



**SPECIAL MEETING
ZONING BOARD OF APPEALS
Wednesday, January 17, 2024 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 – November 16, 2023
6. Public Comment
7. Public Hearing
 - a. 9 South Barton Street, Hummingbird Lounge (11-62-0340-0335-01-5) – Variance Approval from the 70% maximum lot coverage standard to allow for a proposed building expansion and the addition of pavers in the garden area that will result in a total lot coverage of 83%.
8. New Business
 - a. 9 South Barton Street, Hummingbird Lounge (11-62-0340-0335-01-5) – Variance Approval from the 70% maximum lot coverage standard to allow for a proposed building expansion and the addition of pavers in the garden area that will result in a total lot coverage of 83%.
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 Gabryszewski, Pokuta, Joseph, Smith

Absent: Cooper

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

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

Roll Call Vote:

AYES: Gabryszewski, Pokuta, Joseph, Chair Smith

NAYES:

ABSENT: Cooper

ABSTAINED:

Motion Carried, 4-0.

Approval of Previous Minutes – July 20, 2023: Motion by Chair Smith, seconded by Member Pokuta to approve the previous minutes from July 20, 2023:

Roll Call Vote:

AYES: Pokuta, Gabryszewski, Chair Smith

NAYES:

ABSENT: Cooper

ABSTAINED: Joseph

Motion Carried, 3-0.

Public Comment: None

New Business

Organizational Meeting

Motion by Member Joseph, seconded by Chair Smith to approve appointing Member Gabryszewski as Chair and Member Pokuta as Vice Chair for the Zoning Board of Appeals for 2024:

Roll Call:

Ayes: Joseph, Gabryszewski, Pokuta, Chair Smith

Nays:

Absent: Cooper

Abstained:

Motion Carried: 4-0.

Adjournment:

Motion by Chair Smith, seconded by Member Pokuta to adjourn the meeting at 5:18 p.m.

Roll Call:

Ayes: Gabryszewski, Pokuta, Joseph, Chair Smith

Nays:

Absent: Cooper

Abstained:

Motion Carried: 4-0.

amf

Tom Smith, Chair

Amy Fidler, City Clerk



City of New Buffalo

Zoning Board of Appeals Meeting: January 17, 2024

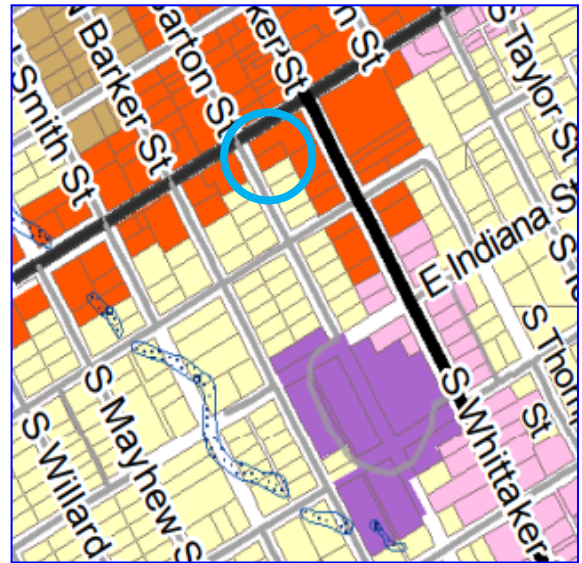
Zoning Map


Applicant: Ben Smock
Hummingbird Lounge

Request: Variance Approval – to exceed the 70% maximum lot coverage standard by allowing on-site improvements (installation of decorative pavers; building addition) that will result in a total lot coverage of 83.1%

Property: 9 South Barton Street

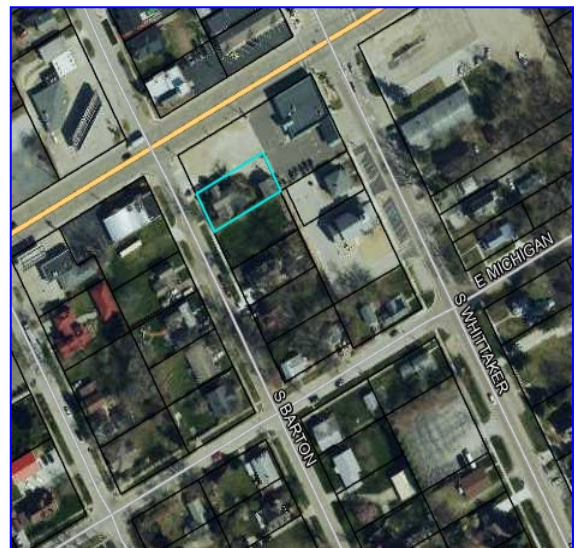
Zoning: “CBD” District



 CBD Central Business District

Application Overview

- The subject property is 8712 sq ft in area and is provided 66 ft of frontage on S. Barton Street. The subject site is a lawful conforming interior lot.
- The surrounding area is largely within the CBD District; R-1 District zoning is adjacent to the south.
- The subject property is currently occupied by a 2-story building and detached accessory building/pergola (Hummingbird Lounge) with related site improvements (outdoor seating, parking lot, sidewalks, ramp, landscaping).
- Applicant proposes the construction of a 1-story 347 sq ft addition on the north side of the main building and the installation of pavers in the garden (outdoor





City of New Buffalo

Zoning Board of Appeals Meeting: January 17, 2024

seating) area situated between the main building and the accessory building/pergola.

- Applicable Development Standards per Section 10-3 – CBD District and Existing/Proposed Conditions:

Section 10-3. CBD District Development Standards

	Required/Allowed	Existing/Proposed
Lot Area	8,000 sq ft	8712 sq ft
Lot Width	66 ft	66 ft
Dwelling Unit Sq Ft	N/A	N/A
Building Height	35 ft	2-story existing 1-story proposed
Front Setback	None	18.5 ft
Side Setback South (residential use)	30 ft (min)	10 ft existing; 45 ft proposed
North	10 ft (min) – PC can approve 0 ft setback	6 ft existing; 6 ft proposed – PC approval required
Rear Setback	25 ft (min)	>25 ft
Lot Coverage	70% (max)	<ul style="list-style-type: none"> - Existing Bldgs – 2577 sq ft - Impervious Surfaces (drive, parking, ramp, sidewalks, pergola) – 2769 sq ft <p>Existing Lot Coverage – 62%</p> <ul style="list-style-type: none"> - Proposed Addition – 347 sq ft - Proposed Pavers – 1523 sq ft <p>Proposed Lot Coverage – 83%</p>

- Applicant requests Variance Approval from the 70% maximum lot coverage standard applicable within the CBD District to allow a proposed total lot coverage of 83%.



City of New Buffalo

Zoning Board of Appeals Meeting: January 17, 2024

Variance Review Criteria

Pursuant to Section 21-8, Zoning Ordinance, the ZBA shall find that the following standards are met before granting a variance:

1. ***That there are exceptional or extraordinary (unique) physical circumstances of the property that do not apply generally to other properties in the area/zoning district.***

- The Site Plans do not reveal the presence of any unique physical limitations on the site preventing compliance. (e.g., slope, narrowness/shalowness, etc.)
- The subject site is a conforming interior lot and is similar in size and dimension to the lots in the surrounding area and is therefore not unique in its circumstances.

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.***

- There is no 'condition/situation of the property' that suggests an amendment of the zoning ordinance is more appropriate than a request for variance relief.
- A request for relief from the lot coverage standard through the variance process is acceptable.

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 subject site is currently occupied by a business, with all required site amenities/improvements; a denial of the lot coverage variance will not prevent permitted use of the property.



City of New Buffalo

Zoning Board of Appeals Meeting: January 17, 2024

- A review of lot coverage on adjacent properties and in the surrounding area is also relevant in determining how the requested increase in allowed lot coverage (70% to 83%) will be consistent with the rights enjoyed by other properties' in the area.



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

- The subject site is adjacent to a parking lot (north); a vacant residentially-zoned lot (south); a bank (east); and S Barton Street (west). The surrounding area is generally within the CBD District.
- The building addition will require Planning Commission approval of the proposed 6 ft setback from the north (side) property line. PC approval will be based on a finding of compatibility and consistency with surrounding property.
- The proposed 83% lot coverage will be less significant in impact and appearance than the paved parking lots adjacent to the north and east.
- A finding of 'significant impact' should also be guided by the presence of an approved stormwater management plan for the subject site.

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

- Lot coverage standards are established to address issues of **stormwater management, soil erosion, and overall building mass**, especially pertinent on **waterfront property**.
- The subject site is not **waterfront property**.



City of New Buffalo

Zoning Board of Appeals Meeting: January 17, 2024

- The proposed building addition will not significantly increase the building footprint on the site (2577 sq ft existing; 2920 sq ft proposed) and will only result in a total lot coverage of 66% . . in compliance with the 70% maximum lot coverage allowed. The requested variance will not result in a significant increase in **building mass** on the site.
- The installation of 1523 sq ft of pavers will occupy nearly 1/5 of the lot area and result in a total lot coverage of 83%.

Variance approval should be conditioned upon City review/approval of a **stormwater management** plan for the site . . to support a conclusion that the variance will not impair the purpose of the lot coverage standard to address stormwater management objectives.

6. *The practical difficulty causing the need for the variance request is not created by an affirmative action of the applicant/property owner.*

- The building addition/paver proposal is at the discretion of the property owner . . resulting in practical difficulties created by an affirmative action of the applicant/property owner.