI 49117 City Hall: 269-469-1500 Building Dept: 269-469-7144 Facsimile: 269-469-7917

Instructions: Fill-in all blanks and 'X' applicable boxes ( ). Incomplete applications cannot be processed.

Site

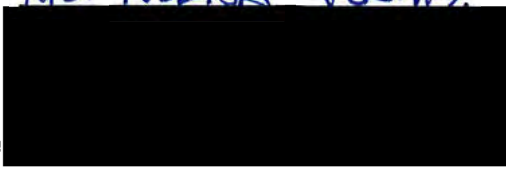


**120 WEST BUFFALO I. Applicant and Owner Information**

A) Applicant(s) principal contact:

Name MS. NEERJA VLAHIS

Address



Telephone

E) Property owner(s) principal contact:

Name

(SAME)

Address



Telephone

B) Applicant(s) secondary contact:

Name

N/A

Address

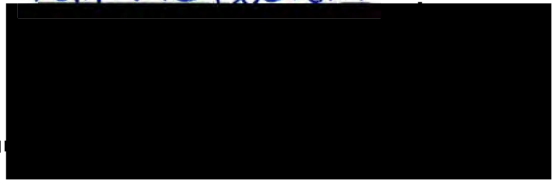
Telephone

F) Architect (if applicable):

Name

WM. MC CORM

Address



Telephone

C) Agent or Attorney (if applicable):

Name

N/A

Address

Telephone

G) Engineer (if applicable):

Name

Address

Telephone

D) Is the property held in Trust\*:

Yes - Answer below

No - Skip below

Name of Trust

Address

Telephone

H) Applicant is (check one):

Property owner

Attorney

Agent

Engineer

Other

\* Trusts: Provide an attached statement from the trustee verifying the names of all the beneficial owners.

II. Purpose of Application

A) This application is a request for the following action:

~~Rezoning of Property~~

Subdivision Approval

Site Plan Approval

~~Rezoning Amendment~~

Variance(s) Approval

~~Special Use Approval~~

~~Lot Split~~ ~~Subdivision or Land Division~~

Other: \_\_\_\_\_

B) The reasons for the requested action(s) are as follows:

SEE ATTACHED

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

C) The specific section(s) of the City Zoning Ordinance or City General Ordinances which addresses the amendment, variance, or other action which is being requested:

SEE ATTACHED

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

D) The following two questions are only for applications which contain a request for a zoning variance:

1. Are the conditions which prevent the development of the property the result of action by an individual who has or had a property interest in the subject property: Yes No

2. If the conditions were self-imposed (not hardship), explain why the variance should be granted:

SEE ATTACHED

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

III. Site and Surrounding Property Information

A) Common address or property location of subject property:

120 W. BUFFALO  
CORNER OF BUFFALO + BARKER ST. NW CORNER

B) Legal description (attach an additional sheet if necessary):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

C) Permanent Real Estate Tax Identification Number: \_\_\_\_\_

D) Parcel Size: ~~17,427~~ 17,427 Square feet

.4 Acres

132 Dimension of lot frontage

132 Dimension of lot depth

E) What are the current land uses and zoning on the property and the adjoining properties:

	Current zoning	Current land use
1. On Site:	CBD	VACANT + COMMERCIAL BLDG.
2. Adjoining property:		
a) North of Site	RESIDENTIAL	
b) South of Site	COMMERCIAL ; GAS STATION. (SMILEY'S)	
c) East of Site	COMMERCIAL ; GAS STATION (GO-LO)	
d) West of Site	RELIIGIOUS ; CHURCH.	

F) Describe any existing structures or other improvements and physical attributes of the site:

SEE ATTACHED  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**IV. Description of the Proposed Development**

A) Please describe the proposed use of the land and/or building assuming approval of the request:

PROFESSIONAL BUSINESS SERVICES (OFFICES)

B) What is the proposed time frame for the build-out of this development:

START/DEC → FINISH/SPRING

C) For each intended use please fill-in the number of buildings, square footage of each building, the total square footage of the development, and the required number of parking spaces; as well as the number and size of the water and the sewer connections:

Building Use	Number of Buildings	Building Area (sq ft)	Total Building (sq ft)	Required Parking Spaces	Water Connections and Sizes	Sewer Connections and Sizes
<del>Single Family R-1</del>						
<del>Two Family R-2</del>						
<del>Multi-Family R-3</del>						
Central Business CBD	(4) (2)	1800 3,600	5,400	0	2 3/4" + 2 3/8"	4" x 4"
<del>Gen. Commercial GCD</del>						
<del>Waterfront Marina WMT</del>						
<del>General Industrial I-1</del>						
TOTAL			5,400			

D) If this application is for a development please provide information concerning the amount of traffic and the proposed road configuration it will have:

- 1) Average daily traffic count for the proposed development: \_\_\_\_\_
- 2) Peak traffic flow count for the proposed development: \_\_\_\_\_
- 3) How many lineal feet of roadway is proposed to be developed: \_\_\_\_\_
- 4) How many cul-de-sacs will be constructed as part of this project: \_\_\_\_\_
- 5) How many curb cuts to City, County or State roads are proposed: \_\_\_\_\_

E) Does the request contemplated in this application concern any hazardous materials:

No

Yes – describe the type and quantity of materials (attach extra pages if necessary):



V. Attachments

- A)  Plat of Survey with legal description.
- B)  Site plan of proposed use of project showing traffic patterns, parking locations and court, drainage patterns including detention areas, landscaping plans, exterior lighting locations and illumination pattern, building facade portrait and building size and location dimensions.
- ? C)  Floodplain map (engineer's drawing or FEMA map showing location of subject property).
- D)  Application fee in the amount of \$ 850.
- E) N/A High Risk Dune Area Designation and/or Soil Conservation Analysis (if applicable).
- F)  Application for permits (specify type):
  - 1) Michigan DOT \_\_\_\_\_
  - 2) County Road Commission \_\_\_\_\_
  - 3) County Health Department \_\_\_\_\_
  - 4) State Dept. of Public Health \_\_\_\_\_
  - 5) Michigan DEQ \_\_\_\_\_
  - 6) Others \_\_\_\_\_
- G) N/A Sand Dune Permit for Construction (if applicable).

VI. Additional Information - Please describe the reasons this petition should be granted and include any additional comments or pertinent information (attach additional pages if necessary):

SEE ATTACHED COMPONENTS.

**VII. Signature and Declaratory Statement**

A) Required attendance at public hearing(s) and/or meeting(s): The Planning Commission and Zoning Board of Appeals (ZBA) have established a policy requiring the applicant or a designated representative of the applicant to be present at any meeting or public hearing at which their application is to be considered. Failure of the applicant or designee of the applicant to appear may postpone consideration of the application by the Planning Commission or ZBA.

B) Declaratory Statement:

I, NEENA VLAMIS, hereby certify that all information contained in this application and accompanying documentation is true and correct to the best of my knowledge and further, I acknowledge the required attendance of the applicant as set forth in paragraph A above. I furthermore grant permission for identified members of the City of New Buffalo's Planning Commission or Zoning Board of Appeals to visit the site(s) referenced in this application.

C) Applicant Signature: Neena Vlamis Date: 10/10/20

D) Notary Public Certification Statement:

I, Danielle Veltri, Notary Public in and for the State of ILLINOIS this 10<sup>th</sup> day of October, 2020 the above captioned applicant appeared before me and under oath, stated that all matters contained in this application are true.

My commission expires: April 15, 2022 Danielle Veltri



**VIII. City Staff Review**

A) Fire Department approval of Site and Building Plans, except for single family dwellings: This application and associated documentation must be reviewed by the Fire Chief or his designee, which can be arranged by calling the Fire Department: 269-469-4993.

Review Date: \_\_\_\_\_

Approval: Yes No Signature: \_\_\_\_\_

Conditions: Attached None Title: \_\_\_\_\_

B) Note to applicant: The original application must be filed in the Office of the Zoning Administrator, where the following signatures are required for verification that this is a complete and valid application to be considered by the Planning Commission or the Zoning Board of Appeals.

Building Inspector: \_\_\_\_\_

Date: \_\_\_\_\_

Zoning Administrator: [Signature]

Date: 10/28/2020

Initial meeting date: \_\_\_\_\_

(A)

SITE PLAN APPLICATION ADDENDUM

October 19, 2020

## Proposed Commercial Buildings in New Buffalo Job Number 2150

### SITE PLAN APPROVAL APPLICATION ADDENDUM

We are submitting this site plan approval for a new office building for an owner who wishes to bring substantial investment to the city of New Buffalo in our CBD, bring new, non-tourist/permanent jobs to our city and construct the first new construction building in our city in over five years. Further, this owner understands the benefit of adding green space to the elevation and corner of this property and is willing to substitute productive building square footage for appealing community green space.

We are proposing to place the non-required parking lot towards the back of the property and placing the new front building towards the edge of the property of the Go-Lo Gas Station. This will allow more room for courtyard garden space as we “turn the corner” of this property at the corner of Buffalo Street and Barker Street.

B. We are requesting the following two variances:

1. Reduce North side yard set-back adjacent to the residential house from 30' to 5'. Rather than placing the parking at the front of the property, we are proposing parking towards the back and rear. In this way the front of the building and its corner garden will be more appealing and present a much nicer scale for New Buffalo. Our proposed layout places the edge of the parking lot 5' off the lot line. There is to be a solid fence that will prevent the headlights from shining through toward the adjacent house and a 5' wide landscaped buffer.
  - a. It should be noted that the North side Variance Area is for a non-building space and will be a flat, open parking area with very little use.
  - b. Referencing the site plan on Sheet A-1; 80% of the surrounding properties have placed their existing parking lots adjacent to the street, which is the old, outdated method for parking along a CBD and is not compatible with the City of New Buffalo and DDA's surface parking lot preferences for new projects. It is the trend for small and large town main streets to avoid and eliminate parking lots in the front of the lots on the main street thoroughfare. This trend is to encourage pedestrian and bike

traffic which supports the central business district businesses. Detroit's Surface Parking Design Standards & Guidelines objectives are:

- *To line streets with buildings and/or other architectural site features to maintain a continuous street wall*
- *To promote an urban style of shopping and dining experience where building storefronts line the main streets rather than parking lots.*

2. Reduce East side yard set-back adjacent to the Go-Lo Gas Station from 10' to 5'. The zoning ordinance states that when commercial property abuts another commercial property there is to be a 10' setback.

Our proposed layout places the Eastern edge of the parking lot adjacent to the Go-Lo Gas Station 5' off the lot line to accommodate the parking in the rear of the property. There is to be a solid fence and 5' wide landscaped buffer. The zoning ordinance states this reduction can be permitted by the Plan Commission assuming there is no adverse effect on the adjacent property.

C. 19-9 Standards for Site Plan review

We believe that all the requested information has been supplied on these drawings. More specifically;

1. **Drainage Design** is located on Sheet A1.2
2. **Privacy Provisions** are addressed on Sheet A-8
3. **Emergency Vehicle Accessibility**; we have maintained a 24' driveway leading to the parking lot with adequate turn around space.; see sheet A1.1
4. **Connective Access to Public Streets** is provided by a new 24' wide driveway on Barker Street that is located 55' from the corner to reduce the possibility of any backups at the stop sign.
  - a. Although onsite parking is not required in the CBD, the owner has elected to provide nine spaces while only 8 would be required in the GBD.
5. **Pedestrian Circulation Systems**; we are utilizing the existing sidewalks and curbs that are in place; see Sheet A-1.1
6. **Lighting and Fence Design** is located on Sheet A-9
7. **Landscaping Design** is located on A-9
8. **Accessibility**: The entire site and entrances to both buildings shall be accessible; see sheet A-1.1.

D. Both the City of New Buffalo and the DDA have stated that the preference is to have parking lots placed in the rear of the lots and behind structures. To comply with the City's and DDA's requirements, this is indeed a hardship for the owner who wishes to comply with the City's and DDA's future planning requirements. We think this is a better solution for New Buffalo streetscapes and hope this can help establish a sample precedent for future commercial structures, particularly for a business who will add permanent local jobs unrelated to the tourist industry which has been a long-term goal for New Buffalo. Further, this design is a better urban solution, presents a much more pleasant scale rather than having the parking lot in front of the structure along Buffalo Street, and avoids a front

elevation that looks like a strip shopping center. Lastly, the non-required parking lot will rarely be used at night and will have very little use during the daytime.

12

SCOPE OF WORK DESCRIPTION

THE OFFICE OF WILLIAM O. MCCOLLUM

16109 Red Arrow Highway, P. O. Box 13 Union Pier, MI 49129

October 22, 2015

Proposed Commercial Buildings in New Buffalo  
Job Number 2150

SCOPE OF WORK

Construct a new 1 story commercial building of 3,600 sf and rehab an existing one story of 1,800 sf commercial structures on the same lot at the corner of Buffalo and Barker Street.

The use of the building will be office for a mortgage group; A & N Financial Services

Total combined gross area is  $\frac{\text{new}}{3,800} + \frac{\text{existing}}{1,800} \text{ sf} = 5,400 \text{ sf total}$

Total number of occupants will be  $\frac{\text{new}}{38} + \frac{\text{existing}}{18} = 54 \text{ total occupants}$

Central Business District has not requirement for parking; however, if this parcel was in the GBD, the requirements would be the following;

Parking 1 car per 1,000 sf gross area – 5.4 = 6 auto required; 9 supplied ( 1 of which is accessible) ( therefore, there are 2 spaces additional)

ZONING SETBACKS

Because this is a corner lot with 2 standard streets; I have considered this lot to have 2 fronts and 2 sides.

Location	Required	Provided
Buffalo Street	0'	2'
Barker Street	0'	New 38'; Existing 6'11"
East side (GO LO)	10'	<b>5'variance requested</b>
West ( house)	30'	New; 73'; Existing; 4'10"
		<b>5' requested; variance requested</b>
Loading dock	1	1

*Although not required for this use, there is adequate space for a future one if it is ever necessary.*



**The drawings shall be in compliance with the following codes & ordinances;**

- New Buffalo Zoning Code 2012
- Michigan Building Code 2015
- Mechanical Code 2015
- Electrical Code 2015
- Plumbing Code 2015
- International Fire Prevention Code 2006 with amendments

**Michigan Building Code 2015**

Chapter

- 304.1 Use and Occupancy Classification** page 44  
Business Group B
- 504.4 General Building Height and Areas** page 100  
Table 503  
TYPE V / A; 2 stories & less than 50' tall  
*Building A; new; is a one story; foot print 3,600 sq. ft & height 35'*  
*Building B; existing is a one story of 1,800 sf & height of 12'*
- 6 Type of Construction**  
Table 601; TYPE V; A
- |                        |       |
|------------------------|-------|
| Primary frame          | 1 hr  |
| Exterior bearing wall  | 1 hr  |
| Interior bearing walls | 1 hr  |
| Non-bearing walls      | 0 hr  |
| Roof Construction      | 1 b,c |
- 9 Automatic Sprinkler System** shall not be required because of Group B requirement
1. Floor area does not exceed 5,000 sf
  2. Occupancy load does not exceed 100 people
- 10 Means of Egress;**  
Section 1004. 2  
Code states that Business Area; 100 sf per occupant  
Building A; 3,600; sf; total of 36 occupants  
Building B; 1,800 sf; total of 18 occupants
- Section 1020; minimum number 1021.1
1. Occupancy load 1-500 = 2 exits per floor
  2. Maximum travel distance without an automatic sprinkler system is 200 lf. This design is in compliance.
- Building A; New; shall have 2 exits*  
*Building B; Existing ; shall have 2 exits*

11

**Accessibility**

*Both one story buildings will be totally accessible*

Section 1109.7 (5); Accessible route.

Section 1110.2 Signage

Directional signage shall be located at entrances and exits

Separate sex toilet rooms

**ENERGY CRITERIA;** See report dated 12/11/12

**COMcheck Envelope Compliance Certificate**

Roof	Fiberglass batts in ceiling	R-38
Walls	2" of closed cell foam + 1.5" of wet spray cellulose	R-21
Foundation	1" layer of Polyisocyanurate	
	2' out from wall and 2' vertical	R-10
Windows	Marvin Integrity; insulated glass	u .31

RECOMMEND PASCUM STANDARDS

(C)

## PARKING DESIGN - SURFACE PARKING

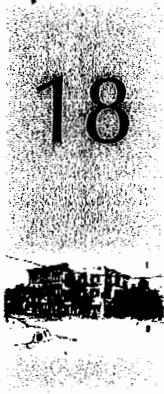
Reference: Parking Design Standards, Zoning Ordinance Section 61-14-299

### INTRODUCTION

Parking lots have proliferated every part of the city, and traditional main streets have their share. Parking lots consume vital land, separate buildings from public sidewalks, break up continuity of the street wall and can be visually invasive if not screened and landscaped appropriately. Buildings with parking situated on their frontage give cars preferential treatment by providing parking spots close to the building, better circulation and easy access directly to their lot, rendering those buildings and sidewalks unfriendly to the pedestrian experience. This is a quality typically associated with suburban strip retail developments where the built-environment--building sitting, setback, and site egress and ingress points--is designed to primarily accommodate automobile traffic and its convenience. Consideration for physical qualities like appropriate building sitting, building site relationship, landscaping and screening elements not only reduces the negative visual impact of parking lots, but also improves the walkability, livability and safety of the main streets.

### OBJECTIVES

- ❑ To line streets with buildings and/or other architectural site features to maintain a continuous street wall
- ❑ To promote an urban style of shopping and dining experience where building storefronts line the main streets rather than parking lots



## PARKING DESIGN - SURFACE PARKING

Reference: *Parking Design Standards, Zoning Ordinance Section 61-14-299*

# Design Standards & Guidelines

### STANDARDS

1. Locate parking areas to the rear and/or to the side of the building
2. For development on corner lots, locate parking area away from the corner
3. Protect parking lot perimeter screen wall with a raised concrete curb, concrete wheel stop or concrete filled bollards
4. Protect the screen wall at the parking entry and exit points with steel bollards located on either side of the wall
5. Provide the necessary lighting level for parking lots as required by Section 61-12-156 of the Zoning Ordinance
6. Maintain light fixtures in good operating condition and with the required light levels to provide illumination from dusk to midnight or two hours after business hours, whichever lasts for longer period
7. Direct, place or shield lighting fixtures so not to produce light spill into the night sky

### GUIDELINES

1. Design parking aisles to minimize conflict with pedestrian traffic at sidewalks and from public sidewalks connection to the retail parking area
2. Integrate pedestrian lighting fixtures on the perimeter of site and within parking area
3. Provide a clearly delineated pedestrian circulation pattern including accesses, service drives, fire-lanes and parking isles
4. Develop parking lot design that encourages shared driveway access to adjacent parking lots and minimizes curb cut locations leading to multiple rear parking lots

# 18

## PARKING DESIGN - SURFACE PARKING

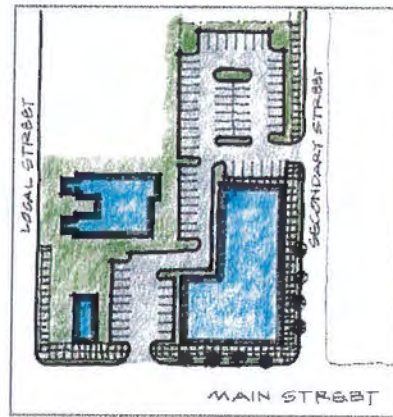
Reference: *Parking Design Standards, Zoning Ordinance Section 61-14-299*



### Examples • Recommended



Parking lot with brick screen wall, perimeter pedestrian light fixture, landscaping strip and a raised concrete curb for a wheel stop



Corner lot building with parking area located in the back or to the side and away from the corner, provides maximum continuity for the street wall



Parking lot with paved area between parking stalls for pedestrian circulation to minimize conflict with auto traffic



Parking lot with brick screen wall and concrete filled steel bollards to protect perimeter wall

**PARKING DESIGN - SURFACE PARKING**

*Reference: Parking Design Standards, Zoning Ordinance Section 61-14-299*



Examples • Not Recommended



Corner lot used for parking does not add to the street life or improve it



This part of Grand River's main street, consumed by a parking lot instead of retail frontage, is unfriendly to pedestrians



Chain link fencing does not provide screening for cars, it only demarcates boundaries



Grand River and Greenfield traditional main street corner has been altered by the placement of parking lots for two major drug stores and suburban retail stores making it unfriendly to pedestrians walking on the public sidewalk



PAID  
 OCT 08 2020  
 City of New Buffalo

EMAIL: [manager@cityofnewbuffalo.org](mailto:manager@cityofnewbuffalo.org)  
 WEBSITE: [www.cityofnewbuffalo.org](http://www.cityofnewbuffalo.org)  
 Authority: 1972 PA 230  
 Completion: Mandatory to obtain permit  
 Penalty: Permit cannot be issued

269-469-1500  
 269-469-7917

### ZONING PERMIT APPLICATION

A drawing (site plan shown from a "bird's eye" view) indicating property lines, location of all buildings presently on the property and location of the proposed new structure(s), must be submitted with this application. The site plan should also include measurements from your new project to property lines and distances between all buildings. The project must be marked in some way (in ground with stakes or on ground with painted markings). "Change of Use" applicants are exempt from providing a site plan as indicated and instead, will provide a statement of the proposed new use of the existing structure.

#### I. Job Location

JOB Address <b>120 WEST BUFFALO</b>	Name of Owner <b>MS. NEENA ULAMIS</b>
Name of City, Village or Township in which job is located: <b>( ) NEW BUFFALO, MI</b>	County <b>BERRIEN.</b>
Owner Telephone <b>[REDACTED]</b>	

#### II. Applicant (Contractor/Property Owner Information)

<input type="checkbox"/> Contractor <input checked="" type="checkbox"/> Owner <b>WILLIAM MC COLUM.</b>		
Address <b>16109 RED ARROW</b>	City, State <b>UNION PER MI</b>	Zip <b>49129</b>
Tel <b>[REDACTED]</b>	Work/Cell Phone <b>[REDACTED]</b>	Fax <b>[REDACTED]</b>

#### III. Type of job (PLEASE MARK AS MANY AS ARE APPLICABLE)

- |   |   |  |
|---|---|--|
| <input checked="" type="checkbox"/> New                       | <input type="checkbox"/> Single Family or Two Family Home <u>Circle One</u>                 | <input type="checkbox"/> Outbuilding (Barn/Shed/Carport) <u>Circle One</u> |
| <input type="checkbox"/> Addition                             | <input type="checkbox"/> Mobile Home or Prefab <u>Circle One</u>                            | <input type="checkbox"/> Garage (Attached/Detached) <u>Circle One</u>      |
| <input type="checkbox"/> Alteration/Remodel <u>Circle One</u> | <input type="checkbox"/> Fence - Indicate Type Here _____                                   | <input type="checkbox"/> Pool (Above/Below Ground) <u>Circle One</u>       |
| <input type="checkbox"/> Change of Use (Current Use _____)    | <input type="checkbox"/> Foundation Only  | <input checked="" type="checkbox"/> Commercial Building                    |
| <input type="checkbox"/> Other _____                          | <input type="checkbox"/> Deck/Porch <u>Circle One</u> (Attached/Detached) <u>Circle One</u> |  |

#### IV. Project Dimensions

**32'** Project Width    **32'** Project Length    **35'** Project Height (from grade to highest point)    **1** # of Floors    **5400** Total Square Feet

#### V. Zoning Questions (PLEASE CIRCLE YES OR NO)

- |  |                                      |                                     |
|--|--------------------------------------|-------------------------------------|
| Does this property have frontage on two roads?   | <input checked="" type="radio"/> YES | <input type="radio"/> NO            |
| Does this property have lake frontage?   | <input type="radio"/> YES            | <input checked="" type="radio"/> NO |
| Is there a <b>BLDG.</b> building presently on this property?                           | <input checked="" type="radio"/> YES | <input type="radio"/> NO            |
| Is there an accessory building presently on this property?                             | <input type="radio"/> YES            | <input checked="" type="radio"/> NO |
| Is the construction located within 500 ft of a lake, stream, or natural body of water? | <input type="radio"/> YES            | <input checked="" type="radio"/> NO |
| Will the construction require the moving of one surface acre or more of land?          | <input type="radio"/> YES            | <input checked="" type="radio"/> NO |
| If construction is for an accessory building, will it contain animals?                 | <input type="radio"/> YES            | <input checked="" type="radio"/> NO |




**SITE PLAN**

Sliver  
water } location  
Spur

A SITE PLAN MUST BE SUBMITTED THAT INCLUDES THE FOLLOWING INFORMATION

- A description of the property
- North arrow
- Legal description and Tax ID# of the subject property
- Location of property lines and an illustration of the setbacks
- Dimensions of the parcel, the development area and open space
- Location of existing and proposed structures on the site and within 50' of the parcel
- Names of adjoining streets and locations of sidewalks and any easements
- Any other information helpful in making a determination

It is the applicant's responsibility to be aware of any deed restrictions, subdivision regulations, flood plain and wetland regulations. Compliance with City Zoning Ordinance requirements does not preclude compliance with additional requirements that may apply, including but not limited to the Berrien County Health Department, the Berrien County Drain Commission, the Michigan Department of Environmental Quality and the City's Building Permit Department.

X  \_\_\_\_\_  
Applicant and date

October 5, 2015

## Proposed Commercial Buildings in New Buffalo Job Number 2150

### SCOPE OF WORK

Construct a new 1 story commercial building of 3,600 sf and rehab an existing one story of 1,800 sf commercial structures on the same lot at the corner of Buffalo and Barker Street.

The use of the building will be office for a mortgage group; A & N Financial Services

Total combined gross area is  $\begin{matrix} \text{new} & \text{existing} \\ 3,800 & + & 1,800 \end{matrix}$  sf = 5,400 sf total

Total number of occupants will be  $\begin{matrix} \text{New} & \text{existing} \\ 38 & + & 18 \end{matrix}$  = 54 total occupants

Parking 1 car per 1,000 sf gross area – 5.4 = 6 auto required; 9 supplied ( 1 of which is accessible)

### ZONING

Because this is a corner lot with 2 standard streets; I have considered this lot to have 2 fronts and 2 sides.

Location	Required	Provided
Buffalo Street	0'	1'
Barker Street	0'	New 38' Existing 6' 2"
East (GO LO)	10'	5' variance requested
West ( house)	30'	New; 73' Existing; 4'10" <i>Can a parking lot be set with in a required side yard setback ?</i>
Loading dock	1	0; <i>variance requested as this is not necessary for this use. In future one, can be located in the new parking lot</i>

### The drawings shall be in compliance with the following codes & ordinances;

New Buffalo Zoning Code 2012  
Michigan Building Code 2015  
Mechanical Code 2015

## Michigan Building Code 2015

### Chapter

- 304.1 Use and Occupancy Classification** page 44  
Business Group B
- 504.4 General Building Height and Areas** page 100  
Table 503  
TYPE V / A; 2 stories & less than 50' tall  
*Building A; new; is a one story; foot print 3,600 sq. ft & height 35'*  
*Building B; existing is a one story of 1,800 sf & height of 12'*
- 6 Type of Construction**  
Table 601; TYPE V; A
- |                        |              |
|------------------------|--------------|
| Primary frame          | 1 hr         |
| Exterior bearing wall  | 1 hr         |
| Interior bearing walls | 1 hr         |
| Non-bearing walls      | 0 hr         |
| Roof Construction      | 1 <i>b,c</i> |
- 9 Automatic Sprinkler System** shall be supplied without a pump.  
Group B requirement
1. Floor area does not exceed 5,000 sf
  2. Occupancy load does not exceed 100 people
- 10 Means of Egress;**  
Section 1004. 2  
Code states that Business Area; 100 sf per occupant  
Building A; 3,600; sf; total of 36 occupants  
Building B; 1,800 sf; total of 18 occupants
- Section 1020; minimum number 1021.1
1. Occupancy load 1-500 = 2 exits per floor
  2. Maximum travel distance without an automatic sprinkler system is 200 lf. This design is in compliance.
- Building A; New; shall have 2 exits*  
*Building B; Existing ; shall have 2 exits*
- 11 Accessibility**  
*Both one story buildings will be totally accessible*  
Section 1109.7 (5); Accessible route.

Section 1110.2 Signage

Directional signage shall be located at entrances and exits  
 Separate sex toilet rooms brand

PARKING REQUIREMENTS

1 space per 1,000 sf gross area

	First Floor	Gross Area	# of Occupants
		5,400	<b>54 combined</b>
	<i>req'd</i>	<i>supplied</i>	
Parking supplied	6	9	

**ENERGY CRITERIA;** See report dated 12/11/12

**COMcheck Envelope Compliance Certificate**

Roof	Fiberglass batts in ceiling	R-38
Walls	2" of closed cell foam + 1.5" of wet spray cellulose	R-21
Foundation	1" layer of Polyisocyanurate	
	2" out from wall and 2' vertical	R-10
Windows	Marvin Integrity; insulated glass	u .31

McCOLLUM ARCHITECTS

HORIZON BANK  
MICHIGAN CITY, IN 46360

5030

71-732/712

12/6/20  
\$ 850<sup>00</sup>

PAY  
TO THE  
ORDER OF

CITY OF NEW BUFFALO  
EIGHT HUNDRED FIFTY

DOLLARS

MEMO

SITE PLAN REVIEW / 120 W. BUFFALO

  
AUTHORIZED SIGNATURE MP

McCOLLUM ARCHITECTS

5030

McCOLLUM ARCHITECTS

5030

95 West Main Street  
 Benton Harbor, MI. 49023  
 T 269.927.2295  
 F 269.927.1017  
 abonmarche.com

Battle Creek  
 Benton Harbor  
 Lafayette  
 South Bend

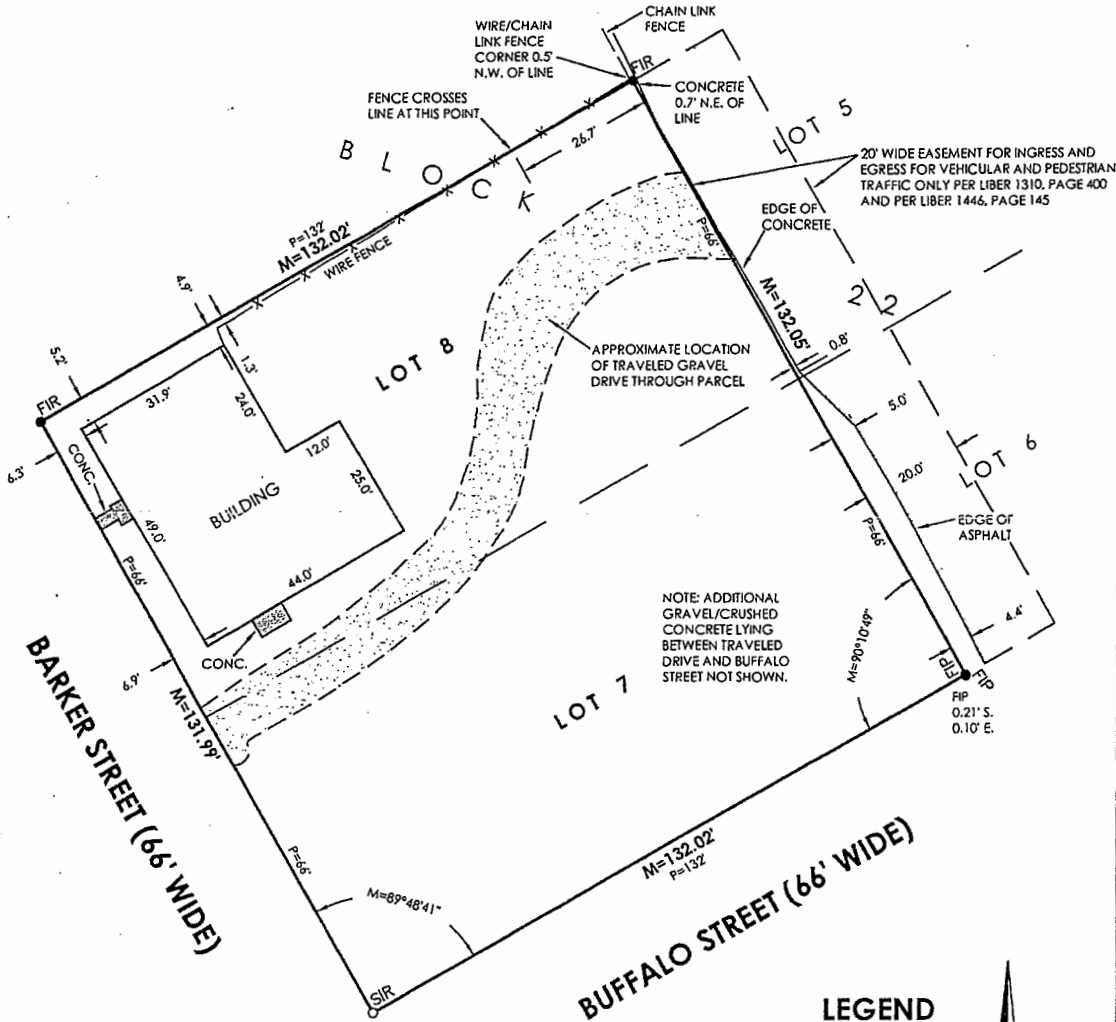
Goshen  
 Hobart  
 South Haven  
 Valparaiso

Engineering · Architecture · Land Surveying

## CERTIFICATE OF SURVEY

I, MATTHEW REINKING, A LICENSED PROFESSIONAL SURVEYOR, NUMBER 54057, IN MICHIGAN, CERTIFY THAT THIS DRAWING IS AN ACCURATE REPRESENTATION OF A BOUNDARY SURVEY PERFORMED UNDER MY DIRECTION FOR THE FOLLOWING DESCRIBED PARCEL OF LAND: LOTS 7 AND 8, BLOCK 22 OF ORIGINAL PLAT OF THE VILLAGE (NOW CITY) OF NEW BUFFALO, BERRIEN COUNTY, MICHIGAN, ACCORDING TO THE PLAT THEREOF AS RECORDED IN LIBER C OF DEEDS, PAGE 105 OF BERRIEN COUNTY RECORDS. ALSO, AN EASEMENT FOR INGRESS AND EGRESS FOR VEHICULAR AND PEDESTRIAN TRAFFIC OVER THE WESTERLY 20 FEET OF LOTS 5 AND 6, BLOCK 22, ADJACENT TO SAID LOTS 7 AND 8, SAID PLAT.

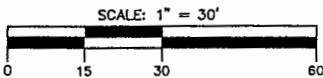
SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF RECORD OR OTHERWISE, IF ANY EXIST.



NOTE: ADDITIONAL GRAVEL/CRUSHED CONCRETE LYING BETWEEN TRAVELED DRIVE AND BUFFALO STREET NOT SHOWN.

### LEGEND

- P = PLATTED
- M = MEASURED
- FIR = FND. IRON ROD
- FIP = FND. IRON PIPE
- SIR = SET IRON ROD



*Matthew Reinking*  
 MATTHEW REINKING  
 LICENSED PROFESSIONAL SURVEYOR No. 54057

7/24/2019  
 DATE OF CERTIFICATE

THIS SURVEY WAS BASED ON THE INCLUDED LEGAL DESCRIPTION AS IT APPEARS ON A DEED OR TITLE INSURANCE POLICY, AND SHOULD BE COMPARED WITH THE ABSTRACT OF TITLE OR TITLE INSURANCE POLICY FOR ACCURACY, EASEMENTS OR EXCEPTIONS. ANY WRITTEN OR UNWRITTEN RIGHTS OF ADJOINERS ARE UNKNOWN UNLESS SPECIFICALLY NOTED.

PREPARED FOR:  MICHAEL KNIGHT  CHICAGO TITLE INSURANCE COMPANY	DRAWN BY: MGR	LOTS 7 & 8, BLOCK 22
	APPROVED BY: MAF	PLAT OF NEW BUFFALO
	DATE: 7/24/2019	CITY OF NEW BUFFALO
	SCALE: 1" = 30'	SHEET 1 OF 1

JOB NO. 19-018



City of New Buffalo

## Zoning Board of Appeals Staff Report

**Hearing Date:** November 19, 2020

**Project Number:** 11.19.2021

**Applicant:** Thomas Sucich

**Subject Property Address:** 123 S. Thompson Street, New Buffalo, MI 49117

**Nature of the Request:** Allow construction of a detached accessory building within the required side yard setback and within in four feet of the primary structure.

**Zoning District:** R1 Residential

### Overview

The applicant requests the opportunity to construct a detached accessory building four feet from the primary structure in violation of Section 3.2., B.2., which requires 10 feet of separation and construction of the accessory building with in the side yard setback which requires 2 feet. The project is further described below.

*The property at 123 S Thompson Street is currently being utilized as a single family residence and the dwelling constitutes an allowable primary structure. The applicant requests to construct the accessory building four feet from the primary building and 10" from the side property line. Both requests are the result of a rovine which creates a practical difficult with compliance.*

**Recommendation:** Upon review of the application materials, validation of the facts reported, site inspections and evaluation of each of the criteria required for review and noted in this staff report, it is the recommendation of the Zoning Administrator to approve both the requested side yard setback variance and allow the variance to construct the accessory building within four feet of the primary structure.

Zoning Ordinance Provisions



### **Section 3-2, ACCESSORY BUILDINGS and STRUCTURES**

B.2 Setback: Accessory buildings shall be setback a minimum of two (2) feet from a side or rear property line, and a minimum of ten (10) feet from the primary structure.

### **Section 21-5 JURISDICTION**

The Zoning Board of Appeals shall not have the power to make any change in the terms of this Ordinance, but does have power to act on those matters where this Ordinance provides for an administrative review, interpretation, and to authorize a variance as defined in this Section and the laws of the State of Michigan. The powers of the Zoning Board of Appeals include:

#### **B. Granting of Variances**

A variance from the specific requirements of this Ordinance may be granted by the Zoning Board of Appeals in accordance with the requirements and procedures of this Article.

### **SECTION 21-8 VARIANCE PROCEDURES**

#### **A. Authority for Variances**

The Zoning Board of Appeals, after public hearing, shall have the power to grant requests for variances from the provisions of this Ordinance where it is proved by the applicant that there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of the Ordinance relating to the construction, equipment, or alteration of buildings or structures so that the spirit of the Ordinance shall be observed, public safety secured and substantial justice done.

#### **B. Granting of Non-Use Variances**

A non-use variance may be allowed by the Zoning Board of Appeals only in cases where there is reasonable evidence of practical difficulty in the official record of the hearing and that all of the following conditions are met:

1. That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same zoning district;

*The subject property is bordered on the subject side by a ravine making compliance impossible.*

2. That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations. Unique circumstances include: exceptional narrowness, shallowness or shape of a specific property on the effective date of this Article, or by reason of exceptional topographic conditions or other extraordinary situation on the land, building or structure or by reason of the use or development of the property immediately adjoining the property in question, the literal enforcement of the requirements of this Article would involve practical difficulties;

*The ravine presents a dimensional, topographical or other characteristics that should be considered practical difficulties.*

3. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.

*This variance is necessary for the preservation and enjoyment of any substantial property right similar to that possessed by other properties in the same zoning district.*

4. The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.

*The variance will not be detrimental to adjacent properties nor the surrounding neighborhood.*

5. The variance will not impair the intent and purpose of this Ordinance.

*Granting a variance will impair the intent and purpose of the City of New Buffalo's Zoning Ordinance by limiting the authority of the building permitting and inspection process.*

6. That the immediate practical difficulty causing the need for the variance request was not created by any action of the applicant.

*The variance requested is not created by the proposed actions of the property owner.*

## **SECTION 21-6 DECISIONS**

### **D. Decisions**

1. The concurring vote of a majority of the membership of the Board shall be required to reverse an order, requirement, decision, or determination of an administrative official or body, or to decide in favor of the applicant a matter upon which the Board is required to pass, or to effect a variation in the ordinance; except that a concurring vote of two-thirds (2/3) of the membership shall be necessary to grant a use variance.

2. The Zoning Board of Appeals shall render its decision upon any appeal or application submitted to it within sixty (60) days after the hearing thereon.

3. All decisions of the Zoning Board of Appeals shall become final five (5) days after the date of entry of an order, unless the Board shall find, and so certify on the record, that it is necessary to cause such order to have immediate effect, in order to preserve property or personal rights.

4. Any variance granted by the Board shall only be valid for a period of twelve (12) months from the date of approval, unless substantial construction, as determined by the Board, has occurred and is progressing meaningfully toward completion. The Board may grant up to an additional twelve (12) month extension, if requested by the property owner in writing prior to the expiration of the original twelve (12) month period, upon showing that the expiration of the variance will cause an undue hardship on the owner.

### **E. Record of Actions**

For each decision of the Zoning Board of Appeals, a record shall be prepared. Such record shall include, at a minimum, the following items:

1. Description of the applicant's request.
2. The Zoning Board of Appeal's motion including an explanation of how the request meets each standard outlined in Sec. 21-8 B, for Non-Use Variances, or Sec. 21-8 C, for Use Variances, or conversely, an explanation of how the request does not meet each said applicable standard.
3. The Board's vote on the motion.
4. A summary or transcription of all relevant material and evidence presented at hearing; and,
5. Any conditions attached to an affirmative decision.

Respectfully submitted,

David Richards, City Manager



City Staff Use Only	Project Name	PAID OCT 01 2020 City of New Buffalo
	Project Number	
	Review Fee Paid	
	Escrow Fee Paid	

**APPLICATION TO: PLANNING COMMISSION ZONING BOARD OF APPEALS**

224 W Buffalo St, New Buffalo, MI 49117 City Hall: 269-469-1500 Building Dept: 269-469-7144 Facsimile: 269-469-7917

Instructions: Fill-in all blanks and 'X' applicable boxes ( ). Incomplete applications cannot be processed.

**I. Applicant and Owner Information**

A) Applicant(s) principal contact:

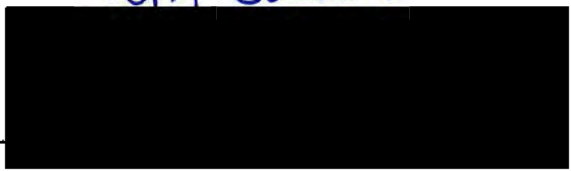
Name Tom Sucich


Address 

Telephone 

E) Property owner(s) principal contact:

Name Tom Sucich

Address 

Telephone 

B) Applicant(s) secondary contact:

Name \_\_\_\_\_

Address \_\_\_\_\_

Telephone \_\_\_\_\_

F) Architect (if applicable):

Name \_\_\_\_\_

Address \_\_\_\_\_

Telephone \_\_\_\_\_

C) Agent or Attorney (if applicable):

Name \_\_\_\_\_

Address \_\_\_\_\_

Telephone \_\_\_\_\_

G) Engineer (if applicable):

Name \_\_\_\_\_

Address \_\_\_\_\_

Telephone \_\_\_\_\_

D) Is the property held in Trust\*:

Yes - Answer below  No - Skip below

Name of Trust \_\_\_\_\_

Address \_\_\_\_\_

Telephone \_\_\_\_\_

H) Applicant is (check one):

Property owner

Attorney

Agent

Engineer

Other: \_\_\_\_\_

\* Trusts: Provide an attached statement from the trustee verifying the names of all the beneficial owners.

II. Purpose of Application

A) This application is a request for the following action:

Rezoning of Property

Subdivision Approval

Site Plan Approval

Rezoning Amendment

Variance(s) Approval

Special Use Approval

Lot Split - Subdivision or Land Division

Other: \_\_\_\_\_

B) The reasons for the requested action(s) are as follows:

Detached garage  
PARCEL IS A RAVINE LOT

C) The specific section(s) of the City Zoning Ordinance or City General Ordinances which addresses the amendment, variance, or other action which is being requested:

Appendix A : Zoning ordinance

Section 3-2 : Accessory Buildings Structures and uses

D) The following two questions are only for applications which contain a request for a zoning variance:

1. Are the conditions which prevent the development of the property the result of action by an individual who has or had a property interest in the subject property: Yes No

2. If the conditions were self-imposed (not hardship), explain why the variance should be granted:

NIA

III. Site and Surrounding Property Information

A) Common address or property location of subject property:

123 S. Thompson Street  
New Buffalo

B) Legal description (attach an additional sheet if necessary):

The southeasterly 49.5 feet of Lot 11, Block 11 in Rose Addition to the village (New City) of New Buffalo, Berrien County, Michigan according to the plat thereof recorded in Liber 6 of Plats, page 27, Berrien County Records

C) Permanent Real Estate Tax Identification Number: 62-6750-0147-04-4

D) Parcel Size: 6138 approx Square feet  
49.5' Acres  
124' Dimension of lot frontage  
Dimension of lot depth

E) What are the current land uses and zoning on the property and the adjoining properties:

	Current zoning	Current land use
1. On Site:	Residential	Residential
2. Adjoining property:		
a) North of Site	Residential	Residential
b) South of Site	Residential	Residential
c) East of Site	Residential	Residential
d) West of Site	Residential	Residential

F) Describe any existing structures or other improvements and physical attributes of the site:

Existing structure - newly constructed house

(Natural Ravine at rear of site ~~that~~ ~~limits~~ limits area where garage can be constructed.)

**IV. Description of the Proposed Development**

A) Please describe the proposed use of the land and/or building assuming approval of the request:

one car detached garage  
for vehicle storage

B) What is the proposed time frame for the build-out of this development: Six weeks

C) For each intended use please fill-in the number of buildings, square footage of each building, the total square footage of the development, and the required number of parking spaces; as well as the number and size of the water and the sewer connections:

Building Use	Number of Buildings	Building Area (sq ft)	Total Building (sq ft)	Required Parking Spaces	Water Connections and Sizes	Sewer Connections and Sizes
Single Family R-1	1	336	336			
Two Family R-2						
Muulti-Family R-3						
Central Business CBD						
Gen. Commercial GCD						
Waterfront Marina WM						
General Industrial I-1						
TOTAL						

D) If this application is for a development please provide information concerning the amount of traffic and the proposed road configuration it will have:

- 1) Average daily traffic count for the proposed development: N/A
- 2) Peak traffic flow count for the proposed development: N/A
- 3) How many lineal feet of roadway is proposed to be developed: N/A
- 4) How many cul-de-sacs will be constructed as part of this project: N/A
- 5) How many curb cuts to City, County or State roads are proposed: N/A

E) Does the request contemplated in this application concern any hazardous materials:  
 No      Yes -- describe the type and quantity of materials (attach extra pages if necessary):

N/A

V. Attachments

- A)  Plat of Survey with legal description.
- B)  Site plan of proposed use of project showing traffic patterns, parking locations and court, drainage patterns including detention areas, landscaping plans, exterior lighting locations and illumination pattern, building facade portrait and building size and location dimensions.
- C)  Floodplain map (engineer's drawing or FEMA map showing location of subject property).
- D)  Application fee in the amount of \$ 350<sup>00</sup>.
- E)  High Risk Dune Area Designation and/or Soil Conservation Analysis (if applicable).
- F)  Application for permits (specify type):
  - 1) Michigan DOT \_\_\_\_\_
  - 2) County Road Commission \_\_\_\_\_
  - 3) County Health Department \_\_\_\_\_
  - 4) State Dept. of Public Health \_\_\_\_\_
  - 5) Michigan DEQ \_\_\_\_\_
  - 6) Others \_\_\_\_\_
- G)  Sand Dune Permit for Construction (if applicable).

VI. Additional Information - Please describe the reasons this petition should be granted and include any additional comments or pertinent information (attach additional pages if necessary):

Under section 3-2 Accessory Buildings Structures and Uses, Accessory setbacks shall be a minimum of two feet from a side or rear property line, and a minimum of 10 feet from the primary structure.

Because this lot is a ravine lot as well as a lot of record consisting of approximately 6124 square feet, this request is for a variance of 4 feet from the side of the building, and 1 foot, 2 inches from the side lot line (south east lot line) as shown on the attached drawings.

This proposed garage will be in keeping with the integrity of the home and neighborhood.



**VII. Signature and Declaratory Statement**

A) Required attendance at public hearing(s) and/or meeting(s): The Planning Commission and Zoning Board of Appeals (ZBA) have established a policy requiring the applicant or a designated representative of the applicant to be present at any meeting or public hearing at which their application is to be considered. Failure of the applicant or designee of the applicant to appear may postpone consideration of the application by the Planning Commission or ZBA.

B) Declaratory Statement:

I, Tom South, hereby certify that all information contained in this application and accompanying documentation is true and correct to the best of my knowledge and further, I acknowledge the required attendance of the applicant as set forth in paragraph A above. I furthermore grant permission for identified members of the City of New Buffalo's Planning Commission or Zoning Board of Appeals to visit the site(s) referenced in this application.

C) Applicant Signature: [Signature] Date: 9-28-2020

D) Notary Public Certification Statement:

I, Ann Marie Fidler, Notary Public in and for the State of Michigan this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ the above captioned applicant appeared before me and under oath, stated that all matters contained in this application are true.

My commission expires: \_\_\_\_\_

**VIII. City Staff Review**

A) Fire Department approval of Site and Building Plans, except for single family dwellings: This application and associated documentation must be reviewed by the Fire Chief or his designee, which can be arranged by calling the Fire Department: 269-469-4993.

Review Date: \_\_\_\_\_

Approval: Yes No Signature: \_\_\_\_\_

Conditions: Attached None Title: \_\_\_\_\_

B) Note to applicant: The original application must be filed in the Office of the Zoning Administrator, where the following signatures are required for verification that this is a complete and valid application to be considered by the Planning Commission or the Zoning Board of Appeals.

Building Inspector: [Signature]

Date: \_\_\_\_\_

Zoning Administrator: [Signature]

Date: 10/25/2020

Initial meeting date: \_\_\_\_\_

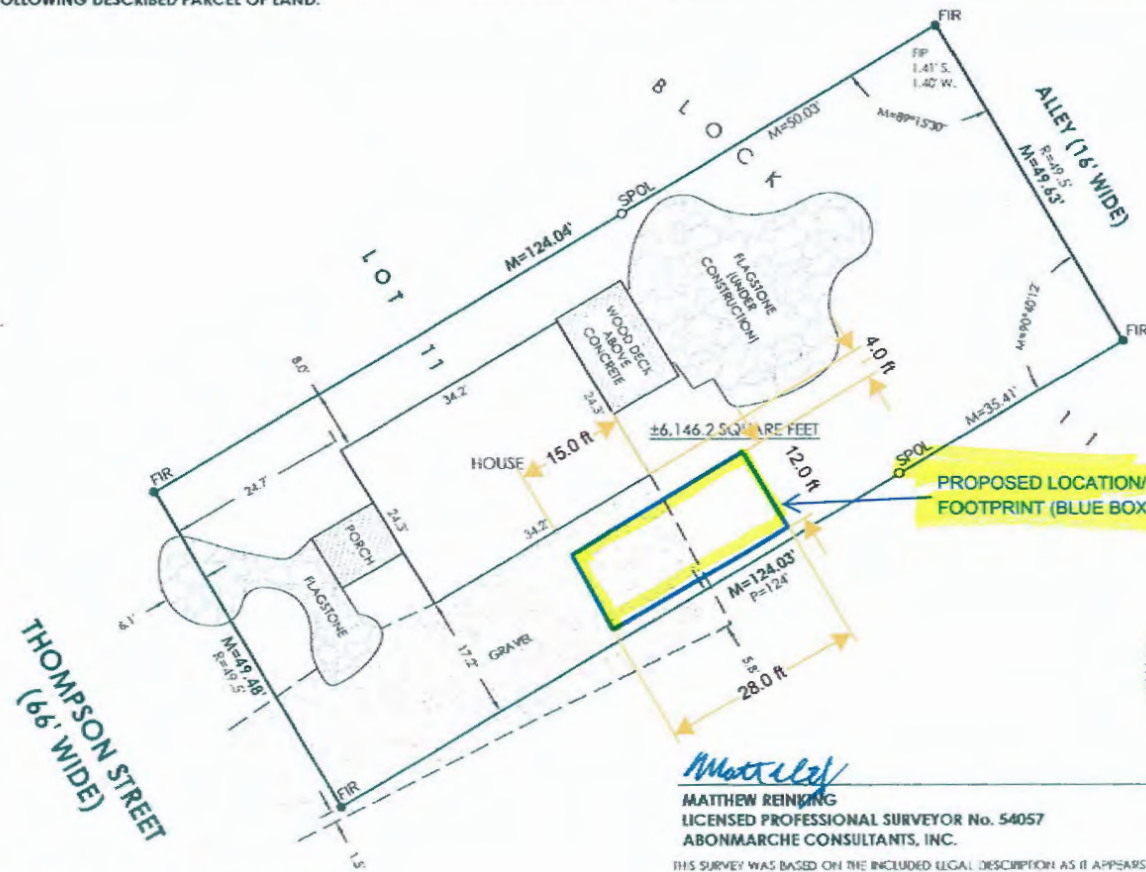
Survey with Proposed Location

# CERTIFICATE OF SURVEY

I, MATTHEW REINKING, A LICENSED PROFESSIONAL SURVEYOR, NUMBER 54057, IN MICHIGAN, CERTIFY THAT THIS DRAWING IS AN ACCURATE REPRESENTATION OF A BOUNDARY SURVEY PERFORMED UNDER MY DIRECTION FOR THE FOLLOWING DESCRIBED PARCEL OF LAND:

THE SOUTHEASTERLY 49.5 FEET OF LOT 11, BLOCK 11 IN ROSE ADDITION TO THE VILLAGE (NOW CITY) OF NEW BUFFALO, BERRIEN COUNTY, MICHIGAN, ACCORDING TO THE PLAT THEREOF RECORDED IN LIBER 6 OF PLATS, PAGE 27, BERRIEN COUNTY RECORDS.

SUBJECT TO ANY AND ALL EASEMENTS AND RESTRICTIONS OF RECORD, OR OTHERWISE.



## LEGEND

- R = RECORDED
- P = PLATTED
- M = MEASURED
- FIR = FND. IRON ROD
- SPOL = SET LINE STAKE



8/14/2020  
DATE OF CERTIFICATE

*Matthew Reinking*  
MATTHEW REINKING  
LICENSED PROFESSIONAL SURVEYOR No. 54057  
ABONMARCHE CONSULTANTS, INC.

THIS SURVEY WAS BASED ON THE INCLUDED LEGAL DESCRIPTION AS IT APPEARS ON A DEED OR TITLE INSURANCE POLICY, AND SHOULD BE COMPARED WITH THE ABSTRACT OF TITLE OR TITLE INSURANCE POLICY FOR ACCURACY, EASEMENTS OR EXCEPTIONS. ANY WRITTEN OR UNWRITTEN RIGHTS OF ADJOINERS ARE UNKNOWN UNLESS SPECIFICALLY NOTED.



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Benton Harbor, MI 49020  
T 369.927.2295  
F 369.927.1017  
abonmarche.com

Battle Creek: Goshen  
Benton Harbor: Hobart  
Manistee: Lafayette  
South Haven: South Bend  
Vassar: Vassar

Engineering - Architecture - Land Surveying

PREPARED FOR:

TOM SUCICH II

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DRAWN BY: MGR

APPROVED BY: MAF

DATE: 8/14/2020

SCALE: 1" = 20'

PART OF LOT 11

BLOCK 11

CITY OF NEW BUFFALO

SHEET 1 OF 1

JOB NO. 20-1195

(Proposed)



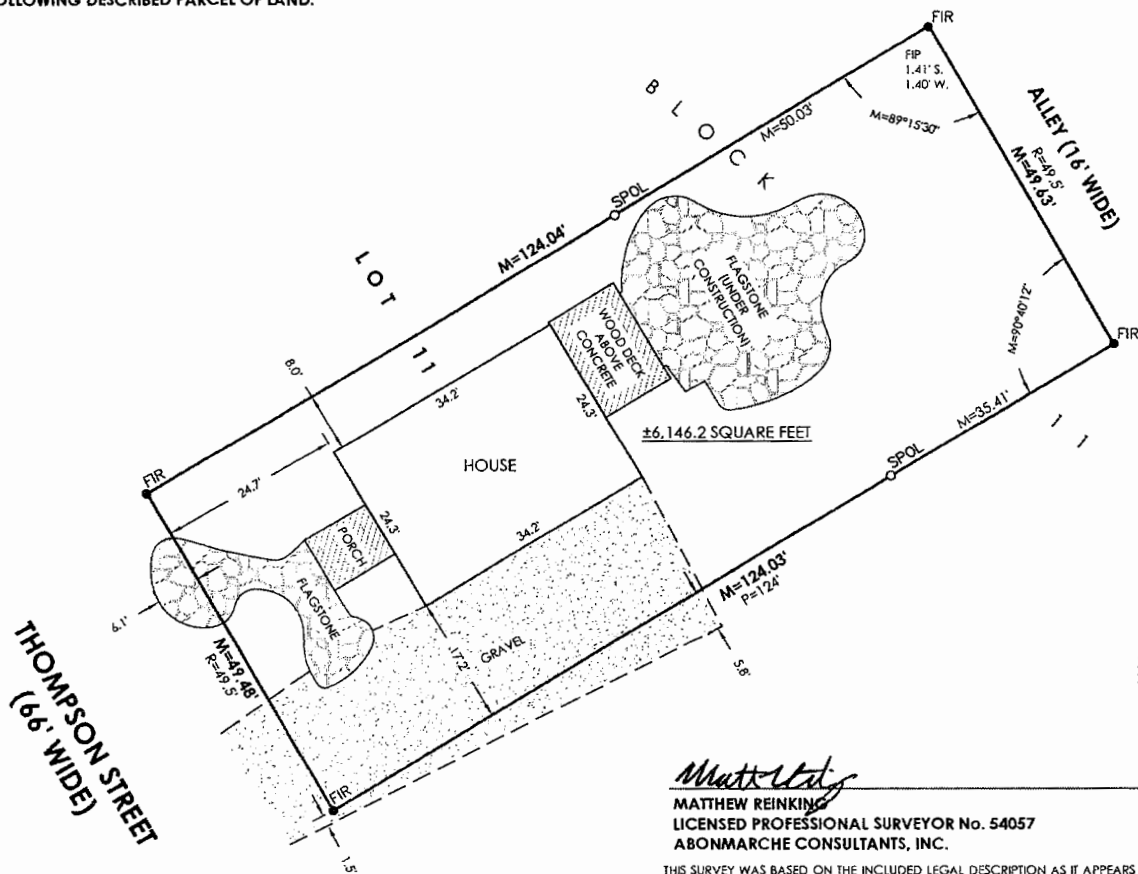
SURVEY AS CURRENT

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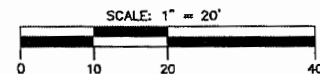
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PREPARED FOR:

THOMAS SUCICH II

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DRAWN BY: MGR

PART OF LOT 11

APPROVED BY: MAF

BLOCK 11

DATE: 8/14/2020

CITY OF NEW BUFFALO

SCALE: 1" = 20'

SHEET 1 OF 1



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F 269.927.1017  
abonmarche.com

Battle Creek  
Benton Harbor  
Manistee  
South Haven  
Goshen  
Hobart  
Lafayette  
South Bend  
Valparaiso

Engineering - Architecture - Land Surveying

*City of New Buffalo, MI  
Sunday, October 25, 2020*

## Appendix A. Zoning Ordinance

### Article 3. General Provisions

#### Section 3-2. Accessory buildings structures and uses.

A. General requirements.

1. Accessory buildings and structures shall be permitted subject to the regulations of this section.
2. Attached accessory buildings and structures shall be made structurally a part of the principal building and shall conform to the site development standards of the district in which the building or structure is located.
3. Detached accessory buildings and structures in nonresidential districts shall be setback six feet from all side and rear lot lines.

B. Detached accessory buildings and structures - residential districts or uses.

1. Location. Detached accessory buildings and structures shall be permitted only in the side or rear yard.
2. Setback. Accessory buildings shall be setback a minimum of two feet from a side or rear property line, and a minimum of 10 feet from the primary structure, but where it abuts an alley, it shall be setback six feet.
3. Number of buildings. Up to two accessory buildings shall be permitted, however their combined area shall not exceed the maximum permitted area for detached accessory buildings.
4. Maximum permitted size:
  - a. For lots of 10,000 square feet in area or less: 960 square feet shall be permitted.
  - b. For lots greater than 10,000 square feet in area, up to one acre: 1,500 square feet shall be permitted.
  - c. For lots greater than one acre: 2,000 square feet shall be permitted.
5. Maximum rear yard coverage. Detached accessory structures shall not cover more than 40% of the rear yard area. In the case of corner lots, such structures shall not cover more than 40% of the yard opposite the principal front yard.

6. Permitted height. No detached accessory building shall exceed a height of 20 feet.
  7. Swimming pool. A swimming pool shall be permitted in addition to any detached accessory structure located on a lot or parcel. Swimming pools shall comply with the City's building code, and be located a minimum of 10 feet from the residential structure and any property line.
- C. Detached accessory buildings in nonresidential districts or uses. Detached accessory buildings having 1,000 square feet of area or more shall be approved through the site plan review process. Detached accessory buildings of less than 1,000 square feet may be approved as a minor change to a site plan (see Article 19). All detached accessory buildings shall comply with the building setback requirements of the primary structure.



EMAIL: [manager@cityofnewbuffalo.org](mailto:manager@cityofnewbuffalo.org)  
 WEBSITE: [www.cityofnewbuffalo.org](http://www.cityofnewbuffalo.org)  
 Authority: 1972 PA 230  
 Completion: Mandatory to obtain permit  
 Penalty: Permit cannot be issued

269-469-1500  
 269-469-7917

### ZONING PERMIT APPLICATION

A drawing (site plan shown from a "bird's eye" view) indicating property lines, location of all buildings presently on the property and location of the proposed new structure(s), must be submitted with this application. The site plan should also include measurements from your new project to property lines and distances between all buildings. The project must be marked in some way (in ground with stakes or on ground with painted markings). "Change of Use" applicants are exempt from providing a site plan as indicated and instead, will provide a statement of the proposed new use of the existing structure.

#### I. Job Location

JOB Address <b>123 S Thompson Street</b>	Name of Owner <b>Thomas Suciich</b>
Name of City, Village or Township in which job is located: <b>CITY - NEW BUFFALO</b>	County <b>BERRIEN</b>
Owner Telephone [REDACTED]	

#### II. Applicant (Contractor/Property Owner Information)

Contractor  Owner

**TOM SUCICH**

Address: [REDACTED] City: [REDACTED] State: [REDACTED] Zip: [REDACTED]

Telephone: **123 S. Thompson St. New Buffalo** Email: [REDACTED]

#### III. Type of Job (PLEASE MARK AS MANY AS ARE APPLICABLE)

**garage - cottage type**

- |  |   |   |
|--|---|---|
| <input type="checkbox"/> New                               | <input type="checkbox"/> Single Family or Two Family Home Circle One          | <input type="checkbox"/> Outbuilding (Barn/Shed/Carport) Circle One       |
| <input type="checkbox"/> Addition                          | <input type="checkbox"/> Mobile Home or Prefab Circle One                     | <input checked="" type="checkbox"/> Garage (Attached/Detached) Circle One |
| <input type="checkbox"/> Alteration/Remodel Circle One     | <input type="checkbox"/> Fence - Indicate Type Here _____                     | <input type="checkbox"/> Pool (Above/Below Ground) Circle One             |
| <input type="checkbox"/> Change of Use (Current Use _____) | <input type="checkbox"/> Foundation Only                                      | <input type="checkbox"/> Commercial Building                              |
| <input type="checkbox"/> Other _____                       | <input type="checkbox"/> Deck/Porch Circle One (Attached/Detached) Circle One |   |

#### IV. Project Dimensions

**12** Project Width    **28** Project Length    **20'** Project Height (from grade to highest point)    **1** of Floors    **336** Total Square Feet

#### V. Zoning Questions (PLEASE CIRCLE YES OR NO)

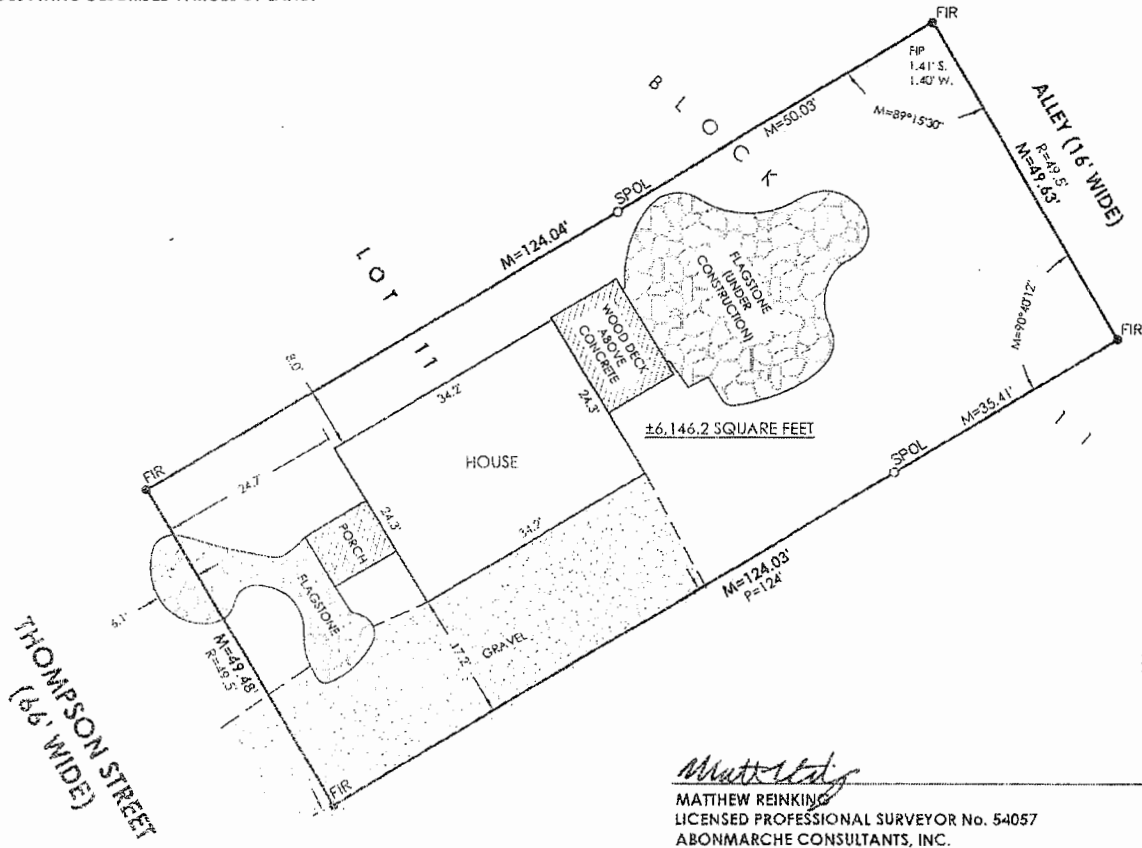
- |  |   |                             |
|--|---|-----------------------------|
| Does this property have frontage on two roads?   | YES                                     | <input type="checkbox"/> NO |
| Does this property have lake frontage?   | YES                                     | <input type="checkbox"/> NO |
| Is there a dwelling presently on this property?  | <input checked="" type="checkbox"/> YES | NO                          |
| Is there an accessory building presently on this property?   | YES                                     | <input type="checkbox"/> NO |
| Is the construction located within 500 ft of a lake, stream, or natural body of water? <b>RAVINE</b> | YES                                     | <input type="checkbox"/> NO |
| Will the construction require the moving of one surface acre or more of land?                        | YES                                     | <input type="checkbox"/> NO |
| If construction is for an accessory building, will it contain animals?                               | YES                                     | <input type="checkbox"/> NO |

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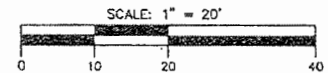
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8/14/2020

DATE OF CERTIFICATE

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Hobart  
Lafayette  
South Bend  
Valparaiso  
Engineering - Architecture - Land Surveying

PREPARED FOR:

THOMAS SUCICH II

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DRAWN BY: MGR

APPROVED BY: MAF

DATE: 8/14/2020

SCALE: 1" = 20'

PART OF LOT 11

BLOCK 11

CITY OF NEW BUFFALO

SHEET 1 OF 1

JOB NO. 20-1195



A SITE PLAN MUST BE SUBMITTED THAT INCLUDES THE FOLLOWING INFORMATION

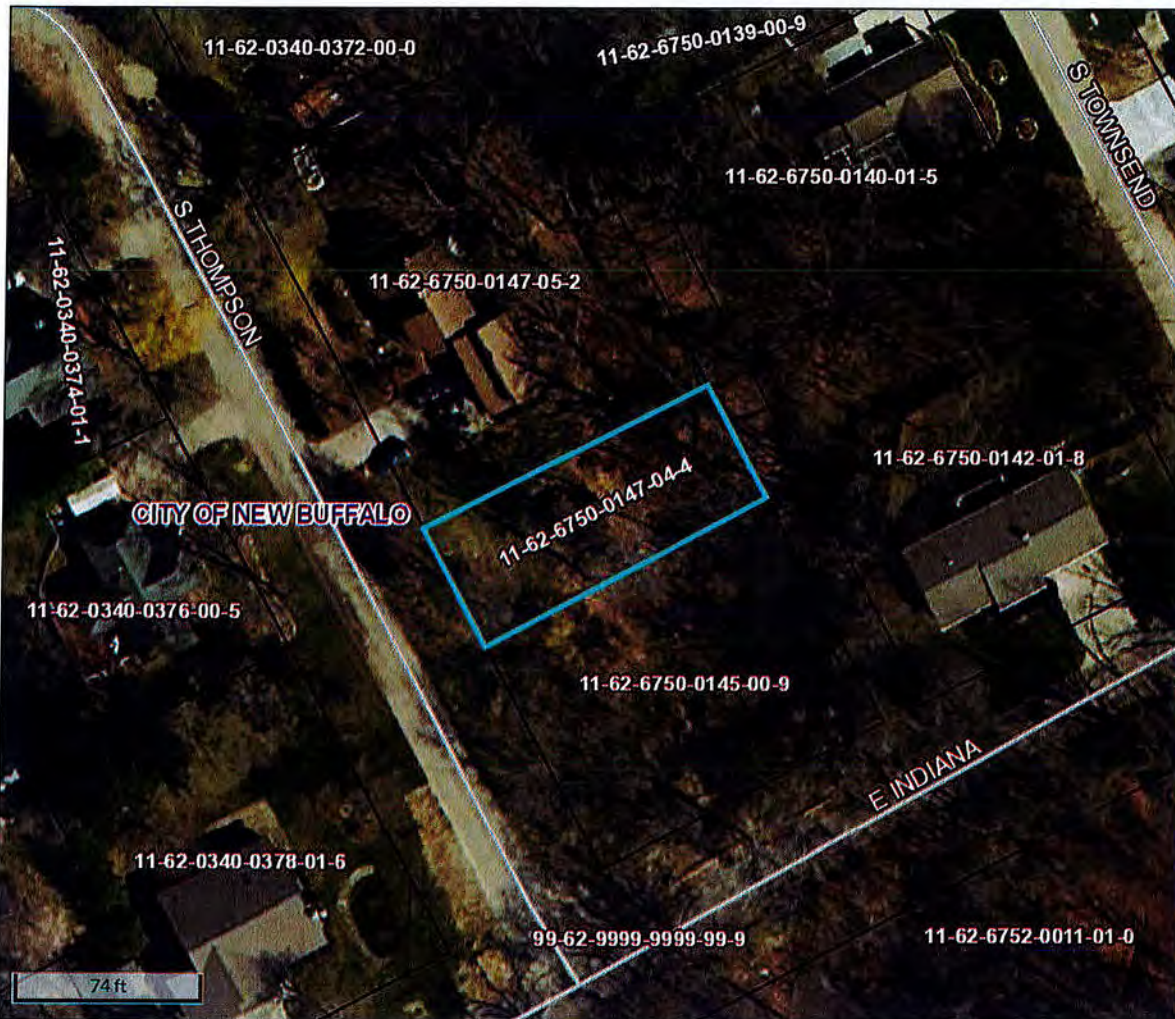
- A description of the property
- North arrow
- Legal description and Tax ID# of the subject property
- Location of property lines and an illustration of the setbacks
- Dimensions of the parcel, the development area and open space
- Location of existing and proposed structures on the site and within 50' of the parcel
- Names of adjoining streets and locations of sidewalks and any easements
- Any other information helpful in making a determination

It is the applicant's responsibility to be aware of any deed restrictions, subdivision regulations, flood plain and wetland regulations. Compliance with City Zoning Ordinance requirements does not preclude compliance with additional requirements that may apply, including but not limited to the Berrien County Health Department, the Berrien County Drain Commission, the Michigan Department of Environmental Quality and the City's Building Permit Department.

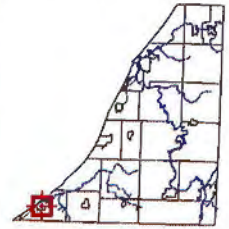
*Thomas D. Smith* 9-19-2020

---

Applicant and date



Overview



Legend

- Railroads
- Roads
  - Interstate
  - Major Arterial
  - Minor Arterial
  - Roads
- Parcels
- Lakes
- Rivers
- Parcel
- Lake Michigan

Parcel ID	11-62-6750-0147-04-4	Alternate ID	n/a	Owner Address	SUCICH THOMAS II
Sec/Twp/Rng	n/a	Class	402		23528 SADDLECREEK DR
Property Address	123 S THOMPSON ST NEW BUFFALO	Acreage	n/a		MANHATTAN, IL 60442
District	11200				
Brief Tax Description	THE SE'LY 49.5' OF LOT 11 BLK 11 THE NW'LY LN OF WHICH IS PAR TO THE SE'LY LN OF SD LOT 11 ROSE ADD TO VILLAGE OF NEW BUFFALO				
	<i>(Note: Not to be used on legal documents)</i>				

Date created: 10/21/2020  
 Last Data Uploaded: 10/21/2020 1:02:18 AM

Developed by Schneider  
 GEOSPATIAL



**Summary**

Parcel Number 62-6750-0147-04-4  
 Property Address 123 S THOMPSON ST  
 NEW BUFFALO MI 49117  
 Brief THE SE'LY 49.5' OF LOT 11 BLK 11 THE NW'LY LN OF WHICH IS PAR TO THE SE'LY LN OF SD LOT 11 ROSE ADD TO VILLAGE OF NEW  
 Tax Description BUFFALO  
 (Note: Not to be used on legal documents)  
 Class 402  
 School District 11200  
 Map # 010-1  
 Acres 0.00  
 Liber/Page 3216/1774  
 Plate Number N75E

**Owners**

Owner Tax Payer  
 SUCICH THOMAS II  
 23528 SADDLECREEK DR  
 MANHATTAN, IL 60442

**Valuation**

Year	Assessed Value	State Equalized Value	Taxable Value
2019	\$39,700	\$39,700	\$39,700
2018	\$18,400	\$18,400	\$18,400
2017	\$24,700	\$24,700	\$10,301

Berrien County assumes no legal responsibility for the information contained herein, which is provided "AS IS" with no warranties of any kind.

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## ZONING BOARD OF APPEALS

### STAFF REPORT

**Meeting Date:** November 19, 2020

**Project Number:** 11.19.2020

**Project Name:** North Drive Condominiums

**Applicant:** Jerry Fedorchak, [REDACTED]

**Owner:** Authorization from the owner is not included in the packet but proof of property ownership is not. Title search documents are not included as well

**Property Location:** 529 North Drive, See legal description on site plan (page 2)

**Dimensions:** 371.97 x 101.10, or approximately 33,106 SF

**Proposed Use:** 18 unit residential condominiums with swimming pool

**Zoning:** WM - Water Front Marina

#### VARIANCES REQUESTED

##### Section 12.4 - Water Front Marina District Site Development Requirements

Maximum building height allowed is 35 feet.

- Increase the building height allowed to 46' 9 ¼".
- Side, rear and pool setbacks reduced to 5'.

#### OVERVIEW

The applicant requests variances to (1) waive building height requirements; (2) reduce rear and east side yard setback requirements for the building; and (3) reduce pool setback requirements. Section 12.4; and Section 3.14 of the City's Zoning Ordinance specify required zoning standards. The application submitted is complete.

Reduce rear yard and east sideyard setback requirement from 10 feet to five (5) feet to allow for planned development.

### **Section 3.14 – Swimming Pools**

“Swimming Pools shall not be located less than ten (10) feet from any lot line or any main building”.

- The applicant requests to construct a pool within five (5) feet of the property line.

### **FINDINGS/RECOMMENDATION**

1. Existing topo contours and proposed grading is not included along with proposed grading.
2. Water level indicated is from 2017. And conditions have changed.
3. Property lines with dimensions are not indicated on the proposed plan.
4. Setbacks are noted in the table of sheet 2 but not labeled on the plan.
5. Existing boundary survey is not shown and the right-of-way line is noted as the property line.
6. Gross and net acre should be verified as property lines and right-of-way are difficult to locate.
7. Pool building is an accessory structure and no information
8. Street right-of-way is not labeled and no easements are shown.
9. No radii of existing or proposed street or drive improvements are shown as the property line appears to extend into North Drive.
10. There are no dimensions of the proposed parking spaces
11. No signage, lighting or trash receptacle and screening are noted.
12. Swimming details are not provided and the pool deck appears to extend beyond the property line and the 5' variance appears to actually be 6'. A wall is indicated on the front yard side but not the others which requires 4'.
13. The circumstances of this property are comparable to the adjacent property developed in similar fashion but with more density.
14. There are dimensional characteristics to the lot that create a practical difficulty and the project duplicates the dimensions of the adjacent property and building. Those difficulties are not created by the applicant.
15. The variances preserve the substantial property rights indistinguishable from other property in the same zoning district.
16. The variances will have limited detriment to adjacent properties and the surrounding neighborhood.
17. The variances will not impair the intent and purpose of the Zoning Ordinance.
18. After review of the application materials, confirmation of the facts reported, site inspections and evaluation of the site development requirements, it is recommended the issues noted be addressed before any variances be approved.

### **Section 21-5 JURISDICTION**

The Zoning Board of Appeals shall not have the power to make any change in the terms of this Ordinance, but does have power to act on those matters where this Ordinance provides for an administrative review, interpretation, and to authorize a variance as defined in this Section and the laws of the State of Michigan. The powers of the Zoning Board of Appeals include:

## **B. Granting of Variances**

A variance from the specific requirements of this Ordinance may be granted by the Zoning Board of Appeals in accordance with the requirements and procedures of this Article.

## **SECTION 21-8 VARIANCE PROCEDURES**

### **A. Authority for Variances**

The Zoning Board of Appeals, after public hearing, shall have the power to grant requests for variances from the provisions of this Ordinance where it is proved by the applicant that there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of the Ordinance relating to the construction, equipment, or alteration of buildings or structures so that the spirit of the Ordinance shall be observed, public safety secured and substantial justice done.

### **B. Granting of Non-Use Variances**

A non-use variance may be allowed by the Zoning Board of Appeals only in cases where there is reasonable evidence of practical difficulty in the official record of the hearing and that all of the following conditions are met:

1. That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same zoning district;

*There are no apparent extraordinary circumstances applying to the subject property making compliance impossible. In fact the other properties have developed in a similar more dense fashion.*

2. That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations. Unique circumstances include: exceptional narrowness, shallowness or shape of a specific property on the effective date of this Article, or by reason of exceptional topographic conditions or other extraordinary situation on the land, building or structure or by reason of the use or development of the property immediately adjoining the property in question, the literal enforcement of the requirements of this Article would involve practical difficulties;

*The marina and the right-of-way make compliance difficult.*

3. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.

*This variances are for the preservation and enjoyment of any substantial property right similar to that possessed by other properties in the same zoning district.*

4. The height variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.

*The variance will not be detrimental to adjacent properties nor the surrounding neighborhood as the height requested is identical to the peak allowed.*

5. The variances will not impair the intent and purpose of this Ordinance.

*Granting a variance will not impair the intent and purpose of the City of New Buffalo's Zoning Ordinance by limiting the authority of the building permitting and inspection process.*

6. That the immediate practical difficulty causing the need for the variance request was not created by any action of the applicant.

*The variances requested are not necessarily created by the proposed actions of the property owner.*

## **SECTION 21-6 DECISIONS**

### **D. Decisions**

1. The concurring vote of a majority of the membership of the Board shall be required to reverse an order, requirement, decision, or determination of an administrative official or body, or to decide in favor of the applicant a matter upon which the Board is required to pass, or to effect a variation in the ordinance; except that a concurring vote of two-thirds (2/3) of the membership shall be necessary to grant a use variance.

2. The Zoning Board of Appeals shall render its decision upon any appeal or application submitted to it within sixty (60) days after the hearing thereon.

3. All decisions of the Zoning Board of Appeals shall become final five (5) days after the date of entry of an order, unless the Board shall find, and so certify on the record, that it is necessary to cause such order to have immediate effect, in order to preserve property or personal rights.

4. Any variance granted by the Board shall only be valid for a period of twelve (12) months from the date of approval, unless substantial construction, as determined by the Board, has occurred and is progressing meaningfully toward completion. The Board may grant up to an additional twelve (12) month extension, if requested by the property owner in writing prior to the expiration of the original twelve (12) month period, upon showing that the expiration of the variance will cause an undue hardship on the owner.

### **E. Record of Actions**

For each decision of the Zoning Board of Appeals, a record shall be prepared. Such record shall include, at a minimum, the following items:

1. Description of the applicant's request.
2. The Zoning Board of Appeal's motion including an explanation of how the request meets each standard outlined in Sec. 21-8 B, for Non-Use Variances, or Sec. 21-8 C, for Use Variances, or conversely, an explanation of how the request does not meet each said applicable standard.
3. The Board's vote on the motion.
4. A summary or transcription of all relevant material and evidence presented at hearing; and,
5. Any conditions attached to an affirmative decision.

Respectfully submitted,

David Richards, City Manager



City Staff Use Only	Project Name
	Project Number
	Review Fee Paid
	Escrow Fee Paid

**APPLICATION TO: PLANNING COMMISSION ZONING BOARD OF APPEALS**

224 W Buffalo St, New Buffalo, MI 49117 City Hall: 269-469-1500 Building Dept: 269-469-7144 Facsimile: 269-469-7917

Instructions: Fill-in all blanks and 'X' applicable boxes ( ). Incomplete applications cannot be processed.

**I. Applicant and Owner Information**

A) Applicant(s) principal contact:

Name Jerry Fedorchak  
 Address [Redacted]  
 Telephone [Redacted]

E) Property owner(s) principal contact:

Name Ron Oselka  
 Address [Redacted]  
 Telephone [Redacted]

B) Applicant(s) secondary contact:

Name Jim Oselka  
 Address [Redacted]  
 Telephone [Redacted]

F) Architect (if applicable):

Name G. M. Fedorchak & Assoc., Inc  
 Address [Redacted]  
 Telephone [Redacted]

C) Agent or Attorney (if applicable):

Name LaRose & Bosco, Ltd- Mark LaRose  
 Address [Redacted]  
 Telephone [Redacted]

G) Engineer (if applicable):

Name \_\_\_\_\_  
 Address \_\_\_\_\_  
 Telephone \_\_\_\_\_

D) Is the property held in Trust\*:

Yes - Answer below No - Skip below

Name of Trust Not In Trust  
 Address \_\_\_\_\_  
 Telephone \_\_\_\_\_

H) Applicant is (check one):

- Property owner
- Attorney
- Agent
- Engineer
- Other: Partner/ Architect

\* Trusts: Provide an attached statement from the trustee verifying the names of all the beneficial owners.



**II. Purpose of Application**

A) This application is a request for the following action:

- |  |                      |                      |
|--|----------------------|----------------------|
| Rezoning of Property                     | Subdivision Approval | Site Plan Approval   |
| Rezoning Amendment                       | Variance(s) Approval | Special Use Approval |
| Lot Split – Subdivision or Land Division | Other: _____         |                      |

B) The reasons for the requested action(s) are as follows:

- 1- Site Plan Approval
- 2- Special Use for Residential
- 3- Increase height to 46'-9 1/4" from 35'. The requested height is identical to the actual peak allowed for a code compliant 12/12 sloped roof- just calculated differently.
- 4- Reduce rear yard & east side yard setbacks for building & pool by 5 feet each
- 5- Allow two residential units to have one indoor parking space due to internal space restrictions

C) The specific section(s) of the City Zoning Ordinance or City General Ordinances which addresses the amendment, variance, or other action which is being requested:

- Article 17- Special Land Use
- Article 19- Section 19-2 Site Plan Review
- Section 2-10- Building Height
- Article 12- Section 4- Setbacks
- Article 3- Section 14 B- Swimming Pool Setback

D) The following two questions are only for applications which contain a request for a zoning variance:

1. Are the conditions which prevent the development of the property the result of action by an individual who has or had a property interest in the subject property:      Yes      No

2. If the conditions were self-imposed (not hardship), explain why the variance should be granted:

N/A

**III. Site and Surrounding Property Information**

A) Common address or property location of subject property:  
529 North Drive

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B) Legal description (attach an additional sheet if necessary):  
See attached

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C) Permanent Real Estate Tax Identification Number: \_\_\_\_\_

D) Parcel Size:	<u>33,106 +/-</u>	Square feet
	<u>.76</u>	Acres
	<u>371.97</u>	Dimension of lot frontage
	<u>101.1 (from centerline)</u>	Dimension of lot depth

E) What are the current land uses and zoning on the property and the adjoining properties:

	Current zoning	Current land use
1. On Site:	<u>WM- Waterfront Marina</u>	<u>Outside Boat Storage</u>
2. Adjoining property:		
a) North of Site	<u>Residential- LDR</u>	<u>Residential</u>
b) South of Site	<u>WM- Waterfront Marina</u>	<u>Boat Slips</u>
c) East of Site	<u>WM- Waterfront Marina</u>	<u>Boat Slips</u>
d) West of Site	<u>WM- Waterfront Marina</u>	<u>Hotel</u>

F) Describe any existing structures or other improvements and physical attributes of the site:  
None

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**IV. Description of the Proposed Development**

A) Please describe the proposed use of the land and/or building assuming approval of the request:  
18 Unit Residential Condominium Development with Roof Top Deck, Indoor Parking and  
Swimming Pool

B) What is the proposed time frame for the build-out of this development: 2 Years

C) For each intended use please fill-in the number of buildings, square footage of each building, the total square footage of the development, and the required number of parking spaces; as well as the number and size of the water and the sewer connections:

Building Use	Number of Buildings	Building Area (sq ft)	Total Building (sq ft)	Required Parking Spaces	Water Connections and Sizes	Sewer Connections and Sizes
Single Family R-1						
Two Family R-2						
Mufty-Family R-3						
Central Business CBD						
Gen. Commercial GCD						
Waterfront Marina WM	1	11,537	44,141	36	(1) 8"	(1) 8"
General Industrial I-1						
<b>TOTAL</b>		<u>9-11</u>	<u>excl. roof</u>	<u>deck</u>		

D) If this application is for a development please provide information concerning the amount of traffic and the proposed road configuration it will have:

- 1) Average daily traffic count for the proposed development: 72 cars (estimate)
- 2) Peak traffic flow count for the proposed development: 10 cars (estimate)
- 3) How many lineal feet of roadway is proposed to be developed: none
- 4) How many cul-de-sacs will be constructed as part of this project: none
- 5) How many curb cuts to City, County or State roads are proposed: none

E) Does the request contemplated in this application concern any hazardous materials:  
 No Yes – describe the type and quantity of materials (attach extra pages if necessary):  
NO

V. Attachments

- A) X Plat of Survey with legal description.
- B) X Site plan of proposed use of project showing traffic patterns, parking locations and court, drainage patterns including detention areas, landscaping plans, exterior lighting locations and illumination pattern, building facade portrait and building size and location dimensions.
- C) X Floodplain map (engineer's drawing or FEMA map showing location of subject property).
- D) N/A Application fee in the amount of \$ Already Paid.
- E) N/A High Risk Dune Area Designation and/or Soil Conservation Analysis (if applicable).
- F) X Application for permits (specify type):
  - 1) Michigan DOT \_\_\_\_\_
  - 2) County Road Commission \_\_\_\_\_
  - 3) County Health Department \_\_\_\_\_
  - 4) State Dept. of Public Health \_\_\_\_\_
  - 5) Michigan DEQ \_\_\_\_\_
  - 6) Others New Buffalo Building Permit
- G) \_\_\_\_\_ Sand Dune Permit for Construction (if applicable).

VI. Additional Information - Please describe the reasons this petition should be granted and include any additional comments or pertinent information (attach additional pages if necessary):

- 1- This development is expected to increase the tax base of the city by over \$9 million.
- 2- The current site is not fully utilized to the best possible use.
- 3- Without a special use, this project will not be allowed to be built.
- 4- The adjustment in the definition of the building height allows for the same density as the adjacent building, but with on site parking instead of street parking.
- 5- The roof peak of the proposed building will be the same actual height as a standard roof under the existing rules without a variance.
- 6- The total onsite parking spaces in the building & dedicated driveways will be 52 spaces for the 18 units. We will also have 2 handicapped spaces.
- 7- The rear yard setback will assist with the architectural design of the building.
- 8- The east yard setback will assist with the pool layout.
- 9- Current zoning permits a hotel or restaurant. This multi-family project would produce a significantly lower traffic count, congestion and parking issue.
- 10- The building will be handicapped accessible. The units will be handicapped adaptable.

VII. Signature and Declaratory Statement

A) Required attendance at public hearing(s) and/or meeting(s): The Planning Commission and Zoning Board of Appeals (ZBA) have established a policy requiring the applicant or a designated representative of the applicant to be present at any meeting or public hearing at which their application is to be considered. Failure of the applicant or designee of the applicant to appear may postpone consideration of the application by the Planning Commission or ZBA.

B) Declaratory Statement:

I, Jerry Fedorchak, hereby certify that all information contained in this application and accompanying documentation is true and correct to the best of my knowledge and further, I acknowledge the required attendance of the applicant as set forth in paragraph A above. I furthermore grant permission for identified members of the City of New Buffalo's Planning Commission or Zoning Board of Appeals to visit the site(s) referenced in this application.

C) Applicant Signature: [Signature] Date: 10-19-20

D) Notary Public Certification Statement:

I, HARRIET KAISER, Notary Public in and for the State of INDIANA this 19th day of October, 2020 the above captioned applicant appeared before me and under oath, stated that all matters contained in this application are true.



My commission expires: 09-09-2022 Harriet Kaiser

VIII. City Staff Review

Fire Department approval of Site and Building Plans, except for single family dwellings: This application and associated documentation must be reviewed by the Fire Chief or his designee, which can be arranged by calling the Fire Department: 269-469-4993.

Review Date: \_\_\_\_\_

Approval: Yes No Signature: \_\_\_\_\_

Conditions: Attached None Title: \_\_\_\_\_

B) Note to applicant: The original application must be filed in the Office of the Zoning Administrator, where the following signatures are required for verification that this is a complete and valid application to be considered by the Planning Commission or the Zoning Board of Appeals.

Building Inspector: \_\_\_\_\_

Date: \_\_\_\_\_

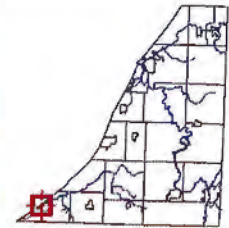
Zoning Administrator: \_\_\_\_\_

Date: \_\_\_\_\_

Initial meeting date: \_\_\_\_\_



Overview



Legend

- Railroads
- Roads**
- <all other values>
- Interstate
- Major Arterial
- Minor Arterial
- Roads
- Parcels
- Lakes
- Rivers
- Parcel
- Lake Michigan

Parcel ID	11-62-0009-0003-16-6	Alternate ID	n/a	Owner Address	JKM REAL ESTATE LTM PARTNERSHIP
Sec/Twp/Rng	n/a	Class	402		514 WEST WATER ST
Property Address	529 NORTH DRIVE NEW BUFFALO	Acreage	0.76		NEW BUFFALO, MI 49117
District	11200				
Brief Tax Description	COM AT THE INT OF CL BERRIEN ST & NWLY R/W LN WATER ST TH N30DEG44'16"W ON CL BERRIEN ST 571.02' TO THE CL NORTH DR TH N50DEG13'19"E ON CL 201.01' TO POB TH N50DEG13'19"E 371.97' TH S8DEG11'10"W 50.85' TH S1DEG20'15"E 7.78' TH S10DEG20'15"E 77.56' TH S59DE				
	<i>(Note: Not to be used on legal documents)</i>				

Date created: 10/21/2020  
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