

**LAKE GEORGE VILLAGE
26 OLD POST ROAD
ZONING BOARD OF APPEALS
JANUARY 3, 2024**

BOARD MEMBERS PRESENT: Ron Mogren – Chairman, Tom Sullivan, Mike Ravalli, Robert Lebar, and Kieran Murray.

BOARD MEMBERS ABSENT: Jeffrey Blau.

OTHERS PRESENT: Debonnay Meyers – Planning & Zoning Clerk, Dan Barusch – Director of Planning & Zoning, Mark French, Gregory Teresi, and Joe Mondella.

Ron Mogren opened the meeting at 5:00 PM.

Ron Mogren started the Public Hearing at 5:00 PM.

TAX MAP:	251.18-3-57
OWNER/APPLICANT:	THE LAGOON
ADDRESS:	204 CANADA STREET
ZONE:	COMMERCIAL RESORT
VARIANCE APPLICATION:	AV#1-2024

Applicant is proposing a total of two (2) area variances. The variance is for relief of a 15' by 15' tent for the entire month of February to cover their ice bar that's located outside on the first-floor patio of The Lagoon restaurant. A prior variance was granted for relief of the same ordinance identified below, for a tent on the Lagoon's upstairs deck; this request is for the same relief on a second tent. Relief of this provision for a second tent would allow the applicant to hold two simultaneous tent permits, as allowed in 220-27(B)(1)(e)[1], each for longer than 2 weeks' time.

- 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 asked if Mark French would be the one representing this variance and if he would conduct his opening statement. Mark French introduced himself as the owner of The Lagoon and stated that he would be the one who's representing The Lagoon. He conducted his opening statement explaining that this request would be separate from the one they reviewed last month. He explained that this request would be asking the Zoning Board to consider allowing the second tent as its purpose would be to cover the ice bar from the natural elements. He said that the ice bar would arrive on January 19, 2024, and he would need that tent approval for him to have tent coverage from that date all the way to the end of February.

Mark French continued the conversation by explaining the costs of having an ice bar and what benefits it could bring to the Village. He indicated that approving the variance would prevent his business from losing money as he had spent \$6,000 on just the bar itself. He added that protecting the ice bar would make it last longer to where he could offer this service to locals and tourists.

**LAKE GEORGE VILLAGE
26 OLD POST ROAD
ZONING BOARD OF APPEALS
JANUARY 3, 2024**

Before Mark French could continue, Ron Mogren wanted clarification as to what tent was approved last month and which one they're reviewing tonight. Mark French said the one on the top level was approved last month and the one on ground level was the one that they're reviewing. Dan Barusch added that the second story tent was approved with conditions that include the removal of the tent after Saint Patrick's Day.

Ron Mogren asked Dan Barusch if the applicant could have two tents at once. Dan Barusch advised that they could if they have both Board's approval. Dan Barusch continued to explain that the first variance included the length of time as it was exceeding the two-week maximum. The second variance would include the same reason as last time and would grant permission for that second tent to be there.

Gregory Teresi, an attorney at Bartlett, Pontiff, Stewart, & Rhodes, P.C, introduced himself as another representative for The Lagoon, as well as the representative for Mark French and Joe Mondella. He indicated that he could explain the layout of The Lagoon and explain why this business requires this variance. Gregory Teresi explained that last year, Mark French took over the lease from Taste of India when the owners of Taste of India were moving out of the space. As the lease covered the first-floor space and the patio, Mark French scooped it when he had the chance. With multiple different routes Mark French could've taken, he made the final decision to use the new space to expand The Lagoon even further.

Gregory Teresi stated that they had a full discussion with Dan Barusch and what they could do to negotiate and work with the Village, rather than against it. The route that was agreed upon was moving the ice bar closer to the building rather than near the promenade. Gregory Teresi said the goals Mark French and Joe Mondella have for their restaurant were to offer and protect the ice bar to which would help the locals and tourists find a place to go and dine.

Gregory Teresi said that he heard the Board's concerns on appearance and assured the Board that instead of wrapping the ice bar like a mummy, the tent would be the next step up from that. Mark French quickly interjected to state that the tent would also protect their POS systems, which each system costs \$3,000. The Board asked what a POS system was. Mark French explained that the system was a remote cash register and that it allows the bartender to ring up orders.

Mark French led the conversation to discuss about the weather and what the Chamber of Commerce / Warren County had been doing to promote tourism. He indicated that the weather for Upstate New York has been so unpredictable for the past two years that even the Winter Carnival event was suffering. Last year, the lake didn't freeze because it wasn't cold enough. Mark French expressed that he doesn't see the lake freezing this year due to the warmer temperatures. He explained that with the County's and the Chamber's advertising, it helps only to a certain extent. He explained that Warren County and the Chamber of Commerce called him and asked if they could advertise The Lagoon to which he said yes. By giving them permission, he said that it would help bring people into the area. He added that tourists were always curious as to where the ice bars are located, as they are a hot commodity.

**LAKE GEORGE VILLAGE
26 OLD POST ROAD
ZONING BOARD OF APPEALS
JANUARY 3, 2024**

Mark French expressed that the \$5,500 used was for the bar itself and based on what occurred last year, he only got to use the ice bar for four weeks. He said with using the bar for only four weeks, he didn't generate enough money to cover the expense of purchasing it. He expressed that he was hopeful to utilize the tent to protect the ice bar so he could have the ice bar for a longer period of time.

Mark French switched the topic to discuss the location of the tent. He assured the Board the proposed tent would be in an area where it could not be seen as easily as his second story tent. He expressed his gratitude to the Board approving the second tent as he explained the event he had last weekend brought in \$10,000. Mark French repeated that with having the tent on the bottom level, it would help recoup the money he spent on the ice bar itself. Gregory Teresi spoke with Mark French to confirm the plan would be to have the tent from January 16, 2024, to the end of Winter Carnival, if it's approved. Mark French said if the ice bar lasts that long. Dan Barusch said about six weeks.

Ron Mogren asked Dan Barusch if the Planning Board had expressed their thoughts regarding the second tent. Dan Barusch explained that the Planning Board hadn't reviewed the application yet as the Zoning Board would have to review and approve first. He continued to explain that the variance must be obtained tonight before The Lagoon could appear in front of the other Board. If the application is denied, they would not be able to move forward.

Ron Mogren looked through the application and indicated that the visual look of the proposed tent was nicer than the one that was approved last month. He reminded the Board that visual appearance does not pertain to this Board and could not be a reason for denial. Ron Mogren said that he would approve the variance as it would help the property owner financially. He said the visual appearance, or the esthetic would have to be reviewed by the Planning Board and quickly added that two tents were a little excessive. Mark French wanted to comment on the appearance of the tents. He indicated that the tents would be decorated with lights, and he would ensure that it would provide a nice esthetic.

Mark French switched the topic to discuss financials. He explained that the tents would really aid his business as starting January to Winter Carnival, he loses money. He mentioned that March and April would also be months he'd lose money too. Mark French also wanted to add that he spoke with Jose Filomeno, owner of the Lake George Beach Club, and he was told that the Beach Club would be closing for three weeks as they were losing money as well. Mark French concluded his point by stating that he was still fighting, and he refuses to shut down.

Ron Mogren informed the Board that the detriment of having two tents would be outweighed by their need to make some money during the wintertime. Ron Mogren asked Tom Sullivan for his thoughts. Tom Sullivan said that Gregory Teresi and him had a discussion last meeting that if they continue to bend the code, eventually there would be no point of having that statute. Tom Sullivan then expressed his disapproval by stating with all the success The Lagoon has received financially, why couldn't they use that money to build a permanent structure. Mark French said regardless of building a permanent structure or having the tent, he would still have to appear in front of both Boards. Plus, based on the location of his business, a permanent structure would not

**LAKE GEORGE VILLAGE
26 OLD POST ROAD
ZONING BOARD OF APPEALS
JANUARY 3, 2024**

be ideal and would take away from his business. He said that it would take away the view and the atmosphere of Lake George. Mark French wanted to compare the Lake George Beach Club and his establishment. He said that they have the same open deck and same atmosphere as them, but the only difference would be that the Beach Club has the garage door, and they don't.

Mark French said he was told by the Village Board that they would look into the statute and make changes to it in the future. He wasn't sure of the timeline, but he was sure that he was told that it would be reviewed. He expressed his feelings about not wanting to continue going through the process of obtaining a variance, but he was going through the process anyways for his business to survive the off-season. Mark French continued the conversation saying that no other business would have an issue with his tents. He said that if they present an issue, he will personally talk with them, and get it straightened out.

Mark French asked the Board, Dan Barusch and Debonnay Meyers if they had any complaints about his tent last year. The Board said no. Gregory Teresi wanted to comment quick before the conversation changed. He advised that in the summer, Lake George is all about the Adirondacks and being outside. Enclosing the decks for the winter months may be a detriment to the business during the summer months as having that awning or pergola installed would affect tourists seeing the Thursday night fireworks.

Ron Mogren asked Mike Ravalli for his thoughts. Mike Ravalli expressed that he felt last month they extended themselves for the first tent and now that they obtained that approval, they're now asking for a second tent. Mike Ravalli asked Mark French why they did not present this tent at the last meeting. Mark French said he was told he had to separate them. Gregory Teresi quickly interjected saying that last meeting, they were focused on getting the second story tent to preserve the existing seating. Joe Mondella quickly added that the first tent had a certain time frame as it had to be up before the holidays, so they were focused on handling each tent in chronological order.

Gregory Teresi informed the Board that The Lagoon was working on making the ice bar appealing. He said they could wrap it up like a mummy as it wouldn't require approval from either Board, but the fact that they appeared tonight asking for this shows the dedication they have for the Village and for their business. Mark French wanted to mention that if it rains, they would lose that day. Joe Mondella took over the conversation to bring up that they would rather not break the Village Code by having all these tents, but they must have these tents to survive. He continued to explain that there were pros and cons for permanent structures, and he would work on making that a possibility for the future, but the Village must first succeed financially in the off-season in order for that to happen.

Joe Mondella mentioned that lakegeorgearea.com had a blog that mentioned the locations of all the ice bars. He started providing examples such as Winter Realms and Winters Dream. He said the point of having the tent would be to protect their investment and to aid the Village by bringing tourism to the area. He advised the Board that if the possibility of an alternate route arose, they would make that choice. As they don't have that choice nor was it affordable or accommodating to make a permanent structure, they are going forward with asking for the tents.

**LAKE GEORGE VILLAGE
26 OLD POST ROAD
ZONING BOARD OF APPEALS
JANUARY 3, 2024**

Gregory Teresi said The Lagoon would be the only lakefront restaurant in the Village who's offering ice bars. He said other businesses, such as King Neptune's and Lake George Beach Club, tried it and refused to move forward with it. Gregory Teresi concluded their point by stating that if the Chamber of Commerce and Warren County know that it has been helping the economy, it shows that the efforts made are putting tourists in beds and getting them to spend money to boost the economy. Joe Mondella expressed his gratitude for his tent last month and he expressed that he understands why some of the Board members feel the way they do, but he really would appreciate if they would approve this tent as well.

Mike Ravalli asked what the plans would be for next year. Would it be appearing in front of the Zoning Board again for the variance or making plans to work on a permanent structure? Mark French said he was banking on the Village Board changing the statute so he wouldn't have to appear in front of the Board. Mike Ravalli repeated his question again as he felt the answer received wasn't fully answering the question. Mark French said he would go through the process again. Gregory Teresi and Mark French both said that they were hoping the statute gets changed.

Dan Barusch chimed in and wanted to go over the tent statute based on his understanding. He indicated that the tent statute wouldn't change fully. He said it would only shift to be more lenient in the winter months. Dan Barusch said that there may be a possibility of having the maximum timeframe change from two weeks to six weeks but that would be it. So, if The Lagoon wants the timeframe proposed from last month, they would have to re-appear in front of the Board next year for it. He didn't believe that the tent for the ice bar would appear in front of the Board again.

Joe Mondella and Mark French both expressed their feelings regarding the possibility of having a permanent structure to protect the ice bar. Joe Mondella said that it wouldn't be cost effective right now and maybe that would be a possibility in the future. Mark French expressed he'd rather not have a permanent structure, but he would find an alternate route than a tent. Mark French shifted the topic to discuss the past businesses in the Village Mall. He said that before he even thought of starting The Lagoon, he witnessed multiple businesses inside failing left and right. He said he had been in the area and working in the Village since he was 15 years old. He understood why the statutes were written into law as he witnessed people doing whatever they wanted, but he feels there should be a change in the tent ordinance for it to assist businesses in the off-season.

Mark French said that they were spending their own money to advertise their business and to advertise the Village on Facebook and Instagram. He expressed that when there's no Village events during the off-season, it's a ghost town. He did state that the events in Charles R. Wood Park and at Fort William Henry had been doing well, which was great for the Village economy; but because those events don't start until 4:30 pm and conclude at 8 pm, it unfortunately distracts customers from coming to dinner as the events are during dinner hour.

Mark French indicated that they had been the only ones appearing in front of the Board this off-season. The fact that they were the only ones open indicates that because of them, the Zoning Board had to meet more frequently than usual. Mark French concluded his statement saying that he felt that it was unfair that he was the only one working for success while everyone else had

**LAKE GEORGE VILLAGE
26 OLD POST ROAD
ZONING BOARD OF APPEALS
JANUARY 3, 2024**

given up. He also added that because he was the only one open, he had been the only one facing these consequences and being provided with little to no leniency.

Ron Mogren asked Robert Lebar for his thoughts on the matter. Robert Lebar said he had only been to the Sagamore for an ice bar attraction and based on his experience, he recalled the ice bar there not being enclosed or covered. Mark French said they placed it under their building and that was their coverage. Gregory Teresi suggested that maybe the year Robert Lebar went, they decided to not enclose the bar. Everyone who participated in the meeting, minus Debonnay Meyers, discussed about the past such as what prior businesses had an ice bar and what they did to preserve it.

Mike Ravalli concluded the discussion by saying that the ice bar had its' day and it's no longer the hot commodity. Mark French said it was a hot commodity last year until the Village forced them to shut down. Robert Lebar asked Mark French if the tent would really aid them in keeping the ice bar intact. Mark French said it would help protect it from the elements. Mark French reiterated that last year they received no complaints from other businesses and had that tent up without the Village knowing for quite some time. Dan Barusch told Mark French to not use that as a reason as that would not persuade the Board into approving the tent for that reason. The same previous points talked about earlier were repeated by Gregory Teresi to the Board, which included why they're requesting the tents and how this could aid the business financially and help rise the Village's economy.

Tom Sullivan said the rules that were made to aid the businesses during the COVID pandemic had been discontinued this year. As those rules were removed and the original tent ordinance was now in effect, all businesses must abide by the rules of the Village Code. If the Village Code says the tent maximum should be two weeks and the business wants a 20-week variance for two tents, the Zoning Board would have to look into the five criteria and see if it could be met. However, the business must provide good reasoning as to why the Zoning Board should consider it. Tom Sullivan said that if the Village Board changed the law to allow a 20-week allowance, the Zoning Board would follow the law.

Dan Barusch said his assumption of the conversations relating to the tent ordinance was that the Village Board would consider longer timeframes for tents in the off-season. It would not include allowing tents in parking lots like previous applications this past summer. Dan Barusch said once the law was updated, all parties would be notified of the change. Robert Lebar had a question for Mark French regarding the statements he made earlier. He said he got confused the way he said one thing and then the next sentence said would contradict it. He provided the example of when Mark French said that even with having the tent over the ice bar, it wouldn't generate much money. Mark French wanted to clear up the confusion and said he would make money off it. Robert Lebar, Joe Mondella, and Mark French discussed what was said and came to the conclusion that the ice bar would generate money as the ice bar would have to be there for weeks before it could pay for itself entirely.

Kieran Murray spoke up and expressed that Mark French did state some contradictory statements that he wanted to point out. He said that based on what was said, this is how he processed it: the

**LAKE GEORGE VILLAGE
26 OLD POST ROAD
ZONING BOARD OF APPEALS
JANUARY 3, 2024**

decision to approve the second story tent was lifesaving due to the amount of money received, but between the hours of 4 pm to 8 pm, all the customers wouldn't go to his restaurant so it's a struggle for them to make money. Kieran Murray then went on to lead the conversation to possible alternatives that The Lagoon could do instead of getting the second tent. Kieran Murray showed the picture to everyone in the room and inquired if the ticket booth outside could be rented and used by them. Mark French said that Sean Quirk owns the booth. Kieran Murray asked if they could save the \$5,500 spent on the ice bar and pay rent for the booth and get the same outcome. Dan Barusch said alcohol could not be sold in there as it must be on their property. Dan Barusch continued to explain that per the SLA, certain rules must be followed, and that license only covers certain areas within their property. In addition, there were certain rules added to the Village Code that pertain to the selling and/or purchasing of alcoholic beverages. He used the example of the ice bar The Lagoon had last year to which he explained that the location of the ice bar had violated the 25-foot setback which resulted in them being forced to shut down.

Kieran Murray wanted to continue to express his thoughts relating to the application. He felt the request last month was a different ball game than the proposed one tonight as one was to preserve seating while the other is to protect an ice bar. He added that he had been to several ice bars and none of them were covered. Joe Mondella expressed that the difference between The Lagoon and those other places was that those other places weren't striving to keep the ice bar for six weeks like they were. Mark French wanted to clarify what he had said about the times mentioned. He explained that between the hours of 4:30 pm to 8 pm, those would only pertain to weekdays such as Mondays, Tuesdays, and Wednesdays. He advised that those days were and still are difficult to get customers in.

Kieran Murray wanted to discuss Mike Ravalli's question again as he had a different point of view on it. He said that they would have to appear in front of the Zoning Board regardless as the permanent structure would be within the 50-foot setback. Dan Barusch confirmed and said that it would be tight. Dan Barusch used the stairs as an example. He said the stairs were right on the 50-foot line but some of it was inside it. Joe Mondella said if they're allowed to extend the deck, they would use the deck as coverage for the ice bar.

Ron Mogren opened the floor for further discussion before any talk of a motion was made. There was no further comment. It was mutually discussed and agreed upon that the Board would approve the proposed application with the conditions that include removing the tent after the last day of Winter Carnival.

Ron Mogren closed the public hearing at 5:30 pm.

MOTION 2ND: Tom Sullivan

Ron Mogren	Tom Sullivan	Mike Ravalli	Robert Lebar	Kieran Murray
Aye	Aye	Aye	Aye	Aye

Ayes = 5 Nays = 0 Absent = 1 Motion carried.

Ron Mogren made a motion for approval for the two variances because:

**LAKE GEORGE VILLAGE
26 OLD POST ROAD
ZONING BOARD OF APPEALS
JANUARY 3, 2024**

1. An undesirable change will not be produced in the character of the neighborhood. I feel that that'll be a very limited capacity during the winter months, not visible from main street and I also feel that it's outweighed by the need of the owner to stay open during the month of February.
2. The benefit sought by the applicant cannot be achieved by some method feasible. We've talked about permanent structures and a few other things and at this time, this is the most cost-efficient way to cover the ice bar.
3. The requested area variance is not substantial because it's only going to be around till it melts.

Ron Mogren asked the Board if there should be a timeframe added to the motion. Dan Barusch said the motion should be approved with conditions so the timeframe can be added in the motion. Dan Barusch reminded them that in the application, The Lagoon only submitted for one month. So, if they decide to approve the motion as submitted, it will only allow The Lagoon to have it for one month.

3. The requested area variance is not substantial because it'll only be for a period of six weeks, beginning January 15th, 2024, and ending March 1st, 2024.
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood. I think that's fairly obvious that it's not going to create any environmental conditions. There's no physical or environmental in these concerns.
5. The alleged difficulty was self-created.

MOTION 2ND: Tom Sullivan

Ron Mogren	Tom Sullivan	Mike Ravalli	Robert Lebar	Kieran Murray
Aye	Aye	Aye	Aye	Aye

Ayes = 5 Nays = 0 Absent = 1 Motion carried.

Dan Barusch reminded Mark French that he must attend the upcoming Planning Board Meeting on January 17, 2024. Dan Barusch then asked Mark French if he could wait to put on the tent until after that meeting. Mark French confirmed that he would wait.

MINUTES:

JUNE 7, 2023 (RM, MR, KM)

Debonnay Meyers informed the Board that for the June 7, 2023 minutes, only Ron Mogren, Mike Ravalli and Kieran Murray could make a motion, second the motion and vote as the others were absent.

Ron Mogren made the motion to approve the June 7th, 2023, meeting minutes.

**LAKE GEORGE VILLAGE
26 OLD POST ROAD
ZONING BOARD OF APPEALS
JANUARY 3, 2024**

MOTION 2ND: Kieran Murray

Ron Mogren	Mike Ravalli	Kieran Murray
Aye	Aye	Aye

Ayes = 3 Nays = 0 Recused = 2 Absent = 1 Motion carried.

AUGUST 2, 2023 (RM, MR, JB, RL)

Debonnay Meyers informed the Board that for the August 2, 2023 minutes, only Ron Mogren, Mike Ravalli, and Robert Lebar could make a motion, second the motion, and vote as the others were absent. She also added that if Jeff Blau attended the meeting tonight, he could've participated as he was present during the meeting.

Ron Mogren made the motion to approve the August 2nd, 2023, meeting minutes.

MOTION 2ND: Robert Lebar

Ron Mogren	Mike Ravalli	Robert Lebar
Aye	Aye	Aye

Ayes = 3 Nays = 0 Recused = 2 Absent = 1 Motion carried.

DECEMBER 6, 2023 (TS, MR, JB, RL, KM)

Debonnay Meyers informed the Board that the December 6, 2023 minutes, everybody besides Ron Mogren, could make a motion, second the motion, and vote.

Tom Sullivan made the motion to approve the December 6th, 2023, meeting minutes.

MOTION 2ND: Robert Lebar

Tom Sullivan	Mike Ravalli	Robert Lebar	Kieran Murray
Aye	Aye	Aye	Aye

Ayes = 4 Nays = 0 Recused = 1 Absent = 1 Motion carried.

Tom Sullivan wanted to put in the record that Debonnay Meyers did and does an amazing job typing and making the meeting minutes.

Motion to adjourn by Ron Mogren at 5:36 pm., seconded by Tom Sullivan, and unanimously carried.

Respectfully submitted,

Debonnay Meyers

Debonnay Meyers