



**SPECIAL MEETING
ZONING BOARD OF APPEALS
Thursday, September 29, 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 – September 1, 2022
6. Public Comment
7. Public Hearing
 - a. 430 E. Buffalo Street (11-62-1150-0011-00-7) - Request variance to allow a 0' setback on the back of the property.
 - b. 202 S. Willard Street (11-62-8200-0358-08-1) – Request a variance to allow a 2'side yard setback and exceedance maximum lot coverage.
8. New Business
 - a. 430 E. Buffalo Street (11-62-1150-0011-00-7) - Request variance to allow a 0' setback on the back of the property.
 - b. 202 S. Willard Street (11-62-8200-0358-08-1) – Request a variance to allow a 2'side yard setback and exceedance maximum lot coverage.
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 Cooper, Gabryszewski, Pokuta, Borg, Parello, Chair Smith

Absent: Member Joseph

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

Approval of Agenda: Motion by Member Gabryszewski, seconded by Member Parello to approve the agenda:

Voice vote, motion carried.

Approval of Previous Minutes – May 26, 2022: Motion by Member Borg, seconded by Member Parello to approve the previous minutes from May 26, 2022:

Voice vote, motion carried.

Public Comment: None

Public Hearing

Vice Chair Smith opened the public hearing for 230 S. Willard Street at 5:04 p.m.

230 S. Willard Street - Variance Request 230 S. Willard Street (Parcel # 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

Public Comment:

Paul Billingslea

Vice Chair Smith closed the public hearing for 230 S. Willard Street at 5:05 p.m.

New Business

230 S. Willard Street - Variance Request 230 S. Willard Street (Parcel # 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

Motion by Borg, seconded by Pokuta to allow the variance request as presented; a 5' privacy fence in the designated front yard, on the Detroit and Willard side of the corner lot.

Roll call vote:

AYES: Member Gabryszewski, Pokuta, Borg, Parello, Cooper, Chair Smith

NAYES:

ABSENT: Member Joseph

ABSTAINED:

Motion Carried, 6-0.

Motion by Member Parelo, seconded by Member Pokuta to adjourn the meeting at 5:15 p.m.

Voice vote, motion carried.

af

Tom Smith, Chair

Amy Fidler, City Clerk



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

Hearing Date: Thursday, September 29, 2022 at 5:00 PM

Project Number: PZ22-0018

Applicant: Diana Kursov (Owner)

Owner: Same as applicant

Subject Property Address: 430 East Buffalo, New Buffalo, MI 49117, #11-62-1150-0011-00-7

Zoning District: General Commercial District (GCD)

Nature of the Request: Allow a variance for the required rear setback requirement of 30 feet.

OVERVIEW

A zoning permit application was received by the city for the construction of a new porch and sunshade from Diana Kursov of 430 East Buffalo. There is an existing porch located at the rear of the property with a zero-foot setback. The home is in the General Commercial District which requires a 30-foot setback. The property currently has a legally nonconforming structure (porch) and the request is to construct a new porch in the same location.

The City of New Buffalo's Zoning Ordinance Section 20-4 (Nonconforming Structures) states:

Structures which are existing and lawful on the effective date of this ordinance, or amendment thereto, may be continued, even though such structure does not conform with the provisions of this ordinance, or amendment thereto, subject to the following provisions:

A. *Enlargement/alteration.* Except as provided for, no nonconforming structure may be enlarged or altered in a way which increases its nonconformity with the provisions of this ordinance, unless authorized by the Zoning Board of Appeals (ZBA), following a public hearing. In authorizing such enlargement or alteration, the ZBA shall consider and document all of the following:

1. Whether the proposed enlargement or alteration will change the essential character of the area.
2. Whether the proposed enlargement or alteration will be contrary to the general development plan.
3. Whether the proposed enlargement or alteration will have adverse impact on adjoining property or the general welfare of the City, by reason of its nonconformity with the provisions of this ordinance.
4. Whether there are reasonable and practical alternatives to achieving the desired enlargement or alteration in a manner which does not increase the degree of nonconformity of the structure with the provisions of this ordinance.



- B. *ZBA conditions pursuant to enlargement/alteration.* In authorizing approval to enlarge or alter a nonconforming structure, the Zoning Board of Appeals may impose conditions including, but not limited to: additional site landscaping, site buffers, fencing, facade design requirements, additional on-premises parking, vehicular circulation modifications, signage, exterior lighting, and related building and site design modifications.

The city has denied the request for the construction of a new porch and sunshade as it does not conform to the New Buffalo Zoning Ordinance's requirement for nonconforming structures. In order to construct a new porch and sunshade as requested, Ms. Kursov 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
Zoning Board of Appeals
Staff Report**

Hearing Date: Thursday, September 29, 2022 at 5:00 PM

Project Number: PZ22-0017

Applicant: Matthew Tiernan (Owner)

Owner: Same as applicant

Subject Property Address: 202 South Willard, New Buffalo, MI 49117, #11-62-8200-0358-08-1

Zoning District: Residential (R-1)

Nature of the Request: Allow a variance for the required side setback of 6 feet and maximum lot coverage of 35%

OVERVIEW

A zoning permit application was received by the city for the installation of an 11'x65' driveway addition from Matthew Tiernan. Mr. Tiernan owns a home located at 202 South Willard located on the corner of West Indiana and South Willard Street.

The proposed addition to the driveway would create a side setback of 2 feet. Section 6-4 of the New Buffalo Zoning Ordinance requires a minimum side setback of 6 feet. This section also allows for maximum lot coverage of 35%. The lot that the residence is on is 66'x132' or 8,712 square feet. In its current state, the property is legally nonconforming as the lot coverage is approximately 3,500 square feet or 40%. The requested driveway addition increases that coverage by 715 square feet or 8%.

Concerning nonconformity, Section 20-4 (Nonconforming Structures) states:

Structures which are existing and lawful on the effective date of this ordinance, or amendment thereto, may be continued, even though such structure does not conform with the provisions of this ordinance, or amendment thereto, subject to the following provisions:

- A. *Enlargement/alteration.* Except as provided for, no nonconforming structure may be enlarged or altered in a way which increases its nonconformity with the provisions of this ordinance, unless authorized by the Zoning Board of Appeals (ZBA), following a public hearing. In authorizing such enlargement or alteration, the ZBA shall consider and document all of the following:
1. Whether the proposed enlargement or alteration will change the essential character of the area.
 2. Whether the proposed enlargement or alteration will be contrary to the general development plan.



3. Whether the proposed enlargement or alteration will have adverse impact on adjoining property or the general welfare of the City, by reason of its nonconformity with the provisions of this ordinance.
 4. Whether there are reasonable and practical alternatives to achieving the desired enlargement or alteration in a manner which does not increase the degree of nonconformity of the structure with the provisions of this ordinance.
- B. *ZBA conditions pursuant to enlargement/alteration.* In authorizing approval to enlarge or alter a nonconforming structure, the Zoning Board of Appeals may impose conditions including, but not limited to: additional site landscaping, site buffers, fencing, facade design requirements, additional on-premises parking, vehicular circulation modifications, signage, exterior lighting, and related building and site design modifications.

The city has denied the request for the installation of the driveway addition as it does not conform to the New Buffalo Zoning Ordinance's requirement for site development requirements in the R-1 district. In order to install the driveway addition as requested, Mr. Tiernan 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