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## MINUTES

### SPECIAL MEETING OF THE LAKE ORION BOARD OF ZONING APPEALS

Thursday, February 1, 2024

6:30 PM

Lake Orion Village Hall Council Chambers

21 East Church Street

LAKE ORION, MI 48362

(248) 693-8391 ext. 102

#### 1. Call to Order

The Thursday, February 1, 2024 Special Meeting of the Lake Orion Board of Zoning Appeals was called to order in the Lake Orion Village Hall Council Chambers located in the 21 East Church Street, Lake Orion, MI 48362 by Chairperson Bradley Mathisen at 6:30 PM followed by the Pledge of Allegiance.

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

Attendee Name	Organization	Title	Status	Arrived
Brenton Bailo	Village of Lake Orion	Secretary	Present	
Mary Chayka-Crawford	Village of Lake Orion	Board Member	Excused	
Raymond Putz	Village of Lake Orion	Vice Chairperson	Present	
Henry Lorant	Village of Lake Orion	Board Member	Present	
Bradley Mathisen	Village of Lake Orion	Chairperson	Present	

Others present:

Gage Bielko, Planner

Mary Jo Pachla, Recording Secretary

#### 3. Designation of Alternate, as necessary

None.

#### 4. Approval of Agenda

1. **Motion to:** Approve the Board of Zoning Appeals Agenda of February 1, 2024 as presented

<b>RESULT:</b>	<b>APPROVED AS PRESENTED [UNANIMOUS]</b>
<b>MOVER:</b>	Henry Lorant, Board Member
<b>SECONDER:</b>	Brenton Bailo, Secretary
<b>AYES:</b>	Bailo, Lorant, Mathisen, Putz
<b>EXCUSED:</b>	Chayka-Crawford

**5. Approval of Minutes**

- A. Board of Zoning Appeals Regular Meeting Minutes – January 11, 2024

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Brenton Bailo, Secretary
<b>SECONDER:</b>	Henry Lorant, Board Member
<b>AYES:</b>	Bailo, Lorant, Mathisen, Putz
<b>EXCUSED:</b>	Chayka-Crawford

**RESOLVED:** To approve the Thursday, January 11, 2024 regular meeting minutes of the Board of Zoning Appeals (BZA) as presented.

**6. Public Comments on Non-Agenda Items Only**

Let the record show no public comments were received.

**7. Review of BZA Order of Procedure for Handling Appeals - Initial Consideration**

Chairperson Mathisen reviewed the order of procedure for handling appeals. It was noted that there would not be a need for a public hearing for the action item as it had been held at the previous meeting.

**8. Action Items**

- A. Case: A-24-01 Petoskey Residence / 600 Longpointe Drive.

**Presentation of Planner**

Planner Gage Bielko re-reviewed McKenna's review letter of January 2, 2024, regarding the request for variance, noting that there had been no change in the request or documents submitted for this meeting. He noted that the existing non-conforming home includes a garage that encroaches into the front setback. The applicant is proposing the construction of a new deck on top of the garage with a roof overhang supported by posts, requiring two variances. He explained that because the structure is existing nonconforming, it cannot be enlarged, both horizontally or vertically, and he stated that the existing setbacks are proposed to be increased vertically. He pointed out that the requested variance of 11.5 foot to the front setback and 1.5 foot to the side

were not proposed to increase horizontally as they are the same as existing, however they are proposed to go up vertically as the roof was to be supported by posts. He noted that at the previous meeting, several possible options were discussed; however, there were no changes made to the request for this meeting.

He reviewed the standards for consideration, noting that compliance with the ordinance would not prevent the construction of some sort of deck. He stated that while the variance would provide substantial justice to the applicant, it would not be in the interest of the abutting property owners or Village as a whole and would set a precedent for similar requests and create a greater building mass on the street. He pointed out that there are several uncovered decks that go above the garage. He commented that the request is not the minimum possible, as there might be other design solutions to provide some sort of covering. There is not a huge justification for making the structure more non-conforming when a smaller variance or no variance could allow for a similar use. And the self-creation of the need for a variance comes from the desire to build a cover over the whole deck.

He reiterated that McKenna's findings recommend the denial of the variance; however, it is recognized that there are many non-conforming structures along the lake. He stated that if the BZA chooses to grant the variance, it could suggest that the BZA discuss later in the meeting to recommend that the Planning Commission and Village Council take a look at the ordinance.

#### **Applicant's Presentation**

David Petoskey, 600 Longpointe, stated that he and his wife Cathy purchased the home in 2020, after coming out to Lake Orion for over 20 years. He pointed out that six houses away a 750 foot structure exists over a garage, and he commented that he is asking for a structure of 281.94 square feet. He stressed that he wants this structure for a place for family in the shade, and commented that his daughters love coming out to Lake Orion and his 85-year old father does not want to sit in the sun. He noted that he had included two letters of support from his neighbors and noted that a neighbor was in attendance tonight to show support.

Secretary Bailo asked about the neighboring structure that had been built and asked if a permit had been issued for it.

Mr. Bielko responded that different administrations had different interpretations of the ordinance and each request should be reviewed on a case-by-case basis. He noted that the other structure did not come before the BZA for a request. He stated that a permit

was issued and at the time it was decided that adding a gazebo would not create a non-conforming setback.

Mr. Petoskey stated that he looked into retractable awnings and umbrellas, and with the winds on the lake they would be only a temporary solution as other neighbors have lost umbrellas. He stressed that this would be a permanent structure to add value to the community. He mentioned that he did look into cantilevering the roof and was told by his architect that to retrofit it to an older home would be cost-prohibitive.

Mr. Lorant asked what kind of railings were proposed.

Mr. Petoskey responded that it would consist of light wire and posts and would be less maintenance. He noted that a heater and fan would be added to the space to make it more season-effective. He stated that the neighbors have noted that it would not be obstructive and pointed out that it is on the street side of the lake.

Chairperson Mathisen called for any public comment.

Ken Kutchek, 596 Longpointe, stated that he is the neighbor immediately to the north and is in support. He noted that what Mr. Petoskey is asking for is much less in scale than the structure down the street and would not block his view.

Matt Pfeiffer, 497 Bellevue, expressed his support, and stated that there is a lot of non-compliance on the lake. He noted that one neighbor was allowed to do this and it is hard to tell another they cannot. He commented that retractable awnings are not attractive, and he stated that he knows Mr. Petoskey and he will do it right.

Seeing no more public comment, Chairperson Mathisen closed it at 6:51 p.m.

### **Board Deliberation and Action**

Secretary Bailo stated that he was struggling with his decision.

Mr. Lorant stated that his deck is non-compliant so he knows what Mr. Petoskey's situation is like. He noted that Ed Sabol would be doing the construction.

Vice Chairperson Putz expressed concern over denying a variance when a few houses down they were allowed to build.

Secretary Bailo commented that he liked the look of the design over the garage, and stated that he would probably be in favor of granting the variance.

Vice Chairperson Putz moved the motion included in the meeting packet to approve the variance. Mr. Lorant seconded the motion. The motion was adopted by a three-to-one vote.

<b>RESULT:</b>	<b>ADOPTED 3-1</b>
<b>MOVER:</b>	Raymond Putz, Vice Chairperson
<b>SECONDER:</b>	Henry Lorant, Board Member
<b>AYES:</b>	Bailo, Lorant, Putz
<b>NAYES:</b>	Mathisen
<b>EXCUSED:</b>	Bailo, Chayka-Crawford

In Case No. A-24-01. Parcel ID Number 09-02-351-019 more commonly known as **600 Longpointe**, located in the RL (Lake Single-Family Residential) District.

That the following variance be **approved** to construct a roof overhang on the southeast side of an existing dwelling.

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

Front (Street) Yard Setback: **25.0 feet minimum required**  
13.5 feet existing/proposed (to southeast corner overhang)  
*11.5-foot variance requested*

Side (North) Yard Setback: **5.0 feet minimum required**  
3.5 feet existing/proposed (to northeast corner overhang)  
*1.5-foot variance requested*

That said variances are approved based upon the following findings of fact as noted in the Board discussion and applicant's presentation as follows:

- (1) There is a precedent of another covered deck on the street that was recently approved and constructed.
- (2) Approving the variances would provide substantial justice to the applicant.

This **approval** of the variances does not set a precedent for **approval** of similar requests from other property owners or applicants in the future.

This action is pursuant to:

1. Board of Zoning Appeals application consisting of seven (7) pages, including a letter of request from the applicant.

2. McKenna Review #1, dated January 2, 2024, consisting of (3) pages.
3. Construction Drawings for 600 Longpointe, AMK Designs, dated 11/27/23, consisting of two (2) pages.
4. Site Survey for 596 Longpointe, Kennedy Surveying P.C., dated 1/30/2020, Job No. 19-82242, consisting of one (1) page. NOTE: the survey submitted was not completed for the subject site but includes a reasonable amount of verifiable information for the purposes of review. The applicant has included hand sketches to supplement their construction documents.

## 9. Board Comments

After the conclusion of the above item, Vice Chairperson Putz expressed that he would be interested in making a change to the Ordinance, noting that on Page 36 under RL that the front setbacks are noted as 25 feet. He stated that he would like to investigate changing that to reference an Established Front Setback. He noted that this would eliminating having three houses in a row and one becomes a problem.

Secretary Bailo stated that this would be a good idea, as he sees four or five houses at one distance, and a new construction has to be pushed back to be in compliance.

Mr. Lorant stated that he would include considering the setback to the lake, noting the Board has dealt with cases where the variation of seawall location became an issue.

Mr. Bielko suggested a motion be made to request that the Planning Commission investigate making changes to the ordinance as they discussed.

Chairperson Mathisen made the motion for this request and it was seconded by Mr. Lorant. The motion carried unanimously.

After the vote, it was confirmed that the Board would ask the Planning Commission to consider both the Front (Street) Setback and the Front (Lake) Setback.

Mr. Bielko suggested that a letter be prepared as to why the Board supported this motion that could be delivered to the Planning Commission. He noted that the next Planning Commission meeting was this coming Monday.

**Motion to:** Request that the Planning Commission investigate making a change to the code on page 36 of the manual regarding front setback to reference an Established Front Setback.

<b>RESULT:</b>	<b>APPROVED AS PRESENTED [UNANIMOUS]</b>
<b>MOVER:</b>	Bradley Mathisen, Chairperson
<b>SECONDER:</b>	Henry Lorant, Member
<b>AYES:</b>	Bailo, Lorant, Mathisen, Putz
<b>EXCUSED:</b>	Chayka-Crawford

#### 10. Next Regularly Scheduled BZA Meeting

March 7, 2024, 6:30 p.m.

#### 11. Adjournment

1. **Motion to:** Adjourn the Board of Zoning Appeals Meeting at 7:03 p.m.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Henry Lorant, Board Member
<b>SECONDER:</b>	Bradley Mathisen, Chairperson
<b>AYES:</b>	Lorant, Mathisen, Putz
<b>EXCUSED:</b>	Bailo, Chayka-Crawford

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Dr. Brenton Bailo  
Secretary

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Mary Jo Pachla  
Recording Secretary

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Sonja Stout  
Village Clerk

Date Approved: as presented May 2, 2024.