



## **AGENDA**

### **REGULAR MEETING OF THE BOARD OF ZONING APPEALS**

**Thursday, April 02, 2026**

**6:30 PM**

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

**(248) 693-8391 ext. 102**

Each person wishing to address the BZA shall be afforded an opportunity to do so. Anyone that would like to make a public comment must first sign the "Sign In" sheet located near the main entrance door. If you wish to comment, please stand or raise a hand to indicate that you wish to speak. When recognized, give your name and address and direct your comments to the Chair. Members of the public shall be allowed a maximum of three (3) minutes for each person wishing to make a public comment.

- 1. Call to Order**
- 2. Roll Call and Determination of Quorum**
- 3. Approval of Agenda**
- 4. First Hearing of the Public** (*for items not scheduled for a public hearing*)
- 5. Approval of Minutes**
  - A. Approval of December 4, 2025, BZA Regular Meeting Minutes**
- 6. BZA Preface**
- 7. Public Hearing**
  - A. Public Hearing: A-26-001 (356 Oak Ln) Dimensional Variance Request**
- 8. Action Items**
  - A. A-26-001 – 356 Oak Ln Dimensional Variance Request**
  - B. Discussion of the BZA Bylaws, Including Article V: Order of Business**
- 9. Unfinished Business**
- 10. Second Hearing of the Public** (*for items not scheduled for a public hearing*)

**11. Board Member Comments**

**12. Next Regular Meeting - May 7, 2026**

**13. Adjournment**

*In the spirit of compliance with the Americans with Disabilities Act, individuals with a disability should feel free to contact the Village, at least three (3) business days in advance of the meeting, if requesting accommodations. The Village of Lake Orion will provide foreign language or hearing impaired interpretation services for those individuals who contact the village to request such services at least seven (7) days prior to the meeting.*

*En el espíritu de la observancia de la Ley de Estadounidenses con Discapacidades, las personas con discapacidad debe sentirse libre para ponerse en contacto con el pueblo, por lo menos tres (3) días hábiles de antelación a la fecha de la reunión, si se solicitan alojamiento. El municipio de Lake Orion proporcionará idioma extranjero o personas con problemas de audición servicios de interpretación para las personas que se ponen en contacto con el pueblo de solicitar dichos servicios con no menos de siete (7) días antes de la reunión.*



---

## BOARD ACTION SUMMARY SHEET

**MEETING DATE:** April 2, 2026

**TOPIC** Approval of December 4, 2025, BZA Regular Meeting Minutes

**RECOMMENDED MOTION:** To approve the December 4 2025, Board of Zoning Appeals Regular Meeting Minutes, as presented.



## MINUTES

### REGULAR MEETING OF THE BOARD OF ZONING APPEALS

Thursday, December 4, 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, December 4, 2025 Regular Meeting of the Lake Orion Board of Zoning Appeals was called to order by Chairperson Mathisen at 6:37 p.m.

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

##### PRESENT

Chairperson Brad Mathisen  
Vice Chairperson Raymond Putz  
Secretary Brenton Bailo  
Board Member Henry Lorant  
Board Member Mary Chayka-Crawford

##### ABSENT

None

##### STAFF PRESENT

Laura Haw, McKenna  
Village Manager Darwin McClary  
Recording Secretary Danielle Smith

#### 3. Approval of Agenda

Board Member Bailo moved, Board Member Lorant seconded, to approve the December 4, 2025 regular meeting agenda of the Board of Zoning Appeals, as presented.

**AYES:** Mathisen, Lorant, Chayka-Crawford, Bailo, Putz

**NAYS:** None

**ABSENT:** None

**MOTION:** Carried

**4. First Hearing of the Public**

None.

**5. Approval of Minutes**

**A. Approval of BZA Minutes – November 6, 2025**

Board Member Bailo moved, Board Member Lorant seconded, to approve the November 6, 2025 regular meeting minutes of the Board of Zoning Appeals, as presented.

**AYES:** Mathisen, Lorant, Chayka-Crawford, Bailo, Putz

**NAYS:** None

**ABSENT:** None

**MOTION:** Carried

**6. BZA Preface**

Chairperson Mathisen reviewed the meeting procedures.

**7. Public Hearing**

None.

**8. New Business**

**A. Adopt the 2026 Board of Zoning Appeals Meeting Schedule**

Board Member Chayka-Crawford moved, Board Member Mathisen seconded, to approve the meeting schedule establishing the 2026 meeting dates for the Board of Zoning Appeals for the Village of Lake Orion and authorize the clerk to post the schedule pursuant to the Open Meetings Act.

**AYES:** Mathisen, Lorant, Chayka-Crawford, Bailo, Putz

**NAYS:** None

**ABSENT:** None

**MOTION:** Carried

**9. Unfinished Business**

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

Board Member Bailo moved, Board Member Chayka-Crawford seconded, to remove from the table item A-25-005 256 S. Broadway St. Dimensional Variance Request for further discussion and possible action.

**AYES:** Mathisen, Lorant, Chayka-Crawford, Bailo, Putz

**NAYS:** None

**ABSENT:** None

**MOTION:** Carried

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.
	<b>Variance:</b>	<b>11 ft. 5 in.</b>

Laura Haw, of McKenna, presented a synopsis of the variance request and was available to answer any questions from the Board.

Village Manager McClary provided clarification and additional documentation regarding the order of events that brought this case before the board.

David Goodloe, Orion Township Building Official, stated that the former village planner gave verbal approval for the pergola to be built on the condition that the pergola was not attached to any other structure. Mr. Goodloe further stated that he was under the assumption that the applicants were going to receive the approved documents from the village.

Board Member Chayka-Crawford asked Mr. Goodloe if a permit was ever sought from the township. Mr. Goodloe shared that the permit was denied once the township realized the pergola was never approved by the village.

Board Member Bailo asked if the pergola was attached to the restaurant. Mr. Goodloe stated it was not.

Mr. Goodloe further shared he believes the board has to look at the facts of the case and the practical difficulty he believes the property provides to the applicants.

Matthew Gibb, director of the Lake Orion Downtown Development Authority, stated the pergola is considered an accessory structure to the building that does not alter the permitted use. Mr. Gibb argued the pergola sits atop an existing approved outdoor space and the applicant relied on good faith from the former village planner.

Chris Dewey, Doug Jones and Lisa S., applicants, 256 S. Broadway St., Lake Orion, MI 48362, summarized the order of events in which they stated the case unfolded. Additionally, the applicants

asked how they would have been notified if their application was denied. Village Manager McClary stated that the applicant would have received an email.

Board Member Chayka-Crawford asked if the pergola was completed by the time the stop work order was received. The applicants stated that was the case.

PUBLIC COMMENT

Board Member Bailo moved, Board Member Chayka-Crawford seconded, to add the 110 support letters and one opposition letter to the record as an appendix to the minutes.

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

The following individuals spoke in favor of the variance request:

- Dominic Mocerri, Mocerri Companies
- Christian Mills, 121 S. Broadway St.
- Chuck Jones, 2842 Aurora Dr.
- Jack L., 573 Bellevue Ave. on behalf of the landlord of the property
- Matt Pfeiffer, 497 Bellevue Ave.
- Robert, 852 Island Point Dr.
- Steven Novak, 220 Bellevue Ave.
- Scott Jones, 2767 Aldrin Dr.
- Jim Cummins, 228 Atwater St.
- Mel Kendziorski, 2605 Browning Dr.

Sue Albert, 228 S. Broadway St., shared concerns regarding the permit process, lack of communication between the village and township, usage during the wintertime and potential noise concerns.

FINDINGS OF FACT

Laura Haw, of McKenna, reviewed the following findings of fact:

1. The restaurant and patio pergola for outdoor dining is a permitted use in the MU Mixed-Use District. It matches the intent of the district and the outdoor dining is a common enjoyment as an accessory use to a restaurant.
2. The site plan for the restaurant has been permitted.
3. Screening will be provided by the applicant to create a more natural feature and to soften the frontage along the waterfront.
4. The existing footprint of the structure limits the availability of the applicant to construct outdoor dining along the waterfront, which is considered a preexisting condition that was not self-created.

- 5. The proposed patio pergola does not impair the views of adjacent property owners.
- 6. The proposal does not negatively impact public health, safety and welfare.
- 7. The size of the pergola is the minimum requested and is to be constructed over the existing patio.
- 8. The pergola structure does not extend the permanent footprint of the building.

**BOARD DELIBERATION**

Board Member Chayka-Crawford reiterated that when the board grants a variance, there are guidelines that must be followed in order to not set a precedent. She further stated that she is in favor of the variance request, not just because of the information that was presented, but also because she believes there was miscommunication between the village, township and applicants and the village bares some responsibility regarding the hardship that has befallen the applicant.

Board Member Bailo agreed with Board Member Chayka-Crawford and believes that there are lessons that came out of this case.

Board Member Lorant shared that at its last meeting, the board could not determine whether any permits were granted for the pergola and that is why the board asked the applicants to come back. He further thanked Village Manager McClary and township Building Official Goodloe for providing the facts and additional information regarding the events that took place.

Board Member Mathisen stated he supports the variance request, but recordkeeping and communication between the village and township needs improvement.

**MOTION**

Board Member Chayka-Crawford moved, Board Member Lorant seconded, to grant an 11-foot 5-inch variance from the Zoning Ordinance Section 12.02, minimum required waterfront setback standard for the property at 256 S. Broadway Street, Parcel ID number 09-11-226-036, also known as Waterside Social. This variance approval is based on the findings of fact as stated by the planner due to it not being self-created and allows the applicant to build as it is now, confirmed and witnessed and permitted by the township and built accordingly. This is not to create a precedent, but to allow permission to right a hardship that was not self-created by the applicant.

**AYES:** Mathisen, Lorant, Chayka-Crawford, Bailo, Putz

**NAYS:** None

**ABSENT:** None

**MOTION:** Carried

**10. Second Hearing of the Public**

George Dandalides, 226 Bellevue Ave., stated that he believes the board made the correct decision regarding the variance request and there needs to be better communication. He further stated that he would discuss this topic at the next village council meeting to develop ways to improve communication.

Village Manager McClary stated that it is within the purview of the BZA to make determinations on the merits of a case and whether an applicant meets the criteria outlined in state law and in the village's zoning ordinance for receiving variances. Additionally, he shared that he takes exception to the comments that were made by members of the board, one of the council members and by the DDA director that this was a problem created by the village or the township. Village Manager McClary further stated that this was not a problem created by the municipalities, but by the applicant who applied for a permit for an outdoor bar, received conditional approval with a condition that the applicant did not follow through on. He reiterated that the applicants applied for a pergola the same day they received their conditional approval for the outdoor bar, which was denied. Mr. McClary went on to state the applicant applied for a building permit for the pergola with the township without the zoning approval they needed from the village and that the pergola was constructed. Lastly, Mr. McClary shared that everyone supports the business, but the problem regarding the construction of the pergola does not fall on the village or township, but on the business owner for constructing the pergola for which they did not have approval.

Matt Pfeiffer, 497 Bellevue Ave., stated that he disagrees that the village did not give verbal approval for the pergola to be constructed at Waterside Social and stands by the township building official and his recounting of the order of events.

**11. Board Member Comments**

Board Member Putz thanked Village Manager McClary for finding additional supporting documentation for the variance request, but stated it would have been beneficial to have received the documentation prior to the meeting. He further stated that it is difficult to determine who said what when documentation is being passed out during a meeting.

Board Member Chayka-Crawford stated not being a developer is not an excuse to not follow the guidelines for a variance request. She did agree the process needs to be more user-friendly. Board Member Chayka-Crawford further stated she believes what everyone had to say regarding the variance request and doesn't want there to be any hard feelings between the village and township.

Board Member Bailo stated the information that was presented tonight should have been provided a month ago and there is a communication issue between the village and township. He further stated that having the planner in office only once a week is a hinderance.

Board Member Mathisen stated he would like to have an agenda item added at a future board meeting to review the BZA bylaws. Additionally, he requested the board start receiving the village planner's monthly report. Lastly, Board Member Mathisen wished everyone a Merry Christmas and happy holiday.

**12. Next Regular Meeting – January 8, 2026**

**13. Adjournment**

Board Member Lorant moved, Board Member Bailo seconded, to adjourn the meeting at 8:19 p.m.

**AYES:** Mathisen, Lorant, Chayka-Crawford, Bailo, Putz

**NAYS:** None

**ABSENT:** None

**MOTION:** Carried

---

Dr. Brenton Bailo  
Secretary

---

Sonja Stout  
Village Clerk/Treasurer

---

Danielle Smith  
Recording Secretary

Date Approved: April 2, 2026



**BOARD ACTION SUMMARY SHEET**

**MEETING DATE:** April 2, 2026

**TOPIC** Public Hearing: A-26-001 (356 Oak Ln) Dimensional Variance Request

**BACKGROUND BRIEF:** This Public Hearing relates to **356 Oak Lane** (Parcel ID: 09-02-301-004). The subject site is located within the Village of Lake Orion in the RL, (Lake Single Family Residential) Zoning District. The applicant is proposing to install a standby whole-house generator in the required street front yard.

This lot has a street front yard and a lake front yard. As proposed, the installation of the generator in the required street front yard would make the use nonconforming. The location of the proposed generator would require one (1) variance from the standards of the zoning ordinance. The applicant is requesting the following variances from the Zoning Ordinance:

**ARTICLE 13, GENERAL PROVISIONS, SECTION 13.11.E – ACCESSORY MECHANICAL UNITS**

<u>Location Required:</u>	<u>Any yard other than the required front yard</u>
Proposed (Ex.):	Front yard (street)
<b>Variance:</b>	<b>Front yard (street)</b>

The Board may grant dimensional variances upon finding evidence of a practical difficulty.

**RECOMMENDED MOTION(s):**

1. **To open** the public hearing for **Case A-26-001** concerning the requested **dimensional variance** for an accessory mechanical unit located at 356 Oak Lane.
2. **To close** the public hearing for **Case A-26-001** concerning the requested **dimensional variance** for an accessory mechanical unit located at 356 Oak Lane.



**BOARD ACTION SUMMARY SHEET**

**MEETING DATE:** April 2, 2026

**TOPIC** A-26-001 – 356 Oak Ln Dimensional Variance Request

**BACKGROUND BRIEF:** Proposal to install an accessory mechanical unit.

The applicant is proposing to install a standby whole-house generator in the required street front yard.

This lot has a street front yard and a lake front yard. As proposed, the installation of the generator in the required street front yard would make the use nonconforming. The location of the proposed generator would require one (1) variance from the standards of the zoning ordinance. The applicant is requesting the following variances from the Zoning Ordinance:

**ARTICLE 13, GENERAL PROVISIONS, SECTION 13.11.E – ACCESSORY MECHANICAL UNITS**

<u>Location Required:</u>	<u>Any yard other than the required front yard</u>
Proposed (Ex.):	Front yard (street)
<b>Variance:</b>	<b>Front yard (street)</b>

The Board may grant dimensional variances upon finding evidence of a practical difficulty.

**RECOMMENDED MOTION(s):**

Option A: If the BZA determines the ordinance standards for the requested variance have been met:  
*A motion to **grant** the requested variance of the required front yard location from the side or rear yard requirement for the property located at 356 Oak Lane, Parcel # 09-02-301-004. This variance approval is based on the following findings of fact which the BZA has determined support the establishment of a practical difficulty with ordinance compliance.*

Option B: If the BZA determines the ordinance standards for the requested variance have NOT been met:  
*A motion to **deny** the requested variance from Zoning Ordinance Section 13.11.E, required yard location for an accessory mechanical unit at 356 Oak Lane, Parcel # 09-02-301-004. This variance is denied because the BZA has determined the applicant has not presented enough evidence to support the finding of a practical difficulty.*

# MCKENNA

March 18, 2026

Board of Zoning Appeals  
 Village of Lake Orion  
 21 E. Church Street  
 Lake Orion, Michigan 48362-3274

Subject: **Accessory Mechanical Unit – Variance Review** (Plans received March 2, 2026)  
 Location: **356 Oak Lane – Parcel ID# 09-02-301-004**  
 Zoning: **RL - Lake Single Family Residential District**

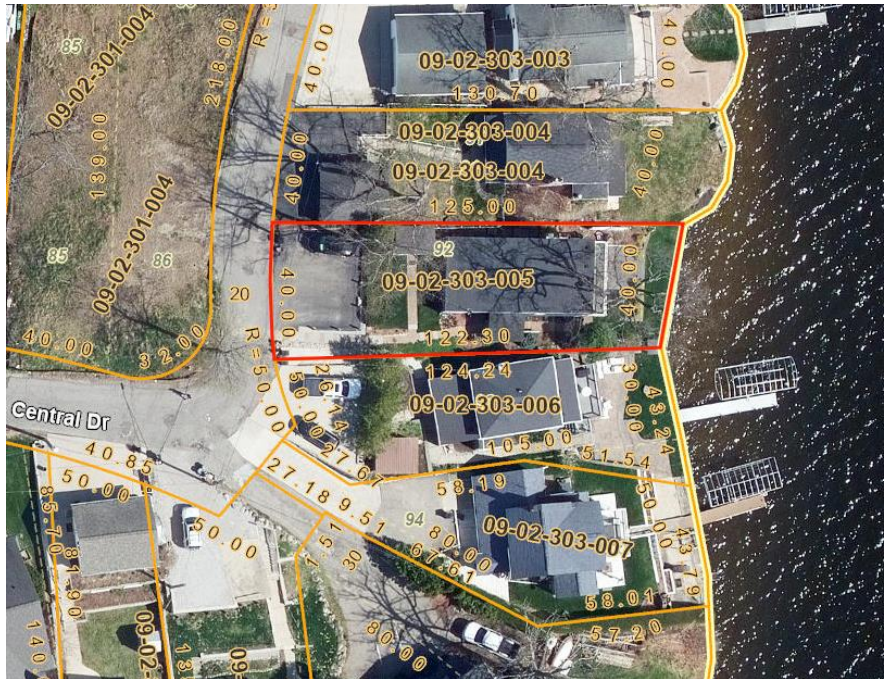
Dear Board Members:

We have reviewed the above-referenced variance application submitted by Elyse Berry (the “Applicant”) who is the property owner and resident of the cited residence. They are proposing an accessory mechanical unit within the required street front yard.

## LOCATION AND PROPOSED PROJECT

The subject lot is approximately 9,310 square feet in area and is occupied by a single-family principal residence. The lot is located on Oak Lane, just northeast of Central Drive and is zoned the RL, Lake Single Family Residential District. An aerial photo of the subject site and the surrounding area is provided for context.

The Applicant proposes to install a standby whole-house generator in the required street front yard of the home. The subject lot has both a street front yard and a lake front yard.



## ZONING ORDINANCE STANDARD AND REQUESTED VARIANCE

The Ordinance states equipment may be located in any yard other than the required front yard of the principal structure. The Applicant is requesting the following variance from the Zoning Ordinance:

### ARTICLE 13, GENERAL PROVISIONS, SECTION 13.11.E – ACCESSORY MECHANICAL UNITS

<u>Location Required:</u>	<u>Any yard other than the required front yard</u>
Proposed (Ex.):	Front yard (street)
<b>Variance:</b>	<b>Front yard (street)</b>

**HEADQUARTERS**  
 235 East Main Street  
 Suite 105  
 Northville, Michigan 48167

☎ 248.596.0920  
 ☎ 248.596.0930  
**MCKA.COM**

Communities for real life.

## VARIANCE STANDARDS FOR APPROVAL

Per the *Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended*, the Board must, prior to acting on a requested variance, consider and make findings regarding several factors. Specifically, in Section 19.04.D.1 of the Village's Zoning Ordinance, the Board may grant a variance upon a finding that a practical difficulty exists. A finding of practical difficulty exists when the applicant has demonstrated that all of the zoning ordinance criteria exist.

Each of the required standards is described below followed by an analysis of whether those conditions exist in this particular case.

**A. 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.**

Strict compliance with the requirement to locate the proposed generator in the rear or side yard would be unnecessarily burdensome in this location. The property, located on Lake Orion, has two front yards: a street front yard, and a lake front yard. There is no rear yard assigned to the lot, which leaves the only conforming location for a generator in either side yard. A generator must also be screened from the lake, the road, and any adjacent dwellings. This requirement would prove difficult if located in the side yard. The lot is narrow with a width of 40 feet, and with the width of the principal structure (approximately 25 feet), leaves 15 feet combined for both side yard setbacks. On the southern side yard of the property, there is already a concrete staircase leading from the road to the waterfront yard.

The Applicant has stated that due to the limitations on placement and setbacks, combined with required clearances from windows, doors, utilities, vents, and other structures, strict compliance with the ordinance impedes the safety standards of the electrical code and the manufacturer's required clearances for safe operation of the generator. The gas meter is located on the side of the house that is closest to the street, which the generator requires proximity to.

**B. The variance will provide substantial justice to the applicant as well as neighboring property owners.**

Granting the variance would give substantial relief to the Applicant, and the neighboring property owners. Requiring the generator to be placed in a side yard may create a burden on the adjacent properties. Due to the close proximity of the adjacent homes, a generator in the side yard would be closer to their home and yard. The Zoning Ordinance requires any accessory mechanical unit to be located no closer than 10 feet from an adjacent dwelling window.

Locating the generator in the middle of the required front yard (as proposed by the Applicant), would allow the greater distance from the adjacent residences and reduce any future impact to those homes.

**C. 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 can be construed to be the minimum variance needed to provide substantial relief. The Applicant states that the necessity for a generator at this property, is to ensure the residents of the home can access electricity in the event of a power outage by providing heating and cooling to the home and refrigeration of food. Similar generators are common in the Village, particularly around the lake.

**D. 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 need for the variance is somewhat unique to the property, as there is no technical rear yard on the lot. The only permitted location for the generator is either of the side yards, both of which would create a greater negative impact on both the property owner and the adjacent properties, than a location of the generator in the street front yard.

The residence is positioned slightly below-grade, with a noticeable height difference from the road to the property. The Applicant states they have recently upgraded the property with a new retaining wall, steps, and parking area. The generator in its proposed location would not be visible to the street, as it is on a lower level. There is a 6-foot retaining wall that screens the yard and home from the road. The location is also screened from the adjacent residences by large shrubs.

**E. 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 need for the variance is not self-created. The permitted locations for an accessory mechanical unit in the Zoning Ordinance do not address the building, electrical, mechanical, or fire codes. The Applicant has proposed a location that is most suitable for safety, operation, and screening. The Applicant did not create the dimensions of the home or the lot. The necessity of a standby generator is for emergency situations.

**F. Granting the variance will not impair the public health, safety, comfort, or welfare of the inhabitants of Lake Orion.**

Granting this variance will not impair the public health, safety, comfort, or welfare of the residents of Lake Orion.

**RECOMMENDATION**

The Board of Zoning Appeals shall only grant a variance from the requirements of the Zoning Ordinance upon finding the criteria described above have been met for the variance requested.

In making your determinations relative to the requested variance, the BZA shall specify the grounds for the decision. Subject to any additional information presented and discussed by the applicant, Board, and/or the public during the public hearing and incorporated into the record prior to any findings being made, we find the proposed development satisfies the requirements of the ordinance criteria and recommend the BZA **grant the variance** as requested based on the following findings of fact:

1. *Strict compliance with side/rear yard placement is unnecessarily burdensome due to the lot having two front yards and no rear yard, a narrow width (40 ft), and required safety clearances.*
2. *Placement in a side yard is impractical and could conflict with electrical code requirements and the manufacturer's clearances.*
3. *Locating the generator in the proposed street front yard location increases separation from adjacent homes and reduces potential impacts compared to side yard placement.*
4. *The requested variance is the minimum necessary to allow reasonable use of the property for a permitted purpose (safe operation of a standby generator).*
5. *The proposed location of the generator is effectively screened from the street and neighboring properties due to grade differences, a retaining wall, and existing vegetation.*
6. *The hardship is not self-created; it results from ordinance constraints and site conditions rather than actions of the Applicant.*
7. *Granting the variance will not negatively impact public health, safety, or welfare, and may reduce impacts on neighboring properties compared to a compliant location.*

We look forward to reviewing these findings and recommendations with you. Please feel free to contact us with any questions.

Respectfully submitted,

**McKENNA**



Sommer Nafal, NCI  
Assistant Planner

cc: Village Clerk: Sonja Stout, 21 E. Church Street, Lake Orion, MI 48362  
Property Owner: Elyse Berry, 356 Oak Ln, Lake Orion 48362

March 2, 2026

Village of Lake Orion  
Board of Zoning

SUBJECT: Request for Variance for Generator Installation  
356 Oak Lane  
Lake Orion MI 48362

Dear Board Members:

Please accept and review the enclosed request for variance, to install a whole house generator on my property, in a location the Village considers the front of my property (street-side).

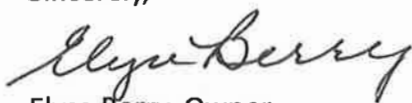
Some key points for your consideration are:

- 1) Most lake property owners, like myself, consider the lake-side of the property as the "front" of the home. The layout of my home, in particular, has the lower part of a vaulted roof on the "street-side."
- 2) In my situation, the placement of the generator, would not be seen from the street, as the only view from the street is the roof of my home, as my home is significantly below grade.
- 3) The generator placement requires it to be in a close proximity to the gas meter, which is on the side of the house closest to the "street-side." To place it anywhere on the "lake-side" would be either impossible or cost prohibitive.
- 4) My direct neighbors are comfortable with my requested placement of the generator.
- 5) My age and single status make a portable generator untenable. Therefore, I have decided to pursue a whole house generator to assure continuous power during electrical outages for safety reasons, food spoilage protection, and heating/cooling purposes.
- 6) I have been a responsible resident of the Village for 34 years, consistently maintaining and improving my home and property to assure it meets Village and Township standards. Most recently, I spent approximately \$30,000 on the "street-side" for a new retaining wall, steps, and parking area asphalt.

For the reasons above, I respectfully ask for your full consideration and approval of this request for variance.

I look forward to presenting my request at your next meeting.

Sincerely,



Elyse Berry, Owner



21 E. Church Street  
 Lake Orion, Michigan 48362  
 Tel 248.693.8391  
 Fax 248.693.5874  
[www.lakeorion.org](http://www.lakeorion.org)

**BOARD OF ZONING APPEALS – APPLICATION FOR VARIANCE OR REVIEW**

**PROPERTY INFORMATION**

Site Address: 356 Oak Lane Parcel ID #: 09-02-301-004

Parcel Size (Sq.Ft.): 9,310.0 Zoning District: Lake Single Family Residential

Has the property previously been approved for a variance(s)? Yes  No  (If yes, indicate date: \_\_\_\_\_)

**OWNER INFORMATION**

Property Owner Name: Elyse Berry Address: 356 Oak Lane, Lake Orion, MI, 48362

Property Owner Phone #: [REDACTED] E-Mail: [REDACTED]

**APPLICANT INFORMATION (If applicant is NOT property owner)**

Applicant Name: \_\_\_\_\_ Address: \_\_\_\_\_

Applicant Phone #: \_\_\_\_\_ E-Mail: \_\_\_\_\_

Applicant is: (i.e. contractor or business owner or architect, etc.) \_\_\_\_\_

**TYPE OF VARIANCE AND/OR REVIEW REQUESTED**

Please check one. A request for multiple types of reviews may require a separate form.

\_\_\_\_ Appeal of Administrative Order \_\_\_\_ Interpretation of Map \_\_\_\_ Interpretation of Section # \_\_\_\_\_

\_\_\_\_ Dimensional Variance (required setback, height, lot coverage, lot width, lot size, etc.)

\_\_\_\_ Use Variance (specify intended use): \_\_\_\_\_

Variance from Zoning Ordinance Requirement - Section # 13.11(E)(1) & Article 19, Section 19.04 D. 2. & 19.04(B) & 19.04(c)

\_\_\_\_ Other (please specify): \_\_\_\_\_

**DIMENSIONAL VARIANCE – REQUESTED DEVIATION FROM REQUIREMENTS**

Please complete the table below for each deviation from the dimensional requirements which you are requesting.

Section #	Type of Dimensional Requirement	Existing Distance	Required Distance	Proposed Distance	Variance (=Required – Proposed)
Example: Table 12.02	Front Setback	28 Feet	25 Feet	20 Feet	5 Feet
13.11(E)	Front Yard	n/a	n/a		

**Please only fill out the section for the type of variance or review you are requesting.**

**DIMENSIONAL VARIANCES AND VARIANCES FROM ZONING ORDINANCE REQUIREMENTS -  
EXPLANATION OF PRACTICAL DIFFICULTIES**

Dimensional Variances, which are deviations from the dimensional zoning requirements, i.e. height, bulk, setback, and variances from other zoning ordinance requirements, such as the amount of investment in a non-conforming property, may only be granted by the Board of Zoning Appeals upon finding that a practical difficulty exists. All of the following conditions must be determined to apply to your case in order to determine that a true practical difficulty exists. *(Attach additional sheets if necessary.)*

Please explain how: 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.

~~Strict compliance with the current restrictions would prevent me from using the property for a permitted and practical purpose. The limitations on placement and setback leave no feasible location on the lot where a standby generator, an increasingly essential safety and reliability feature, can be installed without violating at least one of the requirements. The property's layout, existing structures, and utility connections create conditions where adhering to each restriction does not meet the safety standards set forth by the electrical code and manufacturer's required clearances for safe operation. The property's layout, existing structures, and utility connections create conditions where adhering to every restriction becomes unnecessarily burdensome. In particular, the only technically viable and safe installation area falls within the setback boundaries. This is not due to preference, but due to the physical constraints of the property and the manufacturer's required clearances for safe operation.~~

Please explain how: Granting the variance will provide substantial justice to the applicant, as well as other property owners.

~~Granting the variance will provide substantial justice as it will ensure that my property will continue to run efficiently during a power outage. The generator will ensure that loss of food storage or capability to heat/cool the home (as example) will not be compromised during a power outage to my home. Allowing the variance ensures that I can safely maintain power during outages—an increasingly essential need—without creating any negative impact on neighboring properties. In addition, granting the variance supports the broader interests of the community. A properly installed standby generator enhances safety, reduces strain on emergency services during outages, and helps maintain stability in the neighborhood. Whole home generators are common in our area, and several nearby properties have been permitted to install them in comparable locations. Approving this request simply maintains fairness and consistency in how the ordinance is applied.~~

Please explain how: 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 requested variance represents the smallest deviation from the zoning ordinance necessary to allow installation of a whole house generator in a safe and code compliant location. Due to the property's layout and required clearances from windows, doors, utilities, and other structures, no fully compliant placement exists. The proposed location minimizes visual impact on neighboring properties.~~

Please explain how: The need for the variance 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 need for this variance arises from unique physical circumstances specific to this property, including the placement of existing utilities, required clearances from windows vents, openings and mechanical equipment, and the limited available yard area. These conditions leave no fully compliant location for a whole home generator.~~

Please explain how: 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 need for this variance is not self-created. The hardship arises solely from the property's existing physical conditions—including the placement of utilities, required safety clearances, and the home's proximity to the lot lines—which leaves no fully compliant location for a whole-home generator. These conditions existed prior to my ownership and were not caused by any actions of me or any predecessors. The difficulty results from strict application of the zoning ordinance, not from any voluntary act by me the homeowner.~~

Please explain how: Granting the variance will not impair the public health, safety, comfort, or welfare of the inhabitants of Lake Orion.

Granting this variance will not impair the public health, safety, comfort, or welfare of the residents of Lake Orion. The generator will be installed in full compliance with all building, electrical, and mechanical safety codes. The proposed location is adjacent to existing mechanical equipment and will be screened to reduce visibility. Currently there is 6' retaining wall at the road and the generator would not be seen from the road due to the home being significantly below grade. The generator enhances household safety during power outages and does not create any hazards, nuisances, or adverse effects on neighboring properties. Therefore, the variance poses no risk to the community and is consistent with the public interest.

**USE VARIANCES – EXPLANATION OF UNNECESSARY HARDSHIP**

A Use Variance is a variance that permits the use of a property that is otherwise not permitted in a zoning district. The Board of Zoning Appeals may grant a requested use variance only upon finding that an unnecessary hardship exists. Explain below how the requirements in Article 19, Section 19.04 D. 2. Use Variance Review Standard of Zoning Ordinance pertains to your site. *(Attach additional sheets if necessary.)*

The unnecessary hardship arises from the property's unique physical constraints, not from any action of me the applicant. Strict enforcement of the ordinance would prevent the installation of essential emergency equipment, while granting the variance will not harm the public or alter the character of the neighborhood. The variance requested is the minimum needed to provide reasonable use of the property.

**APPEALS OF ADMINSTRATIVE ORDERS, INTERPRETATIONS OF MAP OR ZONING ORDINANCE SECTIONS**

Per Section 19.04(B), when an applicant believes they have been aggrieved by a decision of the Zoning Administrator, they may appeal the decision to the Board of Zoning Appeals. Per Section 19.04(C), the Board of Zoning Appeals has the authority to hear and decide requests for interpretation of the Zoning Ordinance, including the Zoning Map. In the area below, please state the Section relevant to your appeal or interpretation request. Please state any facts or conditions relevant to your application. *(Attach additional sheets if necessary.)*

N/A - This is not an Appeal

**ADDITIONAL INFORMATION AND REQUIREMENTS**

Section 19.04(F) identifies all information required for a complete application.

***Please place your initials below next to all items included in your application.***

***If you believe the information is not relevant please place 'N/A' for not applicable next to the item.***

- 1) A completed application signed by the property owner.
- 2) Proof of ownership.
- n/a 3) Property owner authorization for an applicant to act on their behalf.
- 4) Project Narrative – *A letter to the BZA explaining the variance or review request.*
- 5) Land Survey – *A survey prepared by a professional surveyor.*
- 6) Site Plan – *A set of plans to scale which include all property lines with dimensions, setbacks, existing and proposed structures.*
- N/A 7) Architectural plans and elevations – *A set of drawings illustrating the details of any proposed structures.*
- 8) PDF files - *A digital PDF version of all documents must be provided either via media source (CD, DVD, USB drive) or email to the Zoning Coordinator.*
- 9) Payment of fees.

***By signing below you acknowledge all of the following:***

- The undersigned acknowledges that they have read Section 19.04 of the Village of Lake Orion Zoning Ordinance, has received and read the instructions and understands the application process.
- The undersigned acknowledges that in their opinion they believe the additional information included with this application meets the submittal requirements for a variance or review application and accept all responsibility for any lack of required information.
- The undersigned acknowledges that any lack of information which may result in a delay of the review process is the sole responsibility of the applicant.
- The undersigned deposes that the forgoing statements and answers and accompanying information are true and correct.
- The undersigned hereby authorizes Village representatives to enter the subject property in connection with this application.

Signature of Property Owner: \_\_\_\_\_

Date: 3/2/2024

Signature of Applicant: \_\_\_\_\_

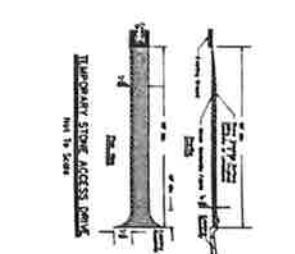
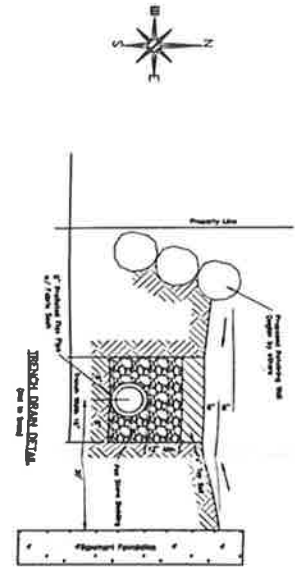
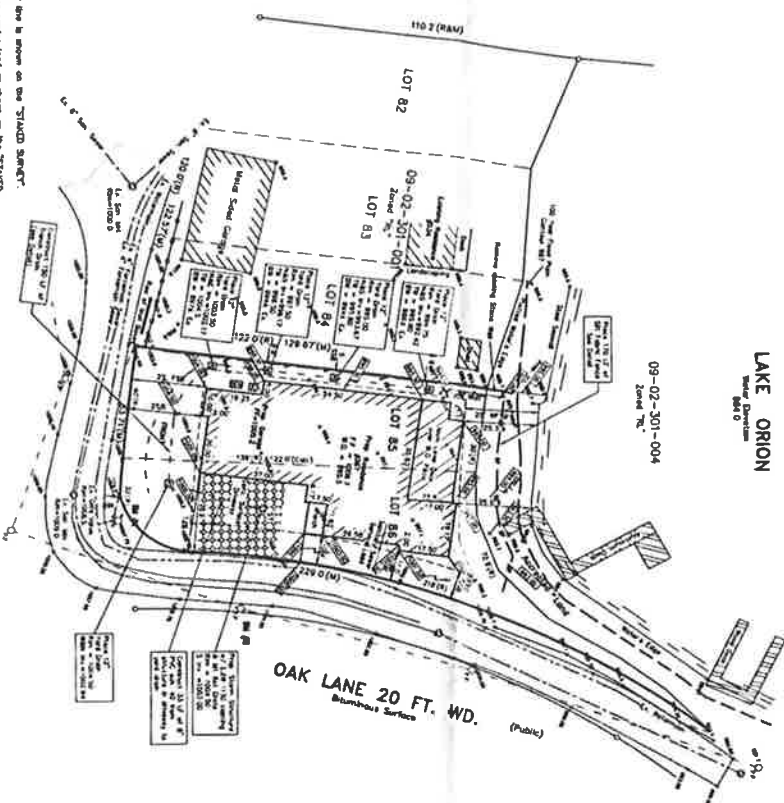
Date: 3/2/2026

**SOIL EROSION AND SEDIMENTATION CONTROL NOTES**

- 1) All erosion and sedimentation control work shall conform to the standards and specifications of the State Resources Commission and the Michigan Department of Natural Resources.
- 2) Daily inspection of the erosion and sedimentation control measures, and any necessary repairs shall be performed by the Contractor.
- 3) Control and sedimentation basins shall be installed on the site to prevent erosion and sedimentation from entering the storm water drainage system or a waterway. Sediment basins shall have a minimum depth of 2 feet and shall be constructed of concrete, masonry, or steel. All basins and ponds shall be inspected and maintained by the Contractor.
- 4) The Contractor shall install temporary erosion and sedimentation control measures until permanent measures are in place. The Contractor shall be responsible for the maintenance and repair of these measures.
- 5) Sloping the work shall be done by the Contractor as directed by the Engineer. The Contractor shall be responsible for the maintenance and repair of these measures.
- 6) All erosion control practices shall be installed in accordance with the standards and specifications of the State Resources Commission and the Michigan Department of Natural Resources.
- 7) All erosion control practices shall be installed in accordance with the standards and specifications of the State Resources Commission and the Michigan Department of Natural Resources.
- 8) All erosion control practices shall be installed in accordance with the standards and specifications of the State Resources Commission and the Michigan Department of Natural Resources.
- 9) The Contractor shall be responsible for the maintenance and repair of these measures.
- 10) The Contractor shall be responsible for the maintenance and repair of these measures.
- 11) The Contractor shall be responsible for the maintenance and repair of these measures.
- 12) The Contractor shall be responsible for the maintenance and repair of these measures.
- 13) The Contractor shall be responsible for the maintenance and repair of these measures.
- 14) The Contractor shall be responsible for the maintenance and repair of these measures.

- NOTES**
- 1) The existing 100 year flood plain contour line is shown on the "STANDARD SURVEY".
  - 2) The existing sanitary sewer line and water service line are shown on the "STANDARD SURVEY".
  - 3) There are no proposed easements.
  - 4) There are no proposed or existing recorded easements covering any portion of this site.
  - 5) A ground mounted Air Conditioner Compressor is shown.
  - 6) The proposed construction has been approved. The "STANDARD SURVEY" is based upon records of a recent generalization, the of completion and previous surveys.
  - 7) The proposed lot line height is 25.2' per the subdivision plat prepared by O.L. Jones & Associates, P.L.C., on No. 24-404.

**BENCH MARK (BM)**  
 All spot elevations are based on the "STANDARD SURVEY".  
 The spot elevations are based on the "STANDARD SURVEY".  
 The spot elevations are based on the "STANDARD SURVEY".

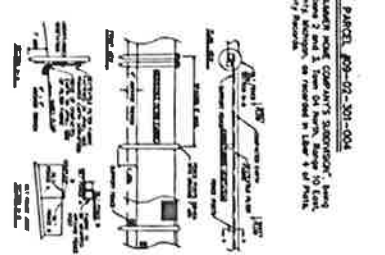


**PROPOSED PERCENTAGE OF COVERAGE FOR THE LOT 89-02-301-004**

Area of Parcel 89-02-301-004	3,200 Sq. Ft.
Proposed Residential Coverage	3,200 Sq. Ft.
Proposed Commercial Coverage	3,200 Sq. Ft.
Proposed Total Coverage	3,200 Sq. Ft.
Total	3,200 Sq. Ft.

**PROPOSED PERCENTAGE OF COVERAGE FOR THE LOT 89-02-301-004**

Area of Parcel 89-02-301-004	3,200 Sq. Ft.
Proposed Residential Coverage	3,200 Sq. Ft.
Proposed Commercial Coverage	3,200 Sq. Ft.
Proposed Total Coverage	3,200 Sq. Ft.
Total	3,200 Sq. Ft.



- GENERAL NOTES**
- 1) A permit shall be obtained from the K.C.D.C. prior to any construction activity within the right of way of Oak Lane.
  - 2) No early paving to be proposed on this site.
  - 3) Contract 100' of 18 inch water main to be installed from the proposed residential building to the water main in Oak Lane. The water main shall be installed in accordance with the standards and specifications of the State Resources Commission and the Michigan Department of Natural Resources.
  - 4) The existing utility lines and signs from the owner's site to be removed and replaced with new utility lines and signs.
  - 5) The existing Sanitary Sewer Line & Water Service Line to be extended to provide service to the proposed building.



**ISLAND POINT BUILDING COMPANY**  
 357 Oak Lane  
 Lake Orion, Michigan 48362

**ENGINEER**  
 O.L. JONES & ASSOCIATES, P.L.C.  
 1500-C-1111  
 48306

DATE	NO.	DESCRIPTION
07/07/02	1	ISSUED FOR PERMIT
07/07/02	2	ISSUED FOR PERMIT
07/07/02	3	ISSUED FOR PERMIT















# MORTGAGE REPORT for:

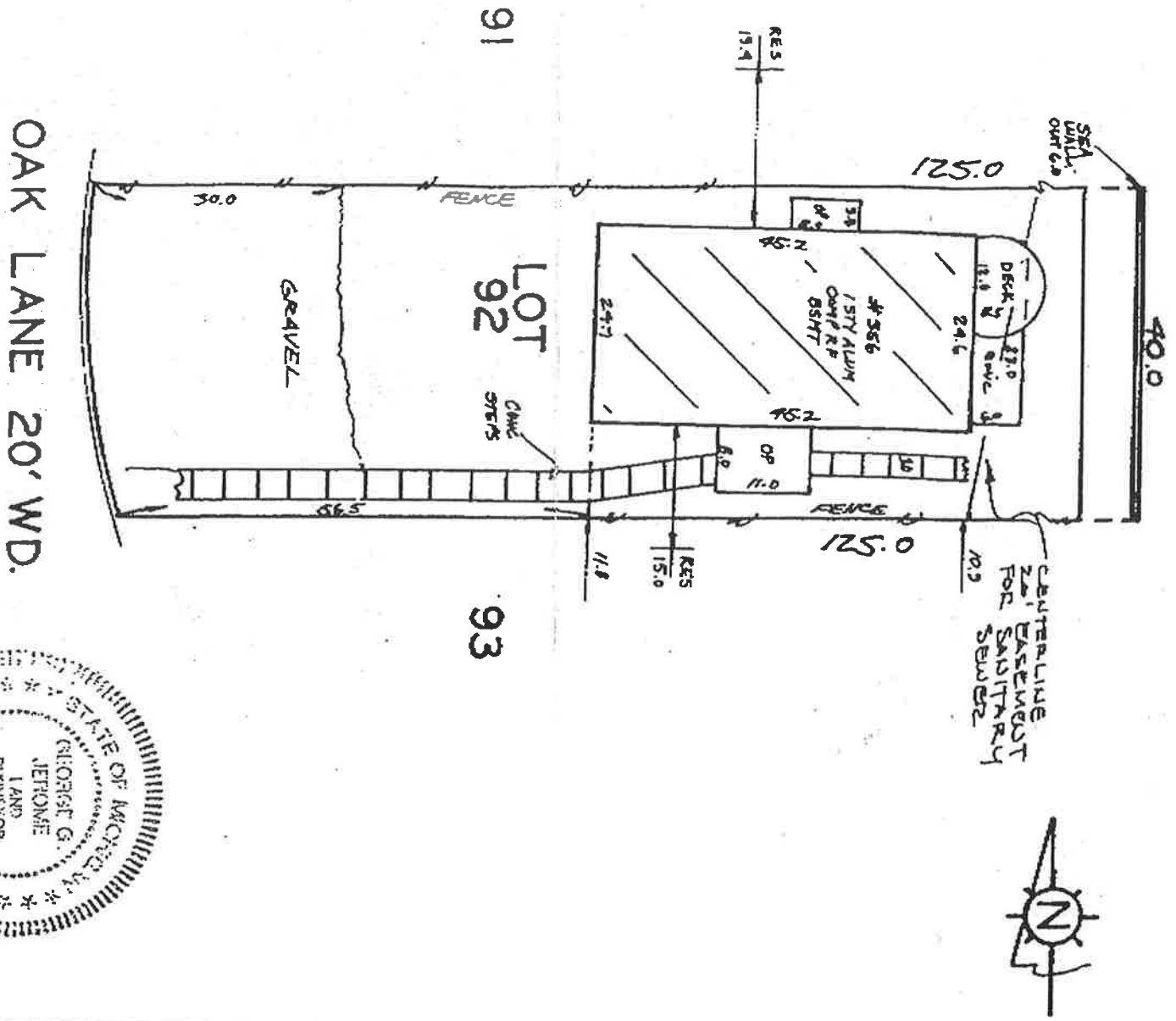
LIBERTY MORTGAGE CORPORATION

CONSULTING MUNICIPAL & CIVIL ENGINEERS • SURVEYORS, 28312 HAYES • ROSEVILLE, MI 48068 • (313) 774-3000

LEGAL DESCRIPTION OF PROPERTY (AS FURNISHED BY CLIENT)

Lot 92, OKTON SUMMER HOME CO'S, subdivision of part of Sections 2 and 3, T.4 N., R.10 W., Village of Lake Orion, Oakland County, Michigan. Recorded in Liber 4 of plats, Page 27 of Oakland County Records.

DATE: 3-20-92



CERTIFICATE: We hereby certify to LIBERTY MORTGAGE CORPORATION that we have surveyed the above-described property in accordance with the description furnished by you for the purpose of a mortgage loan to be made by ELYSE A. BERRY

mortgage, and that the buildings located upon the property heretofore described, except as shown. This survey is not to be used for the purpose of establishing property lines, nor for construction purposes, no stakes having been set at any of the boundary corners.

SCALE 1" = 20'

DR. BY

REGISTERED LAND SURVEYOR

GEORGE JEROME & CO.

JOB NO. M-7415

Please explain how: 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:

Strict compliance with the current restrictions would prevent me from using the property for a permitted and practical purpose. The limitations on placement and setback leave no feasible location on the lot where a standby generator, an increasingly essential safety and reliability feature, can be installed without violating at least one of the requirements. The property's layout, existing structures, and utility connections create conditions where adhering to each restriction does not meet the safety standards set forth by the electrical code and manufacturer's required clearances for safe operation. The property's layout, existing structures, and utility connections create conditions where adhering to every restriction becomes unnecessarily burdensome. In particular, the only technically viable and safe installation area falls within the setback boundaries. This is not due to preference, but due to the physical constraints of the property and the manufacturer's required clearances for safe operation.

Please explain how: Granting the variance will provide substantial justice to the applicant, as well as other property owners:

Granting the variance will provide substantial justice as it will ensure that my property will continue to run efficiently during a power outage. The generator will ensure that loss of food storage or capability to heat/cool the home (as example) will not be compromised during a power outage to my home. Allowing the variance ensures that I can safely maintain power during outages—an increasingly essential need—without creating any negative impact on neighboring properties.

In addition, granting the variance supports the broader interests of the community. A properly installed standby generator enhances safety, reduces strain on emergency services during outages, and helps maintain stability in the neighborhood.

Whole-home generators are common in our area, and several nearby properties have been permitted to install them in comparable locations. Approving this request simply maintains fairness and consistency in how the ordinance is applied.

Please explain how: 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 requested variance represents the smallest deviation from the zoning ordinance necessary to allow installation of a whole-house generator in a safe and code-compliant location. Due to the property's layout and required clearances from windows, doors, utilities, and other structures, no fully compliant placement exists. The proposed location minimizes visual impact on neighboring properties.

Please explain how: The need for the variance 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 need for this variance arises from unique physical circumstances specific to this property, including the placement of existing utilities, required clearances from windows vents, openings and mechanical equipment, and the limited available yard area. These conditions leave no fully compliant location for a whole-home generator.

Please explain how: 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 need for this variance is not self-created. The hardship arises solely from the property's existing physical conditions—including the placement of utilities, required safety clearances, and the home's proximity to the lot lines—which leaves no fully compliant location for a whole-home generator. These conditions existed prior to my ownership and were not caused by any actions of me or any predecessors. The difficulty results from strict application of the zoning ordinance, not from any voluntary act by me the homeowner.

Please explain how: Granting the variance will not impair the public health, safety, comfort, or welfare of the inhabitants of Lake Orion.

Granting this variance will not impair the public health, safety, comfort, or welfare of the residents of Lake Orion. The generator will be installed in full compliance with all building, electrical, and mechanical safety codes. The proposed location is adjacent to existing mechanical equipment and will be screened to reduce visibility. Currently there is 6' retaining wall at the road and the generator would not be seen from the road due to the home being significantly below grade. The generator enhances household safety during power outages and does not create any hazards, nuisances, or adverse effects on neighboring properties. Therefore, the variance poses no risk to the community and is consistent with the public interest.

#### **USE VARIANCES – EXPLANATION OF UNNECESSARY HARDSHIP**

A Use Variance is a variance that permits the use of a property that is otherwise not permitted in a zoning district. The Board of Zoning Appeals may grant a requested use variance only upon finding that an unnecessary hardship exists. Explain below how the requirements in Article 19, Section 19.04 D. 2. Use Variance Review Standard of Zoning Ordinance pertains to your site. *(Attach additional sheets if necessary.)*

The unnecessary hardship arises from the property's unique physical constraints, not from any action of me the applicant. Strict enforcement of the ordinance would prevent the installation of essential emergency equipment, while granting the variance will not harm the public or alter the character of the neighborhood. The variance requested is the minimum needed to provide reasonable use of the property.

**APPEALS OF ADMINISTRATIVE ORDERS, INTERPRETATIONS OF MAP OR ZONING ORDINANCE SECTIONS**

Per Section 19.04(B), when an applicant believes they have been aggrieved by a decision of the Zoning Administrator, they may appeal the decision to the Board of Zoning Appeals. Per Section 19.04(C), the Board of Zoning Appeals has the authority to hear and decide requests for interpretation of the Zoning Ordinance, including the Zoning Map. In the area below, please state the Section relevant to your appeal or interpretation request. Please state any facts or conditions relevant to your application. *(Attach additional sheets if necessary.)*

This is not an appeal.



---

## BOARD ACTION SUMMARY SHEET

**MEETING DATE:** April 2, 2026

**TOPIC** Discussion of the BZA Bylaws, Including Article V: Order of Business

**BACKGROUND BRIEF:** The Zoning Board of Appeals has requested to review the current By-Laws and begin a discussion of updating them. The existing Bylaws were adopted December 7, 2023.

Chairperson Mathisen has provided a proposed revised Article V of the BZA By-laws.

**RECOMMENDED MOTION(s):** Discussion only. At the discretion of the Board, a motion may be made to direct staff to revise the Board of Zoning Appeals Bylaws, including Article V: Order of Business, based on discussion.

# BOARD OF ZONING APPEALS BYLAWS VILLAGE OF LAKE ORION, MI

Adopted: December 7, 2023

## **Article I - Purpose**

The following rules of procedure are hereby adopted by the Lake Orion Board of Zoning Appeals (hereinafter known as the BZA) to facilitate the performance of its duties as set forth in Article 18 and Article 19 of the Lake Orion Code of Ordinances; and the Michigan Zoning Enabling Act, PA 110 of 2006, as amended (MCL 125.3601, et seq.) (“the Zoning Act”).

## **Article II - Membership**

**Section 1. Composition.** The membership of the BZA shall be five (5) members (plus two (2) alternates) and appointed according to the procedure as established in the Lake Orion Zoning Ordinance (Section 18.04), and Section 601 of the Zoning Act. One (1) of the regular members of the BZA may be a member of the Planning Commission and one (1) regular or alternate member of the BZA member of the Village Council, but the member of the Village Council shall not serve as chairperson of the BZA. The terms of office for members appointed to the BZA shall be three (3) years, except for members serving because of their membership on the Planning Commission or Village Council, whose terms shall be limited to the time they are members of those bodies. Members of the BZA shall be subject to Section 18.04 of the Lake Orion Zoning Ordinance as to removal, vacancies, and compensation.

**Section 2. Attendance.** A BZA member shall notify the Village Administration and the BZA Chairperson in advance if they are going to be absent from the meeting. If any member of the BZA is absent from three (3) consecutive regularly scheduled meetings, then that member shall be considered delinquent. Delinquency shall be grounds for the Lake Orion Village Council to remove a member from the BZA for nonperformance of duty or misconduct after holding a public hearing on the matter. The BZA secretary shall keep attendance records and shall notify the Village Council whenever any BZA member is absent from three (3) consecutive regularly scheduled meetings, so the Village Council can consider further action allowed under law or excuse the absences.

**Section 3. Training.** Each BZA member shall attend at least four (4) hours per calendar year of training in planning and zoning during the member’s current term of office. Training shall be provided by one or more of the following organizations: Michigan Association of Planning, Michigan State University Extension, Michigan Townships Association, Michigan Municipal League, continuing education programs of Michigan State University, University of Michigan, Northern Michigan University, Central Michigan University, or Wayne State University, or a similar continuing education program found to be acceptable to the Village Administration. BZA members shall produce a list of their trainings to the Village Administration by the end of each calendar year.

**Section 4. Liaisons.** The purpose of liaisons is to provide certain Village officials the ability to

participate in discussion with the BZA in addition to speaking in public, and nothing else. Liaisons cannot vote, introduce motions, initiate any other parliamentary action, be counted for a quorum, or be expected to comply with attendance requirements. Liaisons, if not already appointed BZA members, are Planning/Zoning Department staff and their agents and consultants, or the Village Attorney.

**Section 5. Ethics & Conflicts of Interest.** Each member of the BZA shall abide by the Village Ethics Ordinance (§30.61 et. seq. of the Village Code) as amended from time to time, to avoid or address conflicts of interest and/or incompatibility of office.

**Section 6. Ex Parte Contact.** Members shall avoid ex parte contact about cases where an administrative decision is before the BZA whenever possible. If ex parte contact is unavoidable, BZA members should take detailed notes on what was said and report what was said to the BZA at a public meeting or hearing.

**Section 7. Not Voting on the Same Issue Twice.** Any BZA member shall avoid situations where they are sitting in judgement and voting on a decision, which they had a part in making. As used here, sitting in judgement and voting on a decision which they had a part in making at a minimum shall include, but not necessarily be limited to, the following:

- a. When the appeal is of an administrative or other decision by Planning Commission, and the BZA member sits both on the Planning Commission and BZA.
- b. When the appeal is of an administrative or other decision by Village Council, and the BZA member sits both on Village Council and the BZA.
- c. When the appeal is of an administrative or other decision by any committee of the Planning Commission, Village Council, other committee, and the BZA member sits both on that committee and the BZA.

**Article III - Officers**

**Section 1. Nomination.** At the first regular meeting of each fiscal year (on or after July 1<sup>st</sup>) the BZA shall select from its membership a Chairperson, Vice-Chairperson, and Secretary. A candidate receiving a majority vote of the entire membership of the BZA shall be declared elected. A member may accept a nomination in absentia if they have advised the BZA in writing (e-mail is acceptable) prior to the meeting.

All officers are eligible for re-election. In the event the office of the Chairperson becomes vacant, the Vice-Chairperson shall succeed to this office for the unexpired term and the BZA shall select a successor to the office of the Vice-Chairperson for the unexpired term. In the event the office of the Secretary becomes vacant, the BZA may designate another person who is not a member of the BZA to be the recording secretary.

**Section 2. Tenure.** The Chairperson, Vice-Chairperson, and Secretary shall take office the following month after their selection and shall hold office for a term of one-year or until their successors are selected and assume office.

**Section 3. Chairperson Duties.** The Chairperson shall:

- a. Preside at all meeting and hearings of the BZA, and have the duties normally conferred by parliamentary usage on such officers;
- b. Shall rule out of order any irrelevant remarks; remarks which are personal; remarks about another's race, religion, sex, physical condition, ethnic background, beliefs, or similar topics; profanity; or other remarks which are not about the topic before the BZA;
- c. Appoint committees, and appoint officers of those committees or choose to let the committee select their own officers;
- d. Call special meetings;
- e. Represent the BZA, along with the Village Council BZA member, before Village Council or the Planning Commission; and
- f. Perform such other duties as may be ordered by the BZA.

**Section 4. Vice-Chairperson Duties.** The Vice-Chairperson shall act as the Chairperson in their absence and perform such other duties as may be ordered by the BZA.

**Section 5. Secretary Duties.** The Secretary shall:

- a. Execute documents in the name of the BZA;
- b. Be responsible for the minutes of each meeting, if there is not a recording secretary;
- c. Review the draft of the minutes, sign them, and submit them for approval by the BZA. Copies of minutes shall be distributed to each BZA member prior to the next meeting of the BZA (the Secretary may delegate this duty to Village staff);
- d. Receive all communications, petitions and reports to be addressed by the BZA, delivered or mailed to the Secretary in care of the Village office;
- e. Keep attendance records;
- f. Provide notice to the public and members of the BZA for all regular and special meetings, pursuant to the Open Meetings Act, PA 267 of 1976, as amended, MCL 15.261 et seq. (the Secretary may delegate this duty to Village staff); and
- g. Prepare an agenda for BZA meetings (the Secretary may delegate this duty to Village staff).

**Article IV - Meetings**

**Section 1. Regular Meetings.** Regular meetings shall be held on the first Thursdays of each month at 6:30 PM, or as needed, in the Village Council Chambers at the Lake Orion Village Hall, Lake Orion, Michigan or where otherwise designated by Village Council. When the regular meeting falls on a holiday, the meeting shall be held on such other day as determined by the BZA. When there is no business scheduled, the Chairperson may cancel the meeting.

**Section 2. Majority.** There are five (5) members on the BZA, plus two (2) alternates. Three (3) members constitute a quorum. A majority vote of those present and voting is required for a motion of approval or denial.

**Section 3. Motions.**

- a. Motions shall be restated by the Chairperson before a vote is taken.
- b. Findings of Fact. All actions taken in an administrative capacity (including but not limited to appeals, variances, determination of compliance with an adopted plan) shall

include each of the following parts:

1. The findings of fact, listing what the BZA determines to be relevant facts (including parcel owner, parcel legal description, what is applied for) in the case in order to eliminate misleading statements, hearsay, irrelevant, and untrue statements.
  2. Conclusions, listing reasons based on the facts for the BZA's action.
  3. The BZA's action, recommendation or position, approval, approval with conditions, or disapproval.
- c. Any other motion shall be stated in prose or in the form of a resolution.

**Section 4. Voting.** Voting shall be by voice vote or roll call vote; roll call votes shall be recorded by "yes" or "no" as part of the minutes. If a member abstains from the vote, it shall be recorded as such in the minutes.

**Section 5. Special Meetings.** Special meetings may be called by the Chairperson. It shall be the duty of the Chairperson to call such a meeting when requested to do so in writing by a majority of the members of the BZA. The notice of such a meeting shall specify the purposes of such a meeting and no other business may be considered except by unanimous consent of the BZA. The Secretary shall notify all members of the BZA in writing not less than five (5) days in advance of such special meeting.

**Section 6. Petitioner Attendance.** When a petitioner fails to appear at a properly scheduled BZA meeting, the Chairperson may entertain a motion from the BZA to dismiss the case for want of prosecution. In the absence of a motion by the BZA, the Chairperson shall rule. In cases which are dismissed for want of prosecution, the petitioner will be furnished written notice of the action by the Secretary. The applicant shall have seven (7) days from the date of the notice of dismissal to apply for reinstatement of the case. In such cases, applicant must file a written request with the Village Administration for reinstatement. Reinstatement shall be at the discretion of the Chairperson for good cause shown, and upon payment of a fee set from time to time by the Village Council. In all cases reinstated in the above-described manner, the case will be docketed and re-advertised in the usual manner prescribed for new cases.

**Section 7. Recesses.** The Chairperson, or the BZA, after the meeting has been in session for two (2) hours, shall suspend the BZA's business and evaluate the remaining items on its agenda. The BZA shall then decide to finish that meeting's agenda, may act to continue the meeting on another day (fix the time at which to adjourn), or complete some agenda items and continue the meeting on another day to complete other agenda items or postpone certain agenda items to the next meeting. If applicable such action shall include the time, day, month, date, year and location the BZA will reconvene. If more than 18 hours will pass before the reconvened appeals board meeting, public notice shall be given to comply with PA 267 of 1976, as amended, (being the Michigan Open Meeting Act M.C.L. 15.261 et seq.). Upon reconvening, a roll call of attendance shall be the first item of business before proceeding with the same agenda. The BZA shall resume with the same meeting agenda, proceeding at the same point where they left off, without the addition of additional business.

## **Article V - Order of Business**

**Section 1. Order.** The order of business at regular meetings shall be:

- I. Roll Call
- II. Approval of the Agenda
- III. First Hearing of the Public (*for items not scheduled for a public hearing*)
- IV. Approval of Minutes
- V. BZA Preface
- VI. Public Hearing(s) (*for a specific agenda item*)
- VII. New Business
- VIII. Unfinished Business
- IX. Second Hearing of the Public (*for items not scheduled for a public hearing*)
- X. Board Member Comments
- XI. Adjournment

**Section 2. Parliamentary Procedure.** Parliamentary procedure shall be governed by Robert's Rules of Order by Henry Martyn Robert for issues not specifically covered by these bylaws. Where these bylaws conflict or are different than Robert's Rules of Order, then these bylaws control.

### **Section 3. Public Participation.**

- a. All meetings, hearings, records, and accounts shall be open to the public, and posted in compliance with PA 267 of 1976, as amended, (being the Michigan Open Meetings Act). All regular and special meetings, hearings, records, and accounts shall be open to the public.
- b. All public comment on all agenda items should be presented at the beginning of the meeting where provided in the printed agenda. After that point during the meeting, public comment is normally not allowed; however, sometimes the BZA may direct questions to members of the public. Public comment is at the beginning of the meeting so the BZA can hear concerns and questions before acting on an issue. Those making public comment are expected to be familiar with the issue and have prepared comments ahead of time. To help the public in preparing for the meeting, any written material shall be made available without cost for members of the public asking for a copy prior to the meeting.
- c. Members of the public shall be allowed a maximum of three (3) minutes for each person wishing to make public comment at a BZA meeting. The Chairperson may ask members of the audience to caucus with others sharing similar positions so they may select a single spokesperson. If a single spokesperson is selected, that individual shall be able to make public comment at the BZA meeting without time limit or an extended time limit.

**Section 4. Delivery of Agenda.** The agenda and accompanying materials shall be hand delivered or emailed to BZA members, so it is reasonably expected to be received at least five (5) days prior to the regular meeting date.

**Section 5. Minutes and Record.** The Secretary shall keep, or cause to be kept, a record of

BZA meetings, including meeting notices; a copy of the minutes and all attachments and summaries; and any action, supporting documents, or correspondence.

**Section 6. Retention.** BZA records shall be preserved and kept on file according to the State of Michigan General Retention Schedules for Local Governments.

## **Article VI – Appeals and Hearings**

### **Section 1. Filing for an Appeal.**

- a. The following may file for an appeal:
  1. Any aggrieved person, or the person's authorized agent;
  2. Officer, department, board, or bureau of the state; and
  3. Officer, department, board, or bureau of a local unit of government.
- b. The filing for an appeal of a decision or for a variance shall be in writing on a form provided by the Village Administration, and upon payment of a fee as may be established by the Village Council. Such Demand for Appeal shall be filed with the Village not more than 30 days from the date of the decision being appealed. A Demand for Appeal for a variance shall be filed with the Village at any time.
- c. Within 10 days from the date of the receipt of the Demand for Appeal which is found to be complete, the Village Administration shall contact the Chairperson of the BZA and set up a date(s) and time for the BZA to meet to hold a hearing and a meeting to consider and act on the case.

**Section 2. Hearings.** Before granting or rejecting an Appeal or Variance, the BZA shall hold a public hearing on the matter:

- a. Notice of the time and place of the hearing shall be given, not less than fifteen (15) days prior to such hearing, by at least one publication in a newspaper of general circulation.
- b. Notices shall be:
  1. Sent by mail or personal delivery to owner(s) of property(ies) for the land which is the subject of the appeal.
  2. Sent by mail or personal delivery to all persons to whom real property is assessed within 300 feet of the property(ies) which is the subject of the appeal regardless of whether the owner and property is located in the zoning jurisdiction or not.
  3. Sent by mail or personal delivery to all persons which occupy all structures within 300 feet of the property(ies) which is the subject of the appeal regardless of whether the structure and occupant is located in the zoning jurisdiction or not.
- c. The notice shall include the following information:
  1. Describe the nature of the request;
  2. Indicate the property(ies) which is(are) subject of the hearing;
  3. A listing of all existing street addresses within the property(ies) which is(are) subject of the appeal (street addresses do not need to be created and listed if no such addresses currently exist); if there are no street addresses another means of identification may be used;
  4. A statement of when and where the issue will be considered; and

5. An indication of when and where written comments will be received.

**Section 3. Deadline for Action.** The BZA shall hear a case and render and file its decision with a statement of reasons for the decision with the Village Administration not more than 30 days after receipt of the case unless a longer period of time is mutually agreed upon by the petitioner and BZA.

**Section 4. Other Hearings.** In addition to the hearings required by law, the BZA may at its discretion hold public hearings when it decides that such hearings will be in the public interest.

**Article VII – Annual Report**

The BZA shall make a written report to the Village Council of the work of the BZA during the preceding calendar year.

**Article VIII – Amendments**

These Bylaws may be amended by at least 2/3 vote of the entire membership of the BZA, provided notice of the proposed change is given at a previous meeting.

**Article IX – Adoption**

These Bylaws were adopted on December 7, 2023, and will take immediate effect.

\_\_\_\_\_  
Bradley Mathisen  
Board of Zoning Appeals Chairperson

\_\_\_\_\_  
Dr. Brenton Bailo  
Board of Zoning Appeals Secretary

*Sonia Stet for*  
\_\_\_\_\_  
Susan Galezka  
Clerk, Village of Lake Orion