

**LAKE GEORGE VILLAGE  
26 OLD POST ROAD  
ZONING BOARD OF APPEALS  
AUGUST 2, 2023**

**BOARD MEMBERS PRESENT:** Ron Mogren – Chairman, Mike Ravalli, Jeffrey Blau, and Robert Lebar

**BOARD MEMBERS ABSENT:** Tom Sullivan and Kieran Murray

**OTHERS PRESENT:** Debonnay Meyers – Planning & Zoning Clerk, Dan Barusch – Director of Planning & Zoning, and John Scott Wood.

<b>TAX MAP:</b>	<b>251.18-4-1.1</b>
<b>OWNER/APPLICANT:</b>	<b>JOHN SCOTT WOOD</b>
<b>ADDRESS:</b>	<b>81 CANADA STREET</b>
<b>ZONE:</b>	<b>COMMERCIAL MIXED USE</b>
<b>VARIANCE APPLICATION:</b>	<b>AV#16-2023</b>

Applicant is proposing a total of one (1) area variance. The variance is for relief of a 30' by 50' tent to remain up all season-long starting July 19<sup>th</sup> to September 19<sup>th</sup> for outdoor seating at The Lobster Pot restaurant. Applicant has four white canopies / tents surrounding his establishment that need to be reviewed as well.

- Relief of 220-27(B)(1)(E): Tent permits are valid for a maximum of seven days from the first date of use.

Ron Mogren opened the meeting at 4:58 PM.

Ron Mogren started the Public Hearing at 4:58 PM.

John Scott Wood was present to represent The Lobster Pot. All Board members reviewed the application and plans. Ron Mogren notified John Scott Wood that he may conduct his opening statement.

John Scott Wood began his opening statement informing the Board that he would like approval to have his tents for his business, The Lobster Pot. He explained that he originally wanted the tents up from July 19<sup>th</sup> to September 19<sup>th</sup> but as it's past July 19<sup>th</sup>, he would like to change the dates. John Scott Wood made it known that other businesses were receiving approvals for their tents and that he'd like to have his tents for the season. Ron Mogren asked if the tent was up currently. John Scott Wood responded with no. Ron Mogren questioned how long the tents would be up for. John Scott Wood advised that he'd like the tents up now and remove them after Columbus Day weekend. Mike Ravalli asked if this was a one-year request. John Scott Wood responded saying there's rumors circulating around the Village saying that there's a possibility of the tent ordinance changing. He added that he was hoping this would be a one-year request as next year would start a new protocol for the tents. Mike Ravalli asked Dan Barusch if the rumors were true. Dan Barusch explained that there had been talks between the Village Board and the Zoning Department recently about the possible change. He explained that due to the increased demand for tents, the Village Board would like to change the tent ordinance to allow season long

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tents with certain requirements. Dan Barusch said a draft hasn't been created yet as both Zoning and Planning Boards must take part in the process. He added that before the Village Board adopts a new law, the Planning and Zoning members' opinions must be brought in front of the Village Board. Their opinions would be essential to the change. Dan Barusch continued to explain what would occur if the new tent ordinance passed. The process would allow the applicants to only appear in front of the Planning Board annually. He said as tents would be allowed per Village Code, the applicants wouldn't have to appear in front of the Zoning Board for relief.

Dan Barusch shifted the topic to discuss the tents that would be placed around the Lobster Pot. Dan Barusch indicated that the Lobster Pot had been obtaining permits every year which Dan Barusch approved to allow the white and blue big tent, located in the back, for the business. Dan Barusch explained that with the number of tents surrounding The Lobster Pot, he couldn't find anything in the file for the other tents. He expressed that he had the applicant appear in front of the Zoning Board to obtain approval from them for the number of tents and the time frame of said tents.

Ron Mogren wanted to ensure the tents were actual tents, not hard roofs. John Scott Wood confirmed and expressed that those tents were there prior to him purchasing the property. He indicated he had picture evidence to support his statement. Ron Mogren stated that older tents will be considered as grandfathered in. However, regarding the new tent, Ron expressed that he would be okay with allowing more than the two-week period for the tent if it's removed by the expiration date.

Ron Mogren reviewed the survey that was provided with the application. Per the survey, it shows that there would be more outdoor seating than inside seating. Per Chapter 220-39 of the Village Code, it states "any outdoor area utilized or intended to be utilized for the consumption of beverages or food shall have a setback according to the following: first floor, five feet from public right-of-way; second or third floor, 10 feet from the public right-of-way. In no event may the outdoor area exceed 50% of the inside service area of the same establishment, excluding bathrooms." With that rule in mind, Ron Mogren asked Dan Barusch if there's an additional variance for the outdoor seating.

Dan Barusch advised that the wooden deck in the front of the restaurant had been there longer than when the requirement was created for outdoor seating. The requirement was added to the Village Code back in 2009. Dan Barusch expressed that he wasn't concerned about the seating. Dan Barusch did request Ron Mogren that he'd like an after-the-fact approval from the Zoning Board as those tents would have seating under there. Ron Mogren said that he didn't have a problem with the old seating but as the new tent would have new seating, he would like to have the Zoning Board make a motion of approval and/or denial for that.

Dan Barusch notified the Board that Debonnay Meyers sent them all an email explaining that the applicant would have multiple variances. John Scott Wood chimed in and indicated that the customers would move to the tent when it rains. Ron Mogren stated that with the approval, it

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would increase the seating capacity by double. John Scott Wood continued to explain that with the storms, people either could come indoors or could stand under a tent.

Ron Mogren inquired what type of tables would be used. John Scott Wood said picnic tables. Ron Mogren asked when the canopy gets taken down, what would happen with the temporary picnic tables? Would they be removed? John Scott Wood informed the Board that the picnic tables were there a while ago. He explained that back in 2003, he had applied for the wooden deck. That wooden deck is where the picnic tables are currently. He explained that the picnic tables were handed to him when Lobster Pot was DJ's. He also provided other examples as to why he should have more outdoor seating such as: customers having their animals with them and customers wanting to smoke. Ron Mogren added that that area is secluded and couldn't be seen from Canada Street.

Mike Ravalli asked John Scott Wood if he had thought of making a permanent structure as the tents don't help the Village image. He indicated that the tents provide a circus-like atmosphere, which is something he wouldn't want for the Village. John Scott Wood provided examples of restaurants and businesses outside of the Village that have tents such as: The Sagamore, The Algonquin and, The Docksider. Mike Ravalli indicated that the Village residents pay a lot to reside in the Village so, they should have a say regarding the tents. Robert Lebar agreed with Mike Ravalli about how the tents cheapen the Village image. However, he indicated that if this was the first application for tents, he wouldn't have approved it. As this is the third application received for tents and the other applications were approved by this Board, he indicated that they shouldn't say no to this applicant.

Dan Barusch explained that he did agree with Bob Lebar to a degree with how there's some precedent set with the tents. He continued with stating that businesses did use the tents during COVID-19 as the Village Board approved the temporary law but, prior to him being the Director of Planning and Zoning; he did notice that businesses did state that they did obtain approval from both Planning and Zoning Boards and the Director back when. Dan Barusch added that he did do some digging and did find that there were some handshakes done without any documentation, which doesn't do us well for the future as we have found some unique cases, like Lobster Pot, that doesn't have the appropriate documentation or approval.

Dan Barusch indicated that there has been pop up tents located at the Deuce Moose that he's currently working on removing. Dan Barusch added that the pop-up tents at the Deuce Moose look tacky and that's what ruins the image of the Village. Ron Mogren asked for clarification on the pop-up tents. Dan Barusch provided examples of the pop-up tents and where they're located. He explained that he received more complaints about the pop-up tents than anything else.

Mike Ravalli advised the only reason why they approved Saluti and Biscotti Brothers was because Yerbol already hired employees and already purchased the tents. Ron Mogren informed John Scott Wood that he wouldn't mind the tent as long as it's removed on the day it expires. John Scott Wood understood and added that the tent would be surrounded on three sides of the

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property so there shouldn't be any complaints or issues. Mike Ravalli contributed to the conversation indicating approving this application would contribute to the existing precedent.

Dan Barusch indicated that he does believe the tent would meet the provisions of what the Village Board would establish for the new tent ordinance. Dan Barusch stated that the canopy in the front of The Lobster Pot most likely wouldn't be approved. He added that there could be a possibility of their tents being grandfathered in, but the decision is ultimately up to the Village Board. Dan Barusch reiterated that the opinions of the Planning and the Zoning Board do matter and are considered during the process of the new tent ordinance.

Ron Mogren turned the conversation back to the 50% rule. Dan Barusch explained that the wooden deck has been in use for over 20 years. Dan Barusch stated he's been the Director for a while now but not as long as the seating at The Lobster Pot. Dan Barusch believed that the seating did predate. John Scott Wood provided pictures to the Board to show those picnic tables that were there back then. He indicated that the location used to be a night club.

Ron Mogren asked the Board their comments on grandfathering in the outdoor seating space that exceeds the 50% rule. Dan Barusch quickly added that the point of going over the 50% rule is because the Village has no records of approval for the deck and the tents. He stated that if John provides documentation showing the prior paperwork and approval, that could help. Robert Lebar, Jeffrey Blau, Ron Mogren and Mike Ravalli concluded on grandfathering in the 50% rule.

Ron Mogren asked the Board their thoughts regarding the tents. Jeffrey Blau asked John Scott Wood if he'd rather have the tents till the Car Show or till Columbus weekend. John Scott Wood responded to Columbus weekend. Jeffrey Blau indicated the Car Show and Columbus weekend were only a few weeks apart. John Scott Wood said he'd negotiate and would take the tents down on the last weekend of September. Ron Mogren advised that the Board would be willing to let him have the tents till Columbus weekend so the business can thrive and make money for next year. Ron Mogren expressed that the Zoning Board would prefer a permanent structure instead of the tents as other businesses have created permanent structures to expand their business.

Ron Mogren made a motion for approval for the tent canopy so to speak with the condition that you take it down on October 11, 2023. It will be summer only and will be removed as we just said:

1. The result of an undesirable change will not be produced in the character of the neighborhood or will not be a detriment to nearby properties. I think it's a short-term tent and it's also pretty well secluded in the back.
2. The benefit sought by the applicant cannot be achieved by some other method feasible for the applicant. I think that's where the outdoor seating has been occurring and that's where the logical location of the tent would be.

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3. The requested area variance is not substantial. It's just gonna be for the summer up through October 11<sup>th</sup>.
4. The proposed variance will not have an adverse impact on the physical or environmental conditions in the neighborhood. I believe the tent would be located on top of the parking lot so that wouldn't have any adverse impacts on that.
5. I think that the alleged difficulty was self-created.

**MOTION 2<sup>ND</sup>: Mike Ravalli**

Ron Mogren	Mike Ravalli	Robert LeBar	Jeffrey Blau
Aye	Aye	Aye	Aye

Ayes = 4 Nays = 0 Absent = 2 Motion carried.

Ron Mogren made a motion to close the Public Hearing at 5:20 PM.

**MOTION 2<sup>ND</sup>: Mike Ravalli**

Ron Mogren	Mike Ravalli	Robert LeBar	Jeffrey Blau
Aye	Aye	Aye	Aye

Ayes = 4 Nays = 0 Absent = 2 Motion carried.

**APPROVAL OF MINUTES FROM APRIL 5, 2023 (RM, TS, JB, MR, RL)**

There was no motion made for April 5<sup>th</sup> meeting minutes.

**APPROVAL OF MINUTES FROM JUNE 7, 2023 (RM, MR, KM)**

There was no motion made for June 7<sup>th</sup> meeting minutes.

Ron Mogren made a motion to adjourn the meeting at 5:20 PM, seconded by Jeffrey Blau, and unanimously carried.

Respectfully submitted,  
Debonnay Meyers  
August 2, 2023