



**SPECIAL MEETING  
ZONING BOARD OF APPEALS  
Thursday, September 1, 2022 at 5:00 p.m.  
City of New Buffalo  
224 W. Buffalo Street  
New Buffalo MI 49117**

**AGENDA**

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Approval of Agenda
5. Approval of Previous Minutes – May 26, 2022
6. Public Comment
7. Public Hearing
  - a. 230 S. Willard Street (11-62-8200-0358-02-1) – Request variance to allow a 5’ privacy fence in the designated front yard, on the Detroit and Willard Street side of a corner lot
8. New Business
  - a. 230 S. Willard Street (11-62-8200-0358-02-1) – Request variance to allow a 5’ privacy fence in the designated front yard, on the Detroit and Willard Street side of a corner lot
9. Adjournment

Vice Chair Smith called the meeting to order at 5:02 p.m.

Pledge of Allegiance – ZBA Board members led the Pledge of Allegiance.

Roll Call: Members Gabryszewski, Pokuta, Joseph, Borg, Parelo, Chair Smith

Absent: Member Cooper

City Staff Present: City Manager, Darwin Watson; City Clerk, Amy Fidler

**Approval of Agenda:** Motion by Joseph, seconded by Gabryszewski to approve the agenda:

Roll call vote:

AYES: Members Gabryszewski, Pokuta, Joseph, Borg, Parelo, Chair Smith

NAYES:

ABSENT: Member Cooper

ABSTAINED:

Motion Carried, 6-0.

**Approval of Previous Minutes – March 24, 2022:** Motion by Borg, seconded by Parelo to approve the previous minutes from March 24, 2022:

Roll call vote:

AYES: Pokuta, Joseph, Borg, Parelo, Gabryszewski, Chair Smith

NAYES:

ABSENT: Member Cooper

ABSTAINED:

Motion Carried, 6-0.

**Public Comment:** None

### **Public Hearing**

Vice Chair Smith opened the public hearing for 232 S. Chicago Street at 5:04 p.m.

**232 S. Chicago Street** - Variance Request 232 S. Chicago Street (Parcel # 11-62-8270-0026-00-3) Request variance for the required front yard setback of 20 feet (Detroit Street) to be reduced to 9'5" feet.

Public Comment: None

Vice Chair Smith closed the public hearing for 232 S. Chicago Street at 5:05 p.m.

**Member Joseph stepped out of the meeting to take a phone call.**

### **New Business**

**232 S. Chicago Street** - Variance Request 232 S. Chicago Street (Parcel # 11-62-8270-0026-00-3) Request variance for the required front yard setback of 20 feet (Detroit Street) to be reduced to 9'5" feet.

Motion by Pokuta, seconded by Parelo to approve the variance for the required front yard setback of 20 feet (Detroit Street) to be reduced to 9'5" feet for these reasons:

1. The proposed enlargement or alteration will **not** change the essential character of the area.
2. The proposed enlargement or alteration will **not** be contrary to the general development plan.
3. The proposed enlargement or alteration will **not** have adverse impact on the adjoining property or the general welfare of the city, by reason of it no nonconformity with the provisions of the ordinance.

Roll call vote:

AYES: Members Borg, Parelo, Gabryszewski, Pokuta, Smith

NAYES:

ABSENT: Member Cooper

ABSTAINED:

Motion Carried, 5-0.

**Member Joseph returned to the meeting.**

Motion by Joseph, seconded by Parelo to adjourn the meeting at 5:07 p.m.

Roll call vote:

AYES: Borg, Parelo, Gabryszewski, Pokuta, Joseph, Smith

NAYES:

ABSENT: Cooper

ABSTAINED:

Motion Carried, 6-0.

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Tom Smith, Chair

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Amy Fidler, City Clerk



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

**Hearing Date:** Thursday, September 1, 2022 at 5:00 PM

**Project Number:** PZ22-0016

**Applicant:** Michael Lee (Owner)

**Owner:** Michael Lee

**Subject Property Address:** 230 South Willard, New Buffalo, MI 49117, #11-62-8200-0358-02-1

**Zoning District:** Residential (R-1)

**Nature of the Request:** Variance request for a variance to allow a 5' privacy fence in the designated front yard on the West Detroit Street and South Willard Street side of a corner lot.

**OVERVIEW**

A zoning permit application was received by the city for the installation of 400' of fencing from Michael Lee. Mr. Lee owns a home located at 230 South Willard on the corner of West Detroit Street and South Willard Street. Section 3-3 (A) of the New Buffalo Zoning Ordinance states:

*A corner lot shall have two front lot lines: a principal front lot line and a secondary front lot line. The principal front lot line shall be the shorter of the two lot lines.*

The requested height for the fence installation is 5' on the West Detroit Street and South Willard Street. Section 3-5 (B) of the New Buffalo Zoning Ordinance states:

*Fences erected within the front yard in any district shall not exceed 3 1/2 feet in height.*

The city has denied the request for the installation of the front yard fencing as it does not conform to the New Buffalo Zoning Ordinance's requirement for fence installation. In order to install the fencing as requested, Mr. Lee would need a variance.

**Recommendation:** Upon review of the application materials, validation of the facts reported, site inspection and evaluation of each of the criteria required for review and noted in this staff report, it is the recommendation of the Zoning Administrator that a proper amount of information has been provided to the Zoning Board of Appeals to render a decision on this appeal request.

Respectfully submitted,

Darwin Watson, Zoning Administrator  
City of New Buffalo

*City of New Buffalo, MI  
Monday, August 29, 2022*

## Appendix A. Zoning Ordinance

### Article 3. General Provisions

#### Section 3-3. Corner lots.

- A. A corner lot shall have two front lot lines: a principal front lot line and a secondary front lot line. The principal front lot line shall be the shorter of the two lot lines. Where the lot lines are of equal length, and/or the principal front lot line is not evident, then the Zoning Administrator shall determine the principal front lot line.
- B. General provisions.
  - 1. The required front setback shall be met on both the principal and secondary streets; provided that where the lot contains an existing main building, the front setback from the secondary street may be reduced by 10 feet.
  - 2. The remaining setbacks shall be a side setbacks.
  - 3. The width of a corner lot shall be determined by the entire length of that front lot line which is opposite the rear lot line.

#### Section 3-5. Fences.

- A. Fences in residential districts shall not exceed six feet in height, measured from the surface to the uppermost portion of the fence.
- B. Fences erected within the front yard in any district shall not exceed 3 1/2 feet in height. Fences within the front yard shall be of a type which is not more than 50% solid and shall not be located within any clear vision area, per Section 3-13.
- C. Fences in residential districts or enclosing residential uses shall not contain barbed wire or be electrified.
- D. In residential districts, the finished side of the fence shall face the abutting property.
- E. Fences shall not be erected within any public right-of-way in any district.
- F. Fences shall not be erected within two feet from a sidewalk, where the sidewalk is within the public right-of-way.

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

Michael Lee

Address

Telephone  
email

E) Property owner(s) principal contact:

Name

Michael Lee

Address

Telephone  
email

B) Applicant(s) secondary contact:

Name

Address

Telephone  
email

F) Architect (if applicable):

Name

Address

Telephone  
email

C) Agent or Attorney (if applicable):

Name

Address

Telephone  
email

G) Engineer (if applicable):

Name

Address

Telephone  
email



CITY OF NEW BUFFALO

PLANNING COMMISSION/ ZONING BOARD OF APPEALS APPLICATION

D) Is the property held in Trust\*:

Yes - Answer below

No - Skip below

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

Address \_\_\_\_\_

Telephone \_\_\_\_\_

email \_\_\_\_\_

H) Applicant is (circle one):

Property owner

Attorney

Agent

Engineer

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

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

Proceed to Next Page

**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:

5ft aluminum fence for a corner 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:

Section 3-5 fences

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:

To ensure that dogs (2) do not roam to street.



**III. Site and Surrounding Property Information**

A) Common address or property location of subject property:

230 S. Willard St  
New Buffalo, MI 49117

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

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

C) Permanent Real Estate Tax Identification Number: 11-62-8200-0358-02-01

D) Parcel Size: 21,689 Square feet  
0.51 Acres  
164.29' Dimension of lot frontage  
132.02' 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:	_____	_____
2. Adjoining property:		
a) North of Site	_____	_____
b) South of Site	_____	_____
c) East of Site	_____	_____
d) West of Site	_____	_____

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

House, shed, garage.

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

**IV. Description of the Proposed Development**

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

no change. use would be private residence

B) What is the proposed time frame for the build-out of this development: Aug 2022

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						
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: \_\_\_\_\_

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):



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 \$ 350.00.

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):

This image shows a single sheet of white paper with horizontal blue ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.



**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, Michael Lee, 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: 07/18/2022

D) Notary Public Certification Statement:

I, Ann Marie Fidler, Notary Public in and for the State of Michigan this 18<sup>th</sup> day of July, 2022 the above captioned applicant appeared before me and under oath, stated that all matters contained in this application are true.

**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: \_\_\_\_\_

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

# City of New Buffalo

224 W Buffalo St  
New Buffalo, MI 49117  
(269) 469-1500  
(269) 469-7917

Invoice For Permit: PZ22-0016

Print Date: 07/21/2022


Michael Lee

Pay by Account In Full



Pay by Account In Full

\$ 350.00

Invoice No	Invoice Date	Permit Number	Address	Amount Due	
	00002027	07/21/22	PZ22-0016	230 S Willard ST	\$ 350.00
Fee Details	Quantity	Description	Amount Cost	Balance	
	1.000	Variance - Regular	\$350.00	\$ 350.00	
Total Amount Due				\$ 350.00	



**CITY OF NEW BUFFALO**

Receipt: 103286

07/21/22

224 W. BUFFALO STREET  
NEW BUFFALO, MI 49117

Cashier: SBOONE  
Received Of: Michael Lee

(269) 469-1500

The sum of: 350.00

BDINV 00002027

Total 350.00

CHECK

350.00

**MICHAEL R. LEE**

94-221/1212  
3500

07/18/2022

Date

CHECK ARMOR  
TRADE PROTECTION

Pay to the  
Order of

City of New Buffalo \$ 350.<sup>00</sup>  
Three hundred fifty Dollars

High Yield Investor Checking



Charles Schwab Bank  
Henderson, NV

For

ZBA Application 2305  
Willard

*Michael Lee*

Harland Clarke

Signed: \_\_\_\_\_



269-469-1500  
269-469-7917

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

## 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

230 S. Willard St

Name of Owner

Michael Lee

Name of City, Village or Township in which job is located:

New Buffalo, MI 49117

County

Berrien

Owner Telephone

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

☐ Contractor ☒ Owner

Michael Lee

City, State

Zip

Address

230 S. Willard St

Fax

Telephone

Work/Cell Phone

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

☐ New

☐ Addition

☐ Alteration/Remodel Circle One

☐ Change of Use (Current Use \_\_\_\_\_)

☐ Other \_\_\_\_\_

☐ Single Family or Two Family Home Circle One

☐ Mobile Home or Prefab Circle One

☒ Fence - Indicate Type Here aluminum/vinyl

☐ Foundation Only

☐ Deck/Porch Circle One (Attached/Detached) Circle One

☐ Outbuilding (Barn/Shed/Carport) Circle One

☐ Garage (Attached/Detached) Circle One

☐ Pool (Above/Below Ground) Circle One

☐ Commercial Building

### IV. Project Dimensions

102' Project Width

101' Project Length

6' 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

NO

Does this property have lake frontage?

YES

NO

Is there a dwelling presently on this property?

YES

NO

Is there an accessory building presently on this property?

YES

NO

Is the construction located within 500 ft of a lake, stream, or natural body of water?

YES

NO

Will the construction require the moving of one surface acre or more of land?

YES

NO

If construction is for an accessory building, will it contain animals?

YES

NO

A SITE PLAN MUST BE SUBMITTED THAT INCLUDES

- A description of the project
- North arrow
- Legal description or address and Tax ID # of the subject property
- Location of the 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.  
Include length, width, height and total square footage of all structures
- Location of adjoining streets, sidewalks and private easements
- Any other information helpful in making a determination

Install 400 feet of fencing.  
Fencing along Detroit St and  
Willard St proposed to be 5 ft  
high see through aluminum fencing.  
6 ft vinyl fencing along NW  
corner of lot.

Address: 230 S. Willard St

ID: 11-62-8200-0358-02-1

See attached proposed plan.

VI. **Responsibilities of Applicant:** It is your responsibility to be aware of any deed restrictions, subdivision regulations, flood plain regulations, and wetland regulations. I have read, acknowledged, and will comply with all of the above and with the land use regulations, as determined by the zoning administrator, or will go to the proper board for a variance/special consideration and will provide in writing such approvals, if granted, to the zoning administrator.

APPLICANT SIGNATURE

Zoning Official's Signature

DATE

Date

01/15/2022



- 6 ft privacy fence
- 5 ft aluminum see through fence
- ✓ - gate

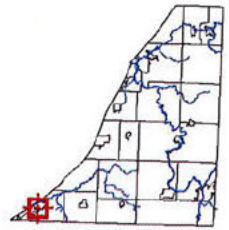




# Beacon™ Berrien County, MI



## Overview



## Legend

### Roads

<all other values>

Interstate

Major Arterial

Minor Arterial

Roads

Parcels2022

Lake Michigan

Parcel ID 11-62-8200-0358-02-1

Sec/Twp/Rng n/a

Property Address 230 S WILLARD ST  
NEW BUFFALO

District 11200

Brief Tax Description COM SE COR OF BLK 358 VIRGINIA ADD TO VILLAGE OF NEW BUFFALO TH S60DEG W 132' N30DEG W 164'  
N60DEG E 132' S30DEG E 164' TO BEG

(Note: Not to be used on legal documents)

Alternate ID n/a

Class 401

Acreage n/a

Owner Address LEE MICHAEL

Date created: 7/21/2022

Last Data Uploaded: 7/21/2022 2:47:08 AM

Developed by Schneider  
GEOSPATIAL