



MCKENNA

October 29, 2025

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

Subject: **Waterside Social Restaurant – Variance Review** (Plans dated September 22, 2025)

Location: **256 S Broadway St. – Parcel ID# 09-11-226-034** (West side of S. Broadway St., north of Atwater St. intersection)

Zoning: **MU Mixed-Use**

Board Members:

We have reviewed the above-referenced variance application submitted by Douglas Jones (the “Applicant”) on behalf of the property owner, Kevin Mlynarek, of the cited property. The applicant is proposing an addition to the existing principal structure in the form of a pergola for outdoor restaurant seating at Waterside Social.

LOCATION AND PROPOSED PROJECT

The lot is occupied by an existing one-story building with a rear concrete patio deck with an upper patio area, and a covered porch area in the front of the building. It is located on the west side of S Broadway St, north of Atwater Street intersection. The site is zoned MU Mixed-Use, and the current land use is a restaurant. An aerial photo of the subject site and the surrounding area is provided for context.

The applicant is requesting an 11 ft. 5 in. variance from the minimum setback for a pergola to cover their concrete patio seating area in the rear yard/lake front. The purpose of the variance is to offer outdoor waterfront seating for the restaurant patrons.

The applicant has already installed the pergola on the property without a permit and has received a stop-work order from the Village.



HEADQUARTERS
235 East Main Street
Suite 105
Northville, Michigan 48167

☎ 248.596.0920
☎ 248.596.0930
MCKA.COM

Communities for real life.



ZONING ORDINANCE STANDARD AND REQUESTED VARIANCE

The previously constructed pergola addition to the patio on the west elevation in the waterfront yard is not in compliance with zoning ordinance dimensional requirements. The location of the previously constructed pergola in the waterfront setback 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 – MU ZONING DISTRICT

Waterfront Setback:	Required:	25.0 ft. minimum
	Existing:	13 ft. 7 in.
	Proposed (Ex.):	13 ft. 7 in.
	Variance:	11 ft. 5 in.

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 dimensional 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.

Granting of the variance would allow the pergola and provide some sun protection for patrons as well as a preferred aesthetic look. The use of individual umbrellas or a retractable shade from the building would also provide sun protection for patrons and comply with the required setback though the aesthetic contribution would be different. Strict compliance would still allow the applicant to utilize the waterfront yard for a dining patio just not in their preferred configuration.

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

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

We note that the variance will not inhibit any neighbor’s views of the lake. The pergola will not project upwards or outwards and will not cause any visual barrier. The northern adjacent property is in the Mixed-Use district and is only open during typical business office hours. The applicant has purchased planted boxes for grasses and/or arborvitaes to offer a natural screening looking from the lake to the restaurant to help keep the natural ambiance of the lake.

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 is the minimum variance needed to accommodate the current conditions of the site, which includes the newly built pergola without a permit. As noted above, the variance would allow the pergola in the waterfront setback in a similar manner that the revised zoning ordinance has allowed pergolas as a permitted encroachment in the residential area. However, the variance would permit a much larger pergola than what residential owner's are permitted. The variance could be construed as being partially consistent with justice the ordinance provides to other property owners.

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.

Waterside Social is a somewhat unique case because they are the only restaurant with a waterfront on Lake Orion and are located in an existing structure. The applicant has stated they talked to many Lake Orion residents about what they would like to see added to the restaurant, and an outdoor bar with lake-facing seating was the top request. The applicant has not constructed the building in its current location. Other properties in the MU district have been redeveloped and, if a restaurant was established, could have located a structure to be further from the waterfront setback and allow for a pergola patio. There are very few lakefront MU zoned existing structures and some are 25 feet, or less, from the lake. The desire for a pergola covered patio with an existing structure could be construed as not generally applicable in the area.

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 problem and resulting need for the variance to encroach into the required setback is self-created by the applicant. A variance would grant relief to the owner of the property.

CONCLUSION

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. Any additional information presented and discussed by the applicant, Board, and/or the public during the public hearing must be incorporated into the record. Any motion must include all findings-of-fact that the BZA has determined to support their decision.

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

Respectfully submitted,

McKENNA

Mario A. Ortega, AICP
Senior Principal Planner

Sommer Nafal, NCI
Assistant Planner

cc: Village Clerk: Sonja Stout, 21 E. Church Street, Lake Orion, MI 48362
Property Owner: Kevin Mlynarek, 2325 Broadway St, Lake Orion, MI 48362
Applicant: Douglas Jones, 256 S Broadway St, Lake Orion, MI 48362