



MCKENNA

June 24, 2026

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

Subject: **Dimensional Variance Review** (*Plans received June 2, 2026*)
Location: **96 Park Island Drive – Parcel ID# 09-11-252-005**
Zoning: **RM - Multiple Family Residential District**

Dear Board Members:

We have reviewed the above-referenced variance application submitted by Justin Madill, on behalf of Matthew Phillips (the "Applicants"), who are the architect and property owner of the cited residence. Mr. Phillips is proposing three dimensional variances from the Village's Zoning Ordinance, Section 12.04.g, that would allow the applicant to construct a garage addition to the subject dwelling and Section 13.11.B.2, that would allow the applicant to construct an accessory structure within the waterfront setback located at the northwestern part of the subject property. It should be noted that at least one (1) of the requested variances *may* not be necessary if the property were to be rezoned RL – Single Family Residential, as supported by the Village's Future Land Use plan, found in the most recently adopted Master Plan. The Board of Zoning Appeals should consider whether multiple variances are appropriate or if the applicant should pursue a rezoning of the property.

LOCATION AND PROPOSED PROJECT

The subject lot is approximately 7,875.5 square feet in area and is occupied by a single-family principal residence. The lot is located on the west side of Park Island Drive near the Park Court intersection, and is zoned RM, Multi Family Residential District. An aerial photo of the subject site and the surrounding area is provided for context.

The Applicant proposes to install a garage addition to the house. The proposed addition would encroach both the side and front yard. The existing dwelling is currently non-conforming due to the front of the dwelling slightly encroaching the front yard setback.

The site plan indicates the current dwelling is 1,127 square feet. The proposed addition would add an additional 780 square feet.

The applicant is also proposing to construct an accessory structure on the existing slab foundation located in what is considered the rear yard for the RM zoning district. The applicant is proposing to construct the structure on the property line to utilize as much of the existing foundation as possible. As shown on the preliminary plans provided by the architect, this accessory structure would



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add another 367 square feet of lot coverage to the property. If approved, the total lot coverage would be roughly 35.5%, which would be below the maximum lot coverage requirement of 40%.

ZONING ORDINANCE STANDARD AND REQUESTED VARIANCE

ARTICLE 12 – Schedule of Regulations

SECTION 12.04 – Footnotes to the Schedule of Regulations

SUBSECTION g – Minimum dimensional requirements for residential dwelling in the RM District

Section 12.04.g of the Village of Lake Orion Zoning Ordinance requires a 25-foot front yard setback and a 10-foot side yard setback.

g. The minimum dimensional requirements for residential dwellings in the RM District shall be as follows:

<u>Requirement</u>	<u>Multiple Family</u>	<u>Duplex</u>	<u>Single Family</u>
Maximum Building Height	40 ft.	30 ft.	30 ft.
Setbacks			
Front	25 ft.	25 ft.	25 ft.
Side (each)	15 ft.	10 ft.	10 ft.
Rear	25 ft.	25 ft.	25 ft.
Maximum Lot Coverage	35%	40%	40%
Minimum Lot Area	*	8,400 sq. ft.	7,200 sq. ft.
Minimum Lot Width	70 ft.	70 ft.	60 ft.

* See Section 12.02 footnote h.

All other uses permitted in the RM District shall comply with the standards in Table 12.02, Schedule of Regulations.

h. The maximum density in the RM District shall be 15 dwelling units per acre.

Section 13.11.B.2 of the Village of Lake Orion Zoning Ordinance requires accessory structures to not be located closer than twenty-five (25) feet from the water lot line.

The Applicant is requesting the following variances from the zoning ordinance requirement.

<u>Front Setback:</u>	<u>Required:</u>	<u>25.0 ft. minimum</u>
	Existing (building):	21'-7"
	Proposed:	3'-6"
	Variance:	21'6"



<u>Side Setback:</u>	Required:	10.0 ft. minimum
	Existing (building):	12'-8" ft
	Proposed:	5'-0" ft
	Variance:	5'-0" ft
<u>Rear Setback:</u>	Required:	25.0 ft. minimum
	Existing (building):	0'-0" ft
	Proposed:	0'-0" ft
	Variance:	25'-0" ft

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.**

Applicant Response:

Front

"Strict compliance with the front setback requirement would prevent any reasonable ability to expand the home for a permitted residential use. The lot is shallow, with limited depth between the roadway and the lake, and expanding toward the rear would reduce usable lakefront area and negatively impact the property's primary amenity. The only feasible direction for an addition is toward the street, consistent with the established development pattern in this neighborhood. Requiring full conformity would make it unreasonably burdensome to improve the home in a functional and code-compliant manner".

Side

"Strict compliance with the RM district side setback requirement would prevent reasonable use of the property for a single-family home. Although the parcel is zoned RM, the property is developed and used as a single-family residence, and every surrounding home in this area maintains side setbacks of approximately 5 feet. Applying the larger RM side setback standard to a single-family lot creates an unnecessary burden and restricts the ability to make improvements consistent with the neighborhood's established pattern".

Rear

"Strict compliance with the rear (waterfront) setback requirement would prevent reasonable use of the property because the existing structure already sits at a 0'-0" rear setback on an existing concrete foundation and pad that predates the current zoning ordinance. The lot is shallow, with limited depth between the roadway and the lake, and the home was originally constructed long before modern setback standards were adopted. Requiring full compliance would make it impossible to maintain or improve the historic structure



being rebuilt on its existing concrete foundation and pad without removing long-standing, legally established portions of the home and the existing pad”.

Planner Response:

The applicant has provided a graphic demonstrating that most of the properties along the western side of Park Island Drive encroach the front yard setback or, in some cases, even the ROW. Section 12.04.M details the procedures on how the Zoning Administrator can determine an Established Front Setback Line by calculating the average of front setbacks of adjacent principal buildings. While this is one way of determining what is an appropriate setback based on historical build patterns, the Board of Zoning Appeals may use a similar approach in determining whether the proposed location of the garage within the front setback is inconsistent with the surrounding properties located along the street.

The applicant is proposing a 5-foot side yard setback. The subject property is currently zoned for multi family residential despite most of the properties appearing to be single family residential homes. Additionally, the Village’s Future Land Use Map within the Master Plan indicates that all of the properties along the western side of Park Island Drive planned to be zoned as Lake Single Family Residential; this would allow the proposed structure to exist at a 5-foot side yard setback without a variance.

Regarding the rear (waterfront) setback, the applicant is requesting to improve what has historically been on the property. If the property were to be rezoned (as supported by the Master Plan’s Future Land Use Map), the applicant would be able to construct a larger accessory structure (boat house) without the same restrictions that are placed on multi family zoning districts. A boathouse would be the only structure permitted that is not subject to waterfront yard setback requirements, per Section 13.11.D.3.f. The applicant has confirmed that the accessory structure will not be a boat house (which would be required to meet a 25-foot setback requirement from the water lot line). The Board of Zoning Appeals should consider all information and public feedback from the meeting to determine whether strict compliance to setback regulations should be considered unnecessarily burdensome for the property owner and unreasonably prevent the property owner from using the property for a permitted purpose.

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

Applicant Response:

Front

“Granting the variance provides substantial justice because nearly all homes in this area of the Village are located very close to the street, reflecting the historic development pattern of shallow front setbacks. The proposed addition aligns with this existing character and does not place the structure any closer to the roadway than many surrounding properties. Approval allows the applicant to make reasonable improvements while maintaining fairness and consistency with how similar properties have been treated”.

Side

“Granting the variance provides substantial justice because the requested side setback matches the 5-foot side yard condition that exists throughout the surrounding properties. The variance aligns the property with the prevailing development pattern and ensures the home is treated the same as neighboring single-family homes, despite the RM zoning classification. Approval maintains fairness and consistency with how similar properties have been historically developed and maintained”.

Rear



“Granting the variance provides substantial justice because nearly all lakefront homes in this area of the Village have nonconforming rear setbacks due to historic shoreline development. The requested variance does not increase the existing encroachment or alter the footprint of the existing concrete foundation and pad. The historic structure being rebuilt on this existing foundation will remain in the same location it has occupied for decades, consistent with neighboring properties. Approval ensures the property is treated fairly and consistently with similar lakefront parcels”.

Planner Response:

Based on what has been the building pattern located along the western side of Park Island Drive and the Master Plan’s Future Land Use Map, both the front and side yard setbacks *could* be viewed as appropriate and provide substantial justice to the property owner.

It is our understanding that the neighboring properties that abut the subject parcel intend to be in attendance during the July 2nd BZA meeting and have expressed no concern with the proposed location of an accessory structure that would encroach on the rear/waterfront setback.

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.

Applicant Response:

Front

“The variance requested is the minimum necessary to allow the addition to be constructed in a functional location without reducing the rear yard or lakefront area to an unusable depth. The addition has been placed as far back as possible while still maintaining safe access and appropriate building alignment. No additional relief is requested beyond what is required to accommodate the existing lot constraints”.

Side

“The variance requested is the minimum necessary to match the existing 5-foot side yard pattern found on all nearby homes. No additional relief is being requested beyond what is required to maintain consistency with the surrounding single-family development. A larger setback would be inconsistent with the neighborhood and would unnecessarily restrict the functional use of the property”.

Rear

“The variance requested is the minimum necessary because the existing 0'-0" condition is not being expanded or intensified. The historic structure is being rebuilt entirely on its existing concrete foundation and pad, and no additional encroachment toward the lake is proposed. The request simply acknowledges the long-standing, legally established footprint and allows the homeowner to maintain and improve the structure without altering its relationship to the shoreline”.

Planner Response:

It’s unclear whether the front yard setback is the minimum needed, however, based on the property’s nonconformance, any ability to construct a garage on the property would require a front yard setback variance.

The side yard variance request is not the minimum necessary as the applicant could request for the property to be rezoned as RL - Lake Single Family Residential. Rezoning the property from RM to RL is supported by the Master Plan and would eliminate the need for the variance request.



It's unclear to the rear/waterfront yard request being the minimum needed. If the property were to be rezoned, the applicant could construct an accessory structure (boat house), however that is not what the applicant is intending. The applicant proposes an accessory structure on top of the slab foundation. The Board of Zoning Appeals should consider all information and public feedback from the meeting to determine the necessity in relation to minimum relief.

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.

Applicant Response:

Front

"The need for the variance arises from unique circumstances specific to this property, including its shallow lot depth between the roadway and the lake, the existing placement of the home, and the historic pattern of development in the neighborhood. These conditions are not typical of standard interior lots and create a situation where strict compliance with the front setback is not feasible without eliminating reasonable residential improvements".

Side

"The need for the variance arises from unique circumstances specific to this property, including its shallow lot depth between the roadway and the lake, the existing placement of the home, and the historic pattern of development in the neighborhood. These conditions are not typical of standard interior lots and create a situation where strict compliance with the front setback is not feasible without eliminating reasonable residential improvements".

Rear

"The need for the variance arises from unique circumstances, including the property's shallow depth between the street and the lake, the historic placement of the home, and the fact that many lakefront homes in this area were built before modern zoning standards. The existing -12'-6" setback and the existing concrete pad are direct results of these historic conditions and are not typical of standard interior lots".

Planner Response:

Currently, the majority of the properties located on the western side of Park Island Drive are nonconforming and/or have been granted a variance to exist with the current front yard setbacks. Additionally, there is not a single property along this stretch of Park Island Drive that conforms to the side yard setbacks, meaning they are either legally nonconforming or were granted a variance due to the historic placements and build patterns.

The rear setback variance request is unique in nature because the variance would not be necessary if the property was zoned RL - Lake Single Family Residential, and the structure proposed was a boathouse. Because the applicant proposes an accessory structure rather than a boathouse, the request does not qualify for the reduced setback provisions applicable to boathouses. The Board should determine whether the unique circumstances of the property justify a variance.

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.

Applicant Response:

Front



“The need for the variance is not self-created. The home’s location, the shallow depth of the lot, and the historic development pattern all predate the applicant. The applicant did not create the limited buildable area or the existing nonconforming conditions. The hardship results from the application of current zoning standards to a lot that was developed long before those standards were adopted”.

Side

“Granting the variance will not impair public health, safety, comfort, or welfare. A 5-foot side setback is consistent with every surrounding home and has been safely functioning in this neighborhood for decades. The variance does not increase density, does not create congestion, and does not negatively impact adjacent properties. It simply aligns the property with the existing and stable development pattern”.

Rear

“The need for the variance is not self-created. The existing rear setback encroachment and the existing concrete foundation and pad were established long before the applicant’s ownership and long before the current zoning ordinance. The applicant did not create the shallow lot depth, the historic shoreline development pattern, or the existing nonconforming condition. The historic structure being rebuilt on its existing concrete foundation and pad reflects long-standing site conditions that cannot be corrected without a variance”.

Planner Response:

Considering that every dwelling structure on the street is nonconforming to current side yard setback standards, and most dwelling structures are nonconforming to the front yard setback standards, the need for the variance has not been self-created. Additionally, we believe that these properties are not zoned appropriately and would recommend these properties be considered for rezoning based on the planned classification of the Master Plan’s Future Land Use plan.

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

Applicant Response:

Front

“Granting the variance will not impair public health, safety, comfort, or welfare. The addition maintains visibility along the roadway, does not obstruct traffic, and is consistent with the scale and placement of neighboring homes. The project improves the property’s functionality without creating any adverse impacts to the surrounding community”.

Side

“Granting the variance will not impair public health, safety, comfort, or welfare. The addition maintains visibility along the roadway, does not obstruct traffic, and is consistent with the scale and placement of neighboring homes. The project improves the property’s functionality without creating any adverse impacts to the surrounding community”.

Rear

“Granting the variance will not impair public health, safety, comfort, or welfare. The request does not increase the existing encroachment, does not alter drainage patterns, does not impact neighboring properties, and does not affect lake access or visibility. The historic structure being rebuilt on its existing concrete foundation



and pad will continue to function as it has for decades without any adverse impact on the community or the shoreline environment”.

Planner Response:

We do not expect the granting of any of the proposed variance(s) to impact and/or impair public health, safety, comfort, or welfare for the residents of Lake Orion.

RECOMMENDATION

The Board of Zoning Appeals may grant a variance from the requirements of the Zoning Ordinance only upon finding that the applicable variance criteria have been satisfied.

In making its determination relative to the requested variances, the Board shall specify the grounds for its decision. Subject to any additional information presented by the applicant, the Board, or the public during the public hearing and incorporated into the record, staff recommends approval of the requested front yard setback variance. Additionally, it is the position of the Village Administration that the applicant should request the property to be rezoned to the RL – Lake Single Family Residential District, consistent with the Village Master Plan's Future Land Use Map, as this would eliminate the need for the side yard variance request. In regard to the rear/waterfront setback, the position of the Village Administration is also that the variance to accommodate the accessory structure should be denied.

This recommendation is based on the following findings of fact:

1. The front yard variance is necessary regardless of the property's zoning classification due to the existing placement of the dwelling and the proposed garage addition.
2. The proposed side yard setback variance is necessitated primarily by the property's current RM zoning classification. If the property were rezoned to RL, as supported by the Master Plan, the proposed side yard setback and accessory structure could be permitted without the requested variances.
3. The Master Plan identifies this area for future Lake Single Family Residential land use, making rezoning the more appropriate long-term mechanism for addressing these dimensional standards rather than reliance on multiple variances.
4. Approval of the front yard variance would allow reasonable improvement of the property while maintaining consistency with the established development pattern along Park Island Drive.
5. The rear yard variance is not the minimum relief necessary because the applicant could pursue an alternative type of accessory structure permitted for the rear yard, upon a successful rezoning of the property.

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

Respectfully submitted,

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Principal Planner

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Assistant Planner



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