



**SPECIAL MEETING
ZONING BOARD OF APPEALS
Thursday, October 13, 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 29, 2022
6. Public Comment
7. Public Hearing
 - a. 202 S. Whittaker (11-62-8200-0044-02-7) - Requests variance to reduce side setback requirement from 10 feet to 6 feet for new construction.
 - b. 117 W. Mechanic (11-62-0340-0132-01-7) - Requests variances for the following: reduce the east side setback requirement from 20 feet to 6 feet; and reduce west side setback requirement from 20 feet to 6 feet.
 - c. 318 W. Mechanic (11-62-0340-0091-00-1) - Requests variances for the following: reduce the front yard setback requirement from 30 feet to 5 feet; reduce the lot size requirement from 15,000 sq. feet to 7,500 sq. feet; reduce the lot width size requirement from 100 feet to 75 feet; and reduce the side yard setback from 10 feet to 8 feet.
8. New Business
 - a. 202 S. Whittaker (11-62-8200-0044-02-7) - Requests variance to reduce side setback requirement from 10 feet to 6 feet for new construction.
 - b. 117 W. Mechanic (11-62-0340-0132-01-7) - Requests variances for the following: reduce the east side setback requirement from 20 feet to 6 feet; and reduce west side setback requirement from 20 feet to 6 feet.
 - c. 318 W. Mechanic (11-62-0340-0091-00-1) - Requests variances for the following: reduce the front yard setback requirement from 30 feet to 5 feet; reduce the lot size requirement from 15,000 sq. feet to 7,500 sq. feet; reduce the lot width size requirement from 100 feet to 75 feet; and reduce the side yard setback from 10 feet to 8 feet.
9. Adjournment

Chair Smith called the meeting to order at 5:00 p.m.

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

Roll Call: Members Cooper, Pokuta, Chair Smith

Absent: Member Joseph, Gabryszewski

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

Approval of Agenda: Motion by Member Arlene Pokuta, seconded by Member Rich Cooper to approve the agenda:

Voice vote, Motion Carried.

Approval of Previous Minutes – September 1, 2022: Motion by Member Rich Cooper, seconded by Member Arlene Pokuta to approve the previous minutes from September 1, 2022:

Voice vote, Motion Carried.

Public Comment: None

Public Hearing:

Chair Smith opened the public hearing for 430 E. Buffalo Street at 5:02 p.m.

430 E. Buffalo Street - Variance Request 430 E. Buffalo Street (Parcel # 11-62-1150-0011-00-7) Request variance to allow a 0' setback on the back of the property.

Public Comment: None

Chair Smith closed the public hearing for 430 E. Buffalo Street at 5:02 p.m.

Chair Smith opened the public hearing for 202 S. Willard Street at 5:03 pm

202 S. Willard Street - Variance Request a variance to allow a 2' side yard setback and exceedance maximum lot coverage.

Public Comment: None

Chair Smith closed the public hearing for 202 S. Willard Street at 5:03 pm

New Business

430 E. Buffalo Street - Variance Request 430 E. Buffalo Street (Parcel # 11-62-1150-0011-00-7) Request variance to allow a 0' setback on the back of the property.

Owner, Diana Kursov, explained and answered questions pertaining to the project.

Motion by Member Arlene Pokuta, seconded by Member Rich Cooper, to allow variance to allow 0' setback on the back of property.

Roll Call:

Ayes: Cooper, Pokuta, Chair Smith

Nays:

Absent: Gabryszewski, Joseph

Abstained:

Motion Carried 3-0.

202 S. Willard Street- 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.

Owner, Matthew Tiernan, explained and answered questions pertaining to the project..

Motion by Member Arlene Pokuta, seconded by Member Rich Cooper to allow variance to allow a 2' side yard setback and exceedance maximum lot coverage.

Roll Call:

Ayes: Cooper, Pokuta, Chair Smith

Nays:

Absent: Gabryszewski, Joseph

Abstained:

Motion Carried: 3-0

Motion by Member Rich Cooper, seconded by Member Arlene Pokuta to adjourn the meeting at 5:25 p.m.

Roll Call:

Ayes: Cooper, Pokuta, Chair Person Smith

Nays:

Absent: Gabryszewski, Joseph

Abstained:

Motion Carried: 3-0

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Tom Smith, Chair

Amy Fidler, City Clerk



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

Hearing Date: October 13, 2022

Project Number: PZ22-0022

Applicant: William McCollum

Owner: Joe Thomas

Subject Property Address: 202 South Whittaker, New Buffalo, MI 49117, #11-62-8200-0044-02-7

Zoning District: General Commercial District (GCD)

Nature of the Request: Allow a variance for the required side setback to 6 feet

OVERVIEW

A Zoning Board of Appeals application was received for the construction of a new addition to the structure located at 202 South Whittaker. The application was submitted by William McCollum, the architect for the project, on behalf of the owner, Joe Thomas.

According to Section 11-3 of the city's zoning ordinance, the site development requirements for the GCD zoning district are as follows:

GCD Setback, height, area and lot requirements

Front yard	30 feet
Side yard	When abutting non-residentially 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. When abutting residentially used or zoned property: 40 feet 20 feet
Minimum lot size	15,000 square feet
Minimum lot width	100 feet

The submitted application requests creating a side setback of 6 feet on the north and south side of the property. However, **the submitted applications omits variance requests for required front yard setback; minimum lot width; and minimum lot size,** which are required by the city's zoning ordinance.



Michigan's Zoning Enabling Act (Public Act 110 of 2006) 125.3103 **Notice; publication; mail or personal delivery; requirements**, Section 103 (4) states:

- 4) A notice under this section shall do all of the following:
 - a) **Describe the nature of the request.**
 - b) Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
 - c) State when and where the request will be considered.
 - d) Indicate when and where written comments will be received concerning the request.

Additionally, the property is currently a legal nonconforming structure. Concerning its nonconformity, Section 20-4 (Nonconforming Structures) of the city's zoning ordinance 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.

Lastly, the City Council passed a resolution suspending any new construction of residential dwellings in the General Commercial zoning district until December 31, 2022 to coincide with the completion of the zoning update and review. This was extended until April 30, 2023, by resolution of the City Council, on September 19, 2022.

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: October 13, 2022

Project Number: PZ22-0021

Applicant: William McCollum

Owner: Mike Linane

Subject Property Address: 117 West Mechanic, New Buffalo, MI 49117, #11-62-0340-0132-01-7

Zoning District: High Density Residential (R-3)

Nature of the Request: Allow a variance for the required side setback to 6 feet

OVERVIEW

A Zoning Board of Appeals application was received for the construction of a new residence at 117 West Mechanic. The application was submitted by William McCollum, the architect for the project, on behalf of the owner, Mike Linane.

According to Section 8-4 of the city's zoning ordinance, the required building setbacks and other requirements for the R-3 zoning district are as follows:

Minimum Building Setbacks

Front yard	30 feet
Side yard	20 feet
Rear yard	30 feet

Other Requirements

Minimum lot width	150 feet
Maximum lot coverage	35% of total area

The submitted application requests creating a side setback of 6 feet on the east and west side of the property. However, **the submitted applications omits variance requests for required front yard setback; rear yard setback; minimum lot width; and maximum lot coverage**, which are required by the city's zoning ordinance.

Michigan's Zoning Enabling Act (Public Act 110 of 2006) 125.3103 **Notice; publication; mail or personal delivery; requirements**, Section 103 (4) states:

- 4) A notice under this section shall do all of the following:
 - a) **Describe the nature of the request.**



- b) Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
- c) State when and where the request will be considered.
- d) Indicate when and where written comments will be received concerning the request.

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: October 13, 2022

Project Number: PZ22-0020

Applicant: Richard Szal (Owner)

Current Zoning: General Commercial District (GCD)

Subject Property Address: 318 W Mechanic, New Buffalo, MI 49117

Nature of the Request: Allow variance for the required front yard setback of 30 feet; the required side yard setback of 10 feet; required minimum lot size of 15,000 square feet; and required minimum lot width of 100 feet

OVERVIEW

The applicant is Richard Szal, owner, of 318 Mechanic Street, New Buffalo, MI 49117. The applicant requests variances to enlarge the existing legal non-conforming home located at this address. Current zoning on the property is GCD General Commercial District. Single family homes are allowed in this district per City of New Buffalo zoning.

Section 20-4 Nonconforming structures: 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 provide 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, following a public hearing. In authorizing such enlargement of alteration, the Zoning Board of Appeals shall consider and document all 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 the adjoining property or the general welfare of the City, by reason of it no nonconformity with the provisions of this ordinance.
 4. Whether there are reasonable and practical alternative to achieving the desired enlargement or alteration in a manner which does not increase the degree of nonconformity 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, façade design requirements, additional on-premises parking, vehicular circulation modifications, signage, exterior lighting, and related building and site design modifications.

General Commercial District Zoning Regulations

Characteristic	Ordinance Requirements	Current Property Status	Action Requested
Minimum Lot Size	15,000 square feet	7,500 square feet	Need variance
Minimum Lot Width	100 feet	75.3 feet	Need variance
Front Yard Setback	30 feet	0 feet	Need variance
Side Yard Setback	10 feet*	8 feet	Need variance

**When abutting nonresidential zoned property: 10 feet, however, Zoning Board of Appeals 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 so side yard shall be required. When abutting residentially used or zoned property: 40 feet required.)*

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