

**LAKE GEORGE VILLAGE
26 OLD POST ROAD
ZONING BOARD OF APPEALS
MARCH 3, 2021
MEETING BEGINS AT 5:00 PM**

BOARD MEMBERS PRESENT: Ron Mogren – Chairman, Kevin Merry, Tom Sullivan, Mike Ravalli, Jeff Blau

BOARD MEMBERS ABSENT: n/a

OTHERS PRESENT: Dan Barusch (Director of Planning & Zoning), Lori Bott (Secretary), and Laura Foppe (Agent), David Stanton, and Dan Margoils (Auntie Anne’s store owner).

ZONING BOARD OF APPEALS PUBLIC HEARING

TAX MAP:	251.18-3-46
OWNER/APPLICANT:	AUNTIE ANNE’S (Georgine Shulman)
ADDRESS:	211 CANADA STREET
ZONE:	COMMERICAL MIXED USE
VARIANCE APPLICATION:	AV1-2021

Applicant is proposing a total of three (3) area variances. The first variance is for the size of an outdoor patio. The second variance is for the setback of the patio to the property line. The third variance is for the sign, where a light/white background is proposed based on Auntie Anne’s trademark sign design which includes a pretzel logo icon and “Auntie Anne’s” lettering the colors are blue with golden trim and accents with white background.

The variances requested are as follows:

- Relief of 220-39: Outdoor dining area shall be 50% of indoor service area. Relief of 50% maximum, where indoor service area is 100 square feet, and proposed outdoor patio is 206 square feet.
- Relief of 220-39: Outdoor patio setback shall be five (5) feet from the public right-of-way. Relief of 6” where 5’ is required and 4’6” is proposed.
- Relief of 220-24(B)(1)(c)[2]: Internally lit signs with a transparent or light background color are prohibited. Relief of this provision to have a small portion of the internally lit sign with the trademark design white background.

Ron Mogren opened the public hearing at 5:02 p.m.

Dan Barusch stated that the meeting is authorized by executive order 202.1. The public has been invited to attend the meeting via Zoom. All votes except for the final decision on the variances can be conducted by an all-in favor. This meeting is being recorded and will be transcribed and will be made available to the public.

APPROVAL OF MINUTES FROM NOVEMBER 4, 2020 (RM, TS, KM, MR, JB)

Ron Mogren made a motion to approve the minutes from November 4, 2020.

MOTION 2ND: Kevin Merry

Ron Mogren	Tom Sullivan	Mike Ravalli	Kevin Merry	Jeff Blau
Aye	Aye	Aye	Aye	Aye

Ayes = 5 Nays = 0 Motion carried.

Ron Morgren asked Laura Foppe to approach the Board. Laura Foppe approached the Board and described the location of the property. The store will be a new Auntie Anne's pretzel store to be located to the left of the Frankenstein Museum in the currently vacant store front. The customers will walk up to the counter, order their pretzels and snacks, and then leave. The design of the store is to show the pretzels being made so most of the space will be used for coolers, mixers, and counters. There will be no seating inside the store, the only seating will be an outdoor patio area. Currently, there is a single door and they are proposing a double door with the doors to remain open as much as allowed.

Ron Morgren confirmed with Laura Foppe that there will be no inside seating. Dan Barusch brought up that there might be a Village Code requiring that the doors swing inward and that he would look up the Village Code.

Ron Morgren asked Laura Foppe to explain the need for the three variances. Laura Foppe stated that the current poured concrete pad will become the patio and the variance will relieve them of the requirement of indoor seating. The setback variance is requested because the current poured concrete pad goes up to the sidewalk. The request for the sign variance is because the Auntie Anne's trademark sign is an internally lit sign with a white background. The majority of the sign is Auntie Anne's trademarked pretzel and lettering.

All of the Board members agreed that the variances requested were minimal and that the trademarked Auntie Anne's sign is an attractive sign with a minimal amount of white.

Ron Mogren asked if there were any comments from the public.

Dan Barusch, clarified that the variance for the set back is not 6 inches from the property line but is that the patio seating will be set back 4 feet 6 inches from the property line and the Village Code states that outdoor seating needs to be set back from the property line by 5 feet.

Dan Barusch read part of the Code 186-7 "...Unlawful encumbrances upon streets and sidewalks. No person shall... Maintain in an open position any door or erect or cause to be maintained any other projection or attachment from any building and extending on, to or over any property or right-of-way of the Village of Lake George." and stated that the Village has always enforced the code. Laura Foppe stated that currently they are proposing a set of 3-foot double doors that would swing out 180 degrees. There was a discussion in which David Stranton mentioned that Frankenstein and Hawaiian Shaved Ice have doors that swing out, and they have never had an issue with code enforcement. The code wording was discussed and it was

Meeting Minutes – APPROVED

determined that it meant the doors could not go on Village property but because the doors will open onto the business's own property this code does not apply. It was mentioned that the DOH may have different rules with regards to open doors and that building codes say that commercial buildings are required to have doors that swing outwards for fire safety. After a discussion with Laura Foppe and looking at the drawings it was determined that the doors would swing outwards and would be as flush as possible to the building as to not take away space from the patio seating.

Ron Mogren made a motion to close the public hearing.

MOTION 2ND: Tom Sullivan

Ron Mogren	Tom Sullivan	Mike Ravalli	Kevin Merry	Jeff Blau
Aye	Aye	Aye	Aye	Aye

Ayes = 5 Nays = 0 Motion carried.

Ron Mogren made a motion to approve the application as submitted and addressed the benefit to the applicant as weighed against the detriment to the health, safety and welfare of the neighborhood or community is greater because:

1. An undesirable change will not be produced in the character of the neighborhood or constitute a detriment to nearby properties because the proposal will be an improvement to the façade with the signage and the patio out-front will not have an adverse impact.
2. The benefit sought by the applicant cannot be achieved by some other method feasible for the applicant because the situation surrounding the project does not allow for any indoor seating and requires the applicant to have seating on an outdoor patio.
3. The requested area variance is not substantial because the size requested for the patio is reasonable given the circumstances with the inside and the 6-inch variance request is insignificant.
4. The proposed variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood, there is not a construction impact, or increase in imperious areas associated with the proposal.
5. The alleged difficulty was not self-created. It was based on criteria set forth from Auntie Anne's.
6. Regarding the sign, an undesirable change will not be produced given what has been presented. The white background is minimal and will not have an impact on the character of the neighborhood.
7. The benefit sought by the applicant cannot be achieved by some other method feasible for the applicant because the sign is a corporate sign and is trademarked by Auntie Anne's.

8. The requested area variance is not substantial because of the amount of the white on the sign is minimal.
9. The proposed variances for the sign will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood. There is not construction impact or increase in imperious areas associated with the proposal.
10. The alleged difficulty was not self-created, it is a corporate sign, that is to be allowed.

MOTION 2ND: Tom Sullivan

Ron Mogren	Tom Sullivan	Mike Ravalli	Kevin Merry	Jeff Blau
Aye	Aye	Aye	Aye	Aye

Ayes = 5 Nays = 0 Motion carried.

APPROVAL OF MINUTES FROM NOVEMBER 4, 2020 (RM, TS, KM, MR, JB)

Ron Mogren made a motion to approve the minutes from November 4, 2020

MOTION 2ND: Tom Sullivan

Ron Mogren	Tom Sullivan	Mike Ravalli	Kevin Merry	Jeff Blau
Aye	Aye	Aye	Aye	Aye

Ayes = 5 Nays = 0 Motion carried.

Ron Mogren made a motion to close the meeting at 5:32 pm.

MOTION 2ND: Tom Sullivan

Ron Mogren	Tom Sullivan	Mike Ravalli	Kevin Merry	Jeff Blau
Aye	Aye	Aye	Aye	Aye

Ayes = 5 Nays = 0 Motion carried.

Respectfully submitted,
Lori Bott
March 3, 2021