



**SPECIAL MEETING
ZONING BOARD OF APPEALS
Thursday, November 17, 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 – October 13, 2022
6. Public Comment
7. Public Hearing
 - a. 22 N Willard (11-62-8550-0063-00-1) - Requests a variance for maximum lot coverage of 35% for construction.
8. New Business
 - a. 22 N Willard (11-62-8550-0063-00-1) - Requests a variance for maximum lot coverage of 35% for construction.
9. Adjournment

**CITY HALL • 224 WEST BUFFALO • NEW BUFFALO, MICHIGAN 49117
269.469.1500 • FAX 269.469.7917**

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, Joseph, Chair Smith

Absent: Member Gabryszewski

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

Approval of Agenda: Motion by Member Arlene Pokuta, seconded by Member Mark Joseph to approve the agenda:

Roll Call Vote:

AYES: Pokuta, Joseph, Cooper, Chair Smith

NAYES:

ABSENT: Gabryszewski

ABSTAINED:

Motion Carried, 4-0.

Approval of Previous Minutes – September 29, 2022: Motion by Member Arlene Pokuta, seconded by Member Mark Joseph to approve the previous minutes from September 29, 2022:

Roll Call Vote:

AYES: Pokuta, Joseph, Cooper, Chair Smith

NAYES:

ABSENT: Gabryszewski

ABSTAINED:

Motion Carried, 4-0.

Public Comment: None

Public Hearing:

Chair Smith opened the public hearing for 202 S. Whittaker Street at 5:03 p.m.

202 S. Whittaker Street - 202 S. Whittaker Street (Parcel # 11-62-8200-0044-02-7) Requests variance to reduce a side setback requirement from 10 feet to 6 feet for new construction.

Public Comment:

Gary Wood - Not in favor of project

Katie Wood - Not in favor of project

Patricia Lauth - Not in favor of project

Paula Bartholome -Not in favor of project

John Humphrey

Karen Gear

Dale Johnson – Not in favor of project

Dale Johnson - Not in favor of project

Arnie & Arlene Feinberg - Not in favor of project

Chair Smith closed the public hearing for 202 S. Whittaker Street at 5:26 p.m.

Chair Smith opened the public hearing for 117 W. Mechanic Street at 5:26 pm

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.

Public Comment: None

Chair Smith closed the public hearing for 117 W. Mechanic Street at 5:27 pm

Chair Smith opened the public hearing for 318 W. Mechanic Street at 5:28 pm

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.

Public Comment:

Jennifer Parello - In favor of project

Chair Smith closed the public hearing for 318 W. Mechanic Street at 5:30 pm

New Business

202 S. Whittaker Street - 202 S. Whittaker Street (Parcel # 11-62-8200-0044-02-7) Requests variance to reduce a side setback requirement from 10 feet to 6 feet for new construction.

Motion by Member Rich Cooper, seconded by Member Mark Joseph to table the variance to reduce a side setback requirement from 10 feet to 6 feet for new construction.

Roll Call:

Ayes: Joseph, Cooper, Pokuta, Chair Smith

Nays:

Absent: Gabryszewski

Abstained:

Motion Carried 4-0.

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.

Motion by Member Mark Joseph, seconded by Member Rich Cooper to table the variance 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.

Roll Call:

Ayes: Cooper, Pokuta, Joseph, Chair Smith

Nays:

Absent: Gabryszewski,

Abstained:

Motion Carried: 4-0.

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.

Motion by Member Arlene Pokuta, seconded by Member Mark Joseph to have a discussion regarding the variance. Following discussion Member Joseph removed his second on the motion made by Member Pokuta.

Motion by Member Arlene Pokuta, seconded by Chair Smith to allow 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.

Roll Call:

Ayes: Cooper, Pokuta, Joseph, Chair Smith

Nays:

Absent: Gabryszewski,

Abstained:

Motion Carried: 4-0.

Motion by Member Arlene Pokuta, seconded by Member Mark Joseph to adjourn the meeting at 6:35 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, November 17, 2022 at 5:00 PM

Project Number: PZ22-0023

Owner: Don and Susan Stoneburner

Applicant: Same as owner

Subject Property Address: 22 North Willard, New Buffalo, MI 49117, #11-62- 8550-0063-00-1

Zoning District: Residential (R-1)

Nature of the Request: Allow a variance for the required maximum lot coverage of 35% for construction

OVERVIEW

A zoning permit application was received by the city for the installation of a 400 square foot deck from Don and Susan Stoneburner, who own a home located at 22 North Willard. This deck would replace a deck that is approximately 330 square feet.

The proposed deck replacement at this location would increase the overall lot coverage at the property. Section 6-4 of the New Buffalo Zoning Ordinance 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 3,978 square feet or 45.6%. The requested driveway addition increases that coverage by 70 square feet or approximately 1%.

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 replacement of the existing deck. This is due to it not conforming to the New Buffalo Zoning Ordinance's requirement for site development requirements in the R-1 district. In order to replace the existing deck, the owners of the property 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