MINUTES

REGULAR MEETING OF THE BOARD OF ZONING APPEALS

Thursday, November 6, 2025

6:30 PM

Village Hall – 21 East Church Street, Lake Orion, MI 48362

(248) 693-8391 ext. 102

1. **Call to Order**
   The Thursday, November 6, 2025 Regular Meeting of the Lake Orion Board of Zoning Appeals was called to order by Chairperson Mathisen at 6:30 p.m.

2. **Roll Call and Determination of Quorum**

   PRESENT
   Chairperson Brad Mathisen
   Secretary Brenton Bailo
   Board Member Henry Lorant
   Board Member Mary Chayka-Crawford

   ABSENT
   Vice Chairperson Raymond Putz

   STAFF PRESENT
   Village Planning and Zoning Coordinator Mario Ortega
   Recording Secretary Danielle Smith

3. **Approval of Agenda**
   Board Member Lorant moved, Board Member Chayka-Crawford seconded, to approve the November 6, 2025 regular meeting agenda of the Board of Zoning Appeals, as presented.

   AYES: Mathisen, Lorant, Chayka-Crawford, Bailo
   NAYS: None
   ABSENT: Putz
   MOTION: Carried

4. First Hearing of the Public

None.

5. Approval of Minutes

A. Approval of BZA Minutes – October 2, 2025

Board Member Lorant moved, Board Member Bailo seconded, to approve the October 2, 2025 regular meeting minutes of the Board of Zoning Appeals, as presented.

AYES: Mathisen, Lorant, Chayka-Crawford, Bailo
NAYS: None
ABSENT: Putz
MOTION: Carried

6. BZA Preface

Chairperson Mathisen reviewed the meeting procedures.

7. Public Hearing

A. Public Hearing: A-25-005 – 256 S. Broadway St. Dimensional Variance Request

Board Member Bailo moved, Board Member Lorant seconded, to open the public hearing for the requested dimensional variance for item A-25-005 at 6:32 p.m.

AYES: Mathisen, Lorant, Chayka-Crawford, Bailo
NAYS: None
ABSENT: Putz
MOTION: Carried

Larry Dunn, 222 S. Broadway St., shared that he is an active planning commission member and lives two houses from the restaurant. Mr. Dunn stated he understands the desire for shade at the back of the restaurant and would be more open to the idea of being awarded a variance if he didn't see the restaurant making additional changes that he knows have not been approved.

There being no further comment, Board Member Lorant moved, Board Member Mathisen seconded, to close the public hearing for the requested dimensional variance for item A-25-005 at 6:36 p.m.

AYES: Mathisen, Lorant, Chayka-Crawford, Bailo
NAYS: None
ABSENT: Putz
MOTION: Carried

B. Public Hearing: A-25-006 – 694 Victoria Island Dimensional Variance Request

Board Member Bailo moved, Board Member Lorant seconded, to open the public hearing for the requested dimensional variance for item A-25-006 at 6:36 p.m.

AYES: Mathisen, Lorant, Chayka-Crawford, Bailo
NAYS: None

ABSENT: Putz
MOTION: Carried

Kevin Reiner (applicant), 694 Victoria Island, shared that he wants to maintain the original cottage. He believes the proposed design will preserve it and help save some of the mature trees located on the property. Additionally, Mr. Reiner stated he uses the property as a summer home and his neighbors support the proposed plan.

Tony Pino, 670 Victoria Island, spoke in favor of the variance request.

There being no further comment, Board Member Bailo moved, Board Member Mathisen seconded, to close the public hearing for the requested dimensional variance for item A-25-006 at 6:39 p.m.
AYES: Mathisen, Lorant, Chayka-Crawford, Bailo
NAYS: None
ABSENT: Putz
MOTION: Carried

8. Action Items

A. A-25-005 – 256 S. Broadway St. Dimensional Variance Request

The applicant is requesting a variance for an accessory structure that has already been constructed within the required waterfront setback.

As requested, the construction of the pergola on the west elevation in the waterfront yard would require one (1) variance from the dimensional standards of the zoning ordinance. The applicant is requesting the following variance from the zoning ordinance.

ARTICLE 12, SCHEDULE OF REGULATIONS, SECTION 12.02 TABLE – RL ZONING DISTRICT

Waterfront (West) Setback:	Required:	25 ft. minimum
	Existing:	13 ft. 7 in.
	Proposed (Ex.):	13 ft. 7 in.
	Variance:	**11 ft. 5 in.**

Planner Ortega gave a synopsis of the variance request, reviewed the findings of fact and was available to answer any questions from the Board.

<u>FINDINGS OF FACT</u>

1. Strict compliance with restrictions governing area, setback, frontage, height, bulk, density or other non-use matters will unreasonably prevent the owner from using the property for a permitted purpose or will render ordinance conformity unnecessarily burdensome.
   - Granting of the variance would allow the pergola and provide some sun protection for patrons as well as a preferred aesthetic look. The use of individual umbrellas or a retractable

shade from the building would also provide sun protection for patrons and comply with the required setback though the aesthetic contribution would be different. Strict compliance would still allow the applicant to utilize the waterfront yard for a dining patio just not in their preferred configuration.

2. The variance will provide substantial justice to the applicant as well as neighboring property owners.
   - Granting of the variance would give substantive relief to the applicant but would not be consistent with justice provided to other waterfront property owners. While the applicant would be permitted to establish a structure within the waterfront setback, other property owners have complied with the setback standard and not placed a structure in the waterfront area. Several years ago, the zoning ordinance was amended to allow structures with open vertical areas less than 175 feet in area as a permitted encroachment in the waterfront but no less than 10 ft from the water's edge. This has allowed residential owners the ability to have a pergola closer to the water, but these are no greater than 175 square feet in area. The applicant is proposing a 625-square-foot pergola area.

     It is noted that the variance will not inhibit any neighbor's views of the lake. The pergola will not project upwards or outwards and will not cause any visual barrier. The northern adjacent property is in the Mixed-Use district and is only open during typical business office hours. The applicant has purchased planted boxes for grasses and/or arborvitaes to offer a natural screening looking from the lake to the restaurant to help keep the natural ambiance of the lake.
3. The variance requested is the minimum variance needed to provide substantial relief to the applicant and/or be consistent with justice to other property owners.
   - The variance requested is the minimum variance needed to accommodate the current conditions of the site, which includes the newly built pergola without a permit. As noted above, the variance would allow the pergola in the waterfront setback in a similar manner that the revised zoning ordinance has allowed pergolas as a permitted encroachment in the residential area. However, the variance would permit a much larger pergola than what residential owners are permitted. The variance could be construed as being partially consistent with justice the ordinance provides to other property owners.
4. The need for a variance(s) is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district.
   - Waterside Social is a somewhat unique case because they are the only restaurant with a waterfront on Lake Orion and are located in an existing structure. The applicant has stated they talked to many Lake Orion residents about what they would like to see added to the restaurant, and an outdoor bar with lake-facing seating was the top request. The applicant has not constructed the building in its current location. Other properties in the MU district have been redeveloped and, if a restaurant was established, could have located a structure to be further from the waterfront setback and allow for a pergola patio. There are very few lakefront MU zoned existing structures and some are 25 feet, or less, from the lake. The

desire for a pergola covered patio with an existing structure could be construed as not generally applicable in the area.

5. The problem and resulting need for the variance has been created by strict compliance with the zoning ordinance, and not by the applicant or applicant's predecessors; it is not self-created.
    - The problem and resulting need for the variance to encroach into the required setback is self-created by the applicant. A variance would grant relief to the owner of the property.

Board Member Lorant asked Planner Ortega what the setback is for the Moceri properties located near the property in question. Planner Ortega stated he did not have those numbers on hand.

Board Member Chayka-Crawford asked Planner Ortega to confirm whether the Board is voting on the existing non-conforming structure that was built without a permit. Planner Ortega confirmed this was the case.

Board Member Lorant asked if the proposed plan was from new or current owners. Planner Ortega said the request is from the current owners. He further elaborated the owners purchased the property last year and they are the ones who had the pergola built. Planner Ortega also said they are the second restaurant operator(s) on that site.

Board Member Bailo asked if the current patio at Waterside Social meets the village ordinances. Planner Ortega confirmed that it does because the patio is not considered an accessory structure.

Board Member Lorant asked if there was another way for the applicant to help guests limit sun exposure aside from the pergola in question. Planner Ortega stated that if the intent of the applicant is to provide shade from the sun, there are other avenues the applicant can pursue that comply with village ordinances.

Board Member Lorant shared that no pergola was included in the plans that were submitted to the Village Planning Commission.

Board Member Lorant asked if the outdoor bar located at the property is too close to the setbacks and questioned whether there should be an outdoor bar. Planner Ortega stated it was discovered during an inspection that the bar was constructed without a permit. He shared the bar use is in compliance, but the size and location of the bar is not. Planner Ortega further stated that the applicant will need to apply for a variance request for the bar.

Chris Dewey and Doug Jones, applicants, 256 S. Broadway St., Lake Orion, MI 48362, presented the request and were available to answer questions from the Board.

Lisa S., operating director of Waterside Social, stated the previous Village planner gave the applicants verbal approval to construct the pergola. She also noted that the applicants worked with the Township's building official throughout the construction process of the pergola.

Board Member Chayka-Crawford asked Planner Ortega where the paperwork is from the previous Village planner showing that the pergola was approved. Planner Ortega stated he found signed permits and notes regarding various elements of the establishment but nothing regarding the pergola in question. He further stated the original permit application for the bar was incomplete and when ordinance enforcement stepped in to assist, that is when the pergola was discovered.

Board Member Bailo asked about the process of pulling a permit. Planner Ortega shared that any project within the Village that involves zoning compliance is handled solely through the Village. He went on to explain that once the Village approves anything related to zoning compliance, the applicants then go before the Township for building permits.

Board Member Lorant asked if the applicants were issued a building permit through the Township. Planner Ortega stated that he did not have record of a building permit being issued.

The applicants requested that the Board postpone the variance request so they can gather supporting documentation and go before the Board again at a later date.

Board Member Chayka-Crawford moved, Board Member Lorant seconded, that A-25-005 256 S. Broadway Street is going to table their submission for a variance until a later date.

AYES: Mathisen, Lorant, Chayka-Crawford, Bailo
NAYS: None
ABSENT: Putz
MOTION: Carried

B. A-25-006 – 694 Victoria Island Dimensional Variance Request

The applicant is proposing to demolish a portion of the east elevation of the existing structure and construct an addition resulting in a 1,965-square-foot structure along with a 503-square-foot wood deck and a 454-square-foot patio.

As requested, the construction of the addition to the east elevation will require one (1) variance from the dimensional standards of the zoning ordinance. The applicant is requesting the following variance from the zoning ordinance:

ARTICLE 12, SCHEDULE OF REGULATIONS, SECTION 12.02 TABLE – RL ZONING DISTRICT

Rear Setback	Required:	25 ft. minimum
	Existing:	39 ft. 4 in.
	Proposed:	14 ft. 7 in.
	Variance:	**10 ft. 5 in.**

Planner Ortega gave a synopsis of the variance request, presented the findings of fact and was available to answer any questions from the Board.

FINDINGS OF FACT

1. Strict compliance with restrictions governing area, setback, frontage, height, bulk, density or other non-use matters will unreasonably prevent the owner from using the property for a permitted purpose or will render ordinance conformity unnecessarily burdensome.
   - The site is zoned for single-family residential use, and it was initially designed and used as a vacation home. Over time, the residential use has increased in duration. The applicant is proposing renovations to allow for a residential structure built to accommodate modern living standards.
     The distance from the rear property line to the water line is 62 ft. 11 in. When the lakefront and rear yard setbacks are deducted from this (25 ft + 25 ft = 50 ft), the remaining building envelope available is 12 ft 11 in. The applicant states this space is too narrow for a modest home addition. Conformity with the minimum twenty-five (25) foot rear yard setback would require a reduction in the width of the proposed addition. Conformance would also require a reduction in the size of the rooms in the addition. The proposed rooms of the addition are modest in nature and do not appear to be excessive in features.

     The addition would provide rooms that reflect modern living standards, unlike the older cottage style homes, which are now considered small and inefficient. The addition floor plan also appears to provide hallways and entrances built to accessibility standards. Compliance with the minimum rear yard would be unnecessarily burdensome by resulting in an addition that is not built to modern standards and features.
2. The variance will provide substantial justice to the applicant as well as neighboring property owners.
   - Granting the variance will maximize the neighboring waterfront site lines, while preserving ample space behind the structure for utility maintenance. The applicant has indicated that it is the intention of the property owner to preserve as many mature trees as possible while maintaining neighboring views.
3. The variance requested is the minimum variance needed to provide substantial relief to the applicant and/or be consistent with justice to other property owners.
   - The proposed structure addition is 18’-8” in depth. The proposed improvements are not extraneous and will allow for the existing home to be used as living room/kitchen great room while the addition would be for two bedrooms with bathrooms. The improvements are in compliance with the side yard setback requirements and would not crowd any of the neighboring properties. The site would be in compliance with the lot coverage allowance at 34.18 percent.
4. The need for variance(s) is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district.
   - The property, which is zoned RL, is in a unique location where property owners are asked to conform to an RL zoning. RL assumes a street on one side of the parcel and waterfront on the

other. Although Victoria Island does have some platted streets, none of them abut this parcel. The location of the waterline toward the interior of the site on the south reduces the building envelope area. These circumstances are somewhat unique to the property and the applicant hopes the conditions will encourage the BZA to extend special consideration.

5. The problem and resulting need for the variance has been created by strict compliance with the zoning ordinance, and not by the applicant or applicant's predecessors; it is not self-created.
    - The existing home is 938 square feet, making it the smallest home on Victoria Island. Based on available information, the applicant did not influence the platting of the lot and the resulting lot size and minimal building envelope. The applicant also did not construct the home on the site in this location. The physical characteristics of the lot and structure resulting in the need for the variance were not created by the applicant. The need for the variance is due to the specific circumstances that pertain to the parcel, and not the small, proposed improvement.

Board Member Bailo asked for clarification regarding which side of the property was considered the "rear side." Planner Ortega said the rear side of the property is opposite the water. He further shared that the property is only accessible by water and that the variance request is for the rear yard setback.

Ed Sabol, 2 Highland Avenue, presented the request on behalf of the applicant.

Board Member Chayka-Crawford asked how long the applicant has owned the home. Kevin Reiner (applicant) stated that he has owned the home for two years. Board Member Chayka-Crawford asked what the square footage of the home would be if the current ordinance was followed. Planner Ortega shared that the home would be approximately 12 ft 11 in wide. Planner Ortega further shared that he believes the criteria has been met for a variance based on numbers one and five of the findings of fact.

Board Member Chayka-Crawford stated that the property was purchased with the owner knowing what the setbacks were and other applicants had to comply with the current zoning ordinance.

Board Member Bailo shared that he agrees with Planner Ortega that the current setbacks for the property are burdensome. Additionally, he shared that this request is different from other requests due to the property being on an island that has no street.

Board Member Mathisen said he believes this is a unique case and leans toward approval of the variance request.

Board Member Bailo moved, Board Member Lorant seconded, to grant a 10 foot 5 inch variance from Zoning Ordinance Section 12.02, minimum required rear yard setback standard for the property at 694 Victoria Island, Parcel ID number 09-03-481-009. This variance approval is based on

the above listed findings of fact which the BZA has determined support the establishment of a practical difficulty with ordinance compliance as listed by McKenna Associates.

AYES: Mathisen, Lorant, Bailo
NAYS: Chayka-Crawford
ABSENT: Putz
MOTION: Carried

9. **Unfinished Business**
   None.

10. **Second Hearing of the Public**
    None.

11. **Board Member Comments**
    Board Member Mathisen requested that Board of Zoning Appeals members receive the monthly planning report sent out to village planning commissioners. Additionally, Board Member Mathisen asked that the Board of Zoning Appeals bylaws be reviewed, specifically to review the order of the agenda.

12. **Next Regular Meeting – December 4, 2025**

13. **Adjournment**
    Board Member Lorant moved, Board Member Bailo seconded, to adjourn the meeting at 7:54 p.m.

    AYES: Mathisen, Lorant, Chayka-Crawford, Bailo
    NAYS: None
    ABSENT: Putz
    MOTION: Carried

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Dr. Brenton Bailo
Secretary

Sonja Stout
Village Clerk/Treasurer

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Danielle Smith
Recording Secretary

Date Approved: December 4, 2025