



**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

Vice Chair Pokuta 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.

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**Arlene Pokuta, Vice Chair**

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**Amy Fidler, City Clerk**



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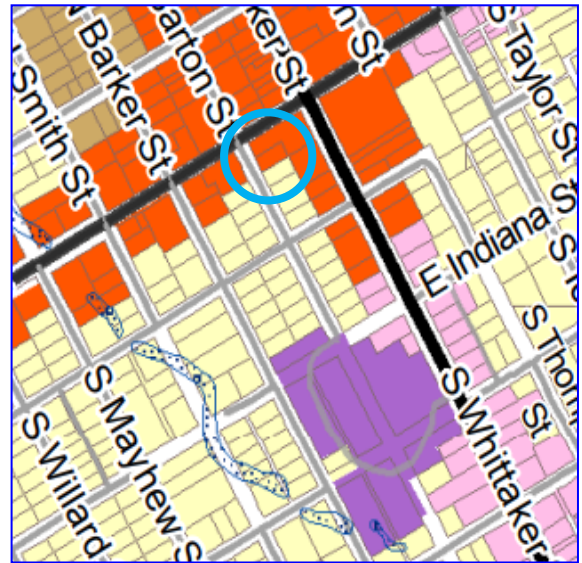
Zoning Map


**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

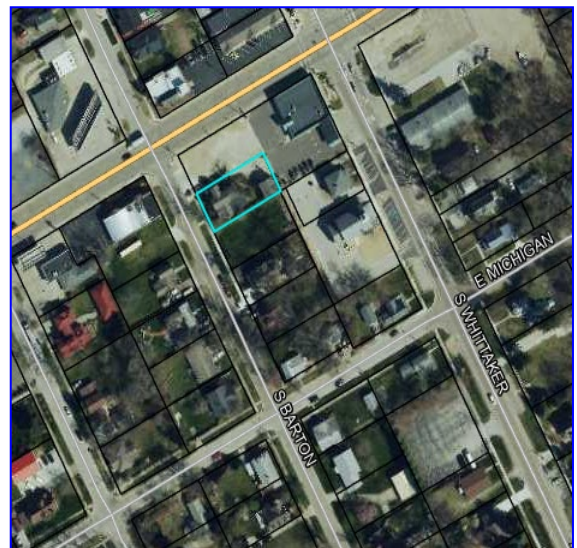
**Zoning:** “CBD” District



 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





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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) – <b>PC can approve 0 ft setback</b>	6 ft existing; 6 ft proposed – <b>PC approval required</b>
Rear Setback	25 ft (min)	>25 ft
Lot Coverage	70% (max)	<ul style="list-style-type: none"> <li>- Existing Bldgs – 2577 sq ft</li> <li>- Impervious Surfaces (drive, parking, ramp, sidewalks, pergola) – 2769 sq ft</li> </ul> <p>Existing Lot Coverage – 62%</p> <ul style="list-style-type: none"> <li>- <b>Proposed Addition – 347 sq ft</b></li> <li>- <b>Proposed Pavers – 1523 sq ft</b></li> </ul> <p><b>Proposed Lot Coverage – 83%</b></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%.



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## 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.



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- 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**.



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- 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.