

MINUTES
BOARD OF APPEALS
VILLAGE OF SEA CLIFF
VILLAGE HALL
300 SEA CLIFF AVENUE
SEA CLIFF, NEW YORK 11579

April 17, 2012

Present: Chair Kevin McGilloway
Members Dina Epstein
Noel Griffin
Ted Kopczynski
Jamie Weil
Superintendent
of Buildings Andrew Lawrence
Village Attorney Brian Stolar

The meeting was called to order at 8:00 pm.

The Board opened the public hearing on the application of Jason Wolner, 151 DuBois Avenue, Sea Cliff to construct a 440 square foot patio, which requires variances of the following Village Code sections: (a) 138-504 to maintain a lot size of 9,375 square feet, where the minimum required is 10,000 square feet; (b) 138-505 to increase lot coverage to 2,840.5 square feet, where a maximum of 2,812.5 square feet is permitted; (c) 138-506 to maintain a lot line of 75 feet, where the minimum required length is 100; (d) 138-507 to maintain a lot width of 75 feet, where the minimum required width is 90 feet; (e) 138-509 to maintain a lot with a width of 75 feet, where the minimum required width is 100 feet; (f) 138-512 to construct a patio that encroaches into the rear yard setback by 4 feet; and (g) 138-516 to construct a patio with a side yard setback of 3 feet, where the minimum required setback is 15 feet. Premises are designated as Section 21, Block 191, Lot 133 on the Nassau County Land and Tax Map. Ms.

Epstein arrived at 8:05pm, during the presentation of the Wolner application. The Board closed the hearing, and reserved decision.

The Board opened the public hearing on the application of Stuart Mildener, 3 Berkeley Place, Sea Cliff, New York to demolish and construct new front stoop and steps, which requires variances of the following Village Code sections: (a) 138-504 to maintain a lot size of 5,000 square feet, where the minimum required is 10,000 square feet; (b) 138-506 to maintain a front property line of 50 feet (Altamont Avenue), where the minimum required length is 100; (c) 138-508 to maintain a front yard setback of approximately 14 feet, where 25 feet is required; (d) 138-510 to maintain front property line and setbacks that do not comply with corner lot requirements; (e) 138-511 to maintain a side yard setback of 10 feet, where the minimum required setback is 15 feet; (f) 138-517 to encroach into the front yard setback greater than the permissible 4 feet. Premises are designated as Section 21, Block 111, Lot 1 on the Nassau County Land and Tax Map. The Board closed the hearing, and reserved decision.

The Board opened the public hearing on the application of Frank Scavone, 137 Prospect Avenue, Sea Cliff for a variance of Village Code §138-417 to permit new air conditioner units in a front yard, where no such units are permitted. The applicant was represented by Robin Meynard. Premises are designated as Section 21, Block 138, Lot 1149 on the Nassau County Land and Tax Map. The Board continued the Scavone hearing until later in the meeting to provide the applicant time to find out information concerning the air conditioner units.

The Board opened the public hearing on the application of Henry Zendle, 201 Maple Avenue, Sea Cliff, New York to maintain a curb cut with a width of less than 15 feet, within 4 feet of a property line and 8 feet of another curb cut, as required by Village Code §138-1007(H) and (I). Premises are designated as Section 21, Block F, Lot 96 on the Nassau County Land and Tax Map. The Board closed the hearing, and reserved decision.

The Board opened the public hearing on the application of Athena and Stephen Vaccaro, 431 Carpenter Avenue, Sea Cliff, New York to construct a one story addition, which requires variances of the following provisions of the Village Code: (a) 138-614.1 to increase the floor area by 82 square feet, which results in a total square footage of 5,184 square feet, where a maximum of 3,493.5 square feet is permitted; (b) 138-604 to maintain a lot size of 13,974 square feet, where a minimum of 15,000 square feet is required; (c) 138-606 to maintain a front property line of 96.9 feet (Glenola Avenue), where a minimum of 100 feet is required; (d) 138-608 to maintain a wall within a Village right-of-way, where no such wall is permitted; (e) 138-610 to maintain corner lot setbacks that do not conform; (f) 138-613.1 to maintain heights setback ratios that do not comply. Premises are designated as Section 21, Block 68, Lot 10 on the Nassau County Land and Tax Map. The Board closed the hearing, and reserved decision.

The Board opened the public hearing on the application of Vincent Parker, 3 Harriet Court, Sea Cliff to construct a 234 square foot patio that requires variances of the following sections of the Village Code: (a) 138-504 to maintain a lot size of 6,440 square feet, where a minimum of 10,000 square feet is required;

(b) 138-505 to increase lot coverage to 2,542 square feet, where a maximum of 1,932 square feet is permitted; (c) 138-506 to maintain a front property line of 46 feet, where a minimum of 100 feet is required; and (d) 138-508 to maintain a setback of 23 feet, where a minimum of 25 feet is required. Premises are designated as Section 21, Block 89, Lot 6 on the Nassau County Land and Tax Map. The Board closed the public hearing, and reserved decision.

The Board opened the public hearing on the application of NS Metropolitan Bistro, 39 Roslyn Avenue, Sea Cliff, New York for a special permit pursuant to Village Code §138-802 to maintain an existing restaurant. Premises are designated as Section 21, Block 134, Lot 2 on the Nassau County Land and Tax Map. The Board continued the public hearing to May 15, 2012 at 8:00pm.

The Board opened the public hearing on the application of DM Acquisitions, LLC, as owner, and James Muir d/b/a Artaux Catering, 5 Sea Cliff Avenue, Sea Cliff, New York to permit alterations to the premises and operate the premises as a restaurant. Such proposed use requires a special use permit pursuant to Village Code §138-902 and variances of the following Village Code sections: (a) 138-905 to maintain a lot size of 4,500 square feet, where the minimum required is 15,000 square feet, (b) 138-906 to maintain lot coverage of 3,560 square feet, where the maximum permitted is 1,800 square feet, (c) 138-907 to maintain front property lines of 90.5 and 50 feet, where the minimum required is 100 feet, (d) 138-908 to maintain a structure with less than the required setbacks, (e) 138-910 to maintain front property widths less than required, (f) 138-912 to maintain a structure with less than the required side yard

setbacks, (g) 138-918 to establish a business without the required number of off-street parking spaces, and (h) 138-1002 to establish a business with 4 dedicated off-street parking spaces where 14 spaces are required. Premises are designated as Section 21, Block 96, Lots 220 and 221 on the Nassau County Land and Tax Map. The Board continued the hearing to May 15, 2012 at 8:00 pm.

The Board reopened the Scavone hearing. The Board closed the public hearing, and reserved decision.

The Board discussed the Wolner application. After such discussion, on motion duly made by Mr. Weil, seconded by Mr. Kopczynski, and adopted four votes in favor and Ms. Epstein abstaining, the Board determined that it is the lead agency with respect to environmental review, the action is a Type II matter under SEQRA that requires no further environmental review, and granted the application in accordance with the short form decision annexed hereto.

The Board discussed the Mildener application. After such discussion, on motion duly made by the Chair, seconded by Mr. Griffin, and adopted unanimously, the Board determined that it is the lead agency with respect to environmental review, the action is a Type II matter under SEQRA that requires no further environmental review, and granted the application in accordance with the short form decision annexed hereto.

The Board discussed the Scavone application. After such discussion, on motion duly made by Ms. Epstein, seconded by Mr. Kopczynski, and adopted unanimously, the Board determined that it is the lead agency with respect to

environmental review, the action is a Type II matter under SEQRA that requires no further environmental review, and granted the application in accordance with the short form decision annexed hereto.

The Board discussed the Zendle application. After such discussion, on motion duly made by the Chair, seconded by Mr. Weil, and adopted unanimously, the Board determined that it is the lead agency with respect to environmental review, the action is a Type II matter under SEQRA that requires no further environmental review, and granted the application in accordance with the short form decision annexed hereto.

The Board discussed the Vaccaro application. After such discussion, on motion duly made by Mr. Griffin, seconded by the Chair, and adopted unanimously, the Board determined that it is the lead agency with respect to environmental review, the action is a Type II matter under SEQRA that requires no further environmental review, and granted the application in accordance with the short form decision annexed hereto.

The Board discussed the Parker application. After such discussion, on motion duly made by Mr. Weil, seconded by Ms. Epstein, and adopted unanimously, the Board determined that it is the lead agency with respect to environmental review, the action is a Type II matter under SEQRA that requires no further environmental review, and granted the application in accordance with the short form decision annexed hereto.

The Board discussed the environmental impacts of the NS Metropolitan Bistro application. After such discussion, on motion duly made by the Chair,

seconded by Mr. Kopczynski, and adopted unanimously, the Board adopted the following resolution with respect to the NS Metropolitan Bistro application:

RESOLVED, that the Board hereby finds and concludes:

- a. the proposed action is an Unlisted action under the State Environmental Quality Review Act and its regulations;
- b. the Board is the lead agency with respect to environmental review of this proposed action;
- c. the Board has considered the following factors in respect to its review of the environmental impacts of the proposed action:
 - i. whether the proposed action would result in any substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic or noise levels, or any substantial increase in solid waste production, or create a substantial increase in the potential for erosion, flooding, leaching or drainage problems;
 - ii. whether the proposed action would result in the removal or destruction of large quantities of vegetation or fauna, substantial interference with the movement of any resident or migratory fish or wildlife species, impacts on a significant habitat area, substantial adverse impacts on a threatened or endangered species of animal or plant, or the habitat of such a species, or other significant adverse impacts to natural resources;
 - iii. whether the proposed action would impair the environmental characteristics of any Critical Environmental Area;
 - iv. whether the proposed action would conflict with the community's current plans or goals as officially approved or adopted;
 - v. whether the proposed action would impair the character or quality of important historical, archeological, architectural or aesthetic resources or of existing community or neighborhood character;
 - vi. whether the proposed action would result in a major change in the use of either the quantity or type of energy;
 - vii. whether the proposed action would create a hazard to human health;
 - viii. whether the proposed action would create a substantial change in the use, or intensity of use, of land, including agricultural, open space or recreational resources, or its capacity to support existing uses;
 - ix. whether the proposed action would encourage or attract large numbers of persons to any place for more than a few

- days, compared to the number who would come to such place without such action;
- x. whether the proposed action would create changes in two or more elements of the environment, no one of which would have a significant impact on the environment, but when considered together would result in a substantial adverse impact on the environment;
- xi. whether the proposed action would create substantial adverse impacts when considered cumulatively with any other actions, proposed or in process;
- xii. whether the proposed action would result in substantial adverse impact with respect to any relevant environmental consideration, including noise, aesthetics, traffic, air quality, water quality or adequacy of water supply, drainage, soil conditions, or quality of life in the community in general and the immediate neighborhood in particular;
- d. the proposed action would not have a significant adverse environmental impact; and no further environmental review is required with respect to the proposed action.

The Board discussed the environmental impacts of the Artaux Catering application. After such discussion, on motion duly made by the Chair, seconded by Mr. Weil, and adopted unanimously, the Board adopted the following resolution with respect to the Artaux application:

RESOLVED, that the Board hereby finds and concludes:

- a. the proposed action is an Unlisted action under the State Environmental Quality Review Act and its regulations;
- b. the Board is the lead agency with respect to environmental review of this proposed action;
- c. the Board has considered the following factors in respect to its review of the environmental impacts of the proposed action:
 - i. whether the proposed action would result in any substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic or noise levels, or any substantial increase in solid waste production, or create a substantial increase in the potential for erosion, flooding, leaching or drainage problems;
 - ii. whether the proposed action would result in the removal or destruction of large quantities of vegetation or fauna, substantial interference with the movement of any resident

- or migratory fish or wildlife species, impacts on a significant habitat area, substantial adverse impacts on a threatened or endangered species of animal or plant, or the habitat of such a species, or other significant adverse impacts to natural resources;
- iii. whether the proposed action would impair the environmental characteristics of any Critical Environmental Area;
 - iv. whether the proposed action would conflict with the community's current plans or goals as officially approved or adopted;
 - v. whether the proposed action would impair the character or quality of important historical, archeological, architectural or aesthetic resources or of existing community or neighborhood character;
 - vi. whether the proposed action would result in a major change in the use of either the quantity or type of energy;
 - vii. whether the proposed action would create a hazard to human health;
 - viii. whether the proposed action would create a substantial change in the use, or intensity of use, of land, including agricultural, open space or recreational resources, or its capacity to support existing uses;
 - ix. whether the proposed action would encourage or attract large numbers of persons to any place for more than a few days, compared to the number who would come to such place without such action;
 - x. whether the proposed action would create changes in two or more elements of the environment, no one of which would have a significant impact on the environment, but when considered together would result in a substantial adverse impact on the environment;
 - xi. whether the proposed action would create substantial adverse impacts when considered cumulatively with any other actions, proposed or in process;
 - xii. whether the proposed action would result in substantial adverse impact with respect to any relevant environmental consideration, including noise, aesthetics, traffic, air quality, water quality or adequacy of water supply, drainage, soil conditions, or quality of life in the community in general and the immediate neighborhood in particular;
- d. the proposed action would not have a significant adverse environmental impact; and no further environmental review is required with respect to the proposed action.

At 10:00pm, on motion duly made by the Chair, seconded by Ms. Epstein, and adopted unanimously, the Board convened in executive session to discuss pending litigation and to obtain legal advice.

The Board reconvened in public session at 10:30 pm.

There being no further business, the meeting was adjourned at 10:30pm.

WOLNER SHORT FORM DECISION

At a meeting of the Board of Appeals of the Village of Sea Cliff, New York, on April 17, 2012, on motion duly made by Mr. Weil, seconded by Mr. Kopczynski, and adopted four votes in favor and Ms. Epstein abstaining, the Board, having duly considered the matters brought forth at the public hearing and other matters properly within the consideration of this Board and discussed the subject application, rendered the following findings and determination:

1. Jason Wolner, 151 DuBois Avenue, Sea Cliff applied to construct a 440 square foot patio, which requires variances of the following Village Code sections: (a) 138-504 to maintain a lot size of 9,375 square feet, where the minimum required is 10,000 square feet; (b) 138-505 to increase lot coverage to 2,840.5 square feet, where a maximum of 2,812.5 square feet is permitted; (c) 138-506 to maintain a lot line of 75 feet, where the minimum required length is 100; (d) 138-507 to maintain a lot width of 75 feet, where the minimum required width is 90 feet; (e) 138-509 to maintain a lot with a width of 75 feet, where the minimum required width is 100 feet; (f) 138-512 to construct a patio that encroaches into the rear yard setback by 4 feet; and (g) 138-516 to construct a patio with a side yard setback of 3 feet, where the minimum required setback is 15 feet. Premises are designated as Section 21, Block 191, Lot 133 on the Nassau County Land and Tax Map.
2. The applicant is the record owner of the subject premises.
3. The requested relief is classified as a Type II action under SEQRA, which requires no environmental review.
4. The Board provided notice of the application to the Nassau County Planning Commission in accordance with the requirements of the agreement between the Village and the Planning Commission, and no response was submitted by the Planning Commission.
5. The relief requested in the application is granted provided that (a) the construction is in compliance with the plans submitted with the application and all requirements of the building department; and (b) the work is performed, and all approvals obtained, within the timeframe provided in Village Code §138-1304.

MILDENER SHORT FORM DECISION

At a meeting of the Board of Appeals of the Village of Sea Cliff, New York, on April 17, 2012, on motion duly made by the Chair, seconded by Mr. Griffin, and adopted unanimously, the Board, having duly considered the matters brought forth at the public hearing and other matters properly within the consideration of this Board and discussed the subject application, rendered the following findings and determination:

1. Stuart Mildener, 3 Berkeley Place, Sea Cliff, New York applied to demolish and construct new front stoop and steps, which requires variances of the following Village Code sections: (a) 138-504 to maintain a lot size of 5,000 square feet, where the minimum required is 10,000 square feet; (b) 138-506 to maintain a front property line of 50 feet (Altamont Avenue), where the minimum required length is 100; (c) 138-508 to maintain a front yard setback of approximately 14 feet, where 25 feet is required; (d) 138-510 to maintain front property line and setbacks that do not comply with corner lot requirements; (e) 138-511 to maintain a side yard setback of 10 feet, where the minimum required setback is 15 feet; (f) 138-517 to encroach into the front yard setback greater than the permissible 4 feet. Premises are designated as Section 21, Block 111, Lot 1 on the Nassau County Land and Tax Map.
2. The applicant is the record owner of the subject premises.
3. The requested relief is classified as a Type II action under SEQRA, which requires no environmental review.
4. The Board provided notice of the application to the Nassau County Planning Commission in accordance with the requirements of the agreement between the Village and the Planning Commission, and no response was submitted by the Planning Commission.
5. The relief requested in the application is granted provided that (a) the construction is in compliance with the plans submitted with the application and all requirements of the building department; (b) the work is performed, and all approvals obtained, within the timeframe provided in Village Code §138-1304; and (c) if any portion of the steps or stoop extend into the public right-of-way in a manner that requires an encroachment license from the Village, the applicant shall obtain such license as a condition of this approval.

SCAVONE SHORT FORM DECISION

At a meeting of the Board of Appeals of the Village of Sea Cliff, New York, on April 17, 2012, on motion duly made by Ms. Epstein, seconded by Mr. Kopczynski, and adopted unanimously, the Board, having duly considered the matters brought forth at the public hearing and other matters properly within the consideration of this Board and discussed the subject application, rendered the following findings and determination:

1. Frank Scavone, 137 Prospect Avenue, Sea Cliff applied for a variance of Village Code §138-417 to permit new air conditioner units in a front yard, where no such units are permitted. Premises are designated as Section 21, Block 138, Lot 1149 on the Nassau County Land and Tax Map.
2. The applicant is the record owner of the subject premises.
3. The requested relief is classified as a Type II action under SEQRA, which requires no environmental review.
4. The Board provided notice of the application to the Nassau County Planning Commission in accordance with the requirements of the agreement between the Village and the Planning Commission, and no response was submitted by the Planning Commission.
5. The relief requested in the application is granted provided that (a) the air conditioner condenser units remain located in the area depicted in the plans submitted with the application and all requirements of the building department; (b) the applicant, and any future owners of the premises, shall plant and continually maintain evergreen shrubbery at a minimum height of 5 feet at a distance no more than 3 feet from the units surrounding the two units and that such requirement be set forth in the certificate of occupancy for the premises, (c) and all approvals for the units be obtained within the timeframe provided in Village Code §138-1304.

ZENDLE SHORT FORM DECISION

At a meeting of the Board of Appeals of the Village of Sea Cliff, New York, on April 17, 2012, on motion duly made by the Chair, seconded by Mr. Weil, and adopted unanimously, the Board, having duly considered the matters brought forth at the public hearing and other matters properly within the consideration of this Board and discussed the subject application, rendered the following findings and determination:

1. Henry Zendle, 201 Maple Avenue, Sea Cliff, New York applied to maintain a curb cut with a width of less than 15 feet, within 4 feet of a property line and 8 feet of another curb cut, as required by Village Code §138-1007(H) and (I). Premises are designated as Section 21, Block F, Lot 96 on the Nassau County Land and Tax Map.
2. The applicant is the record owner of the subject premises.
3. The requested relief is classified as a Type II action under SEQRA, which requires no environmental review.
4. The Board provided notice of the application to the Nassau County Planning Commission in accordance with the requirements of the agreement between the Village and the Planning Commission, and no response was submitted by the Planning Commission.
5. The relief requested in the application is granted provided that (a) the construction is in compliance with the plans submitted with the application and all requirements of the building department; and (b) the work is performed, and all approvals obtained, within the timeframe provided in Village Code §138-1304.

VACCARO SHORT FORM DECISION

At a meeting of the Board of Appeals of the Village of Sea Cliff, New York, on April 17, 2012, on motion duly made by Mr. Griffin, seconded by the Chair, and adopted unanimously, the Board, having duly considered the matters brought forth at the public hearing and other matters properly within the consideration of this Board and discussed the subject application, rendered the following findings and determination:

1. Athena and Stephen Vaccaro, 431 Carpenter Avenue, Sea Cliff, New York applied to construct a one story addition, which requires variances of the following provisions of the Village Code: (a) 138-614.1 to increase the floor area by 82 square feet, which results in a total square footage of 5,184 square feet, where a maximum of 3,493.5 square feet is permitted; (b) 138-604 to maintain a lot size of 13,974 square feet, where a minimum of 15,000 square feet is required; (c) 138-606 to maintain a front property line of 96.9 feet (Glenola Avenue), where a minimum of 100 feet is required; (d) 138-608 to maintain a wall within a Village right-of-way, where no such wall is permitted; (e) 138-610 to maintain corner lot setbacks that do not conform; (f) 138-613.1 to maintain heights setback ratios that do not comply. Premises are designated as Section 21, Block 68, Lot 10 on the Nassau County Land and Tax Map.
2. The applicants are the record owner of the subject premises.
3. The requested relief is classified as a Type II action under SEQRA, which requires no environmental review.
4. The Board provided notice of the application to the Nassau County Planning Commission in accordance with the requirements of the agreement between the Village and the Planning Commission, and no response was submitted by the Planning Commission.
5. The relief requested in the application is granted provided that (a) the construction is in compliance with the plans submitted with the application and all requirements of the building department; and (b) the work is performed, and all approvals obtained, within the timeframe provided in Village Code §138-1304.

PARKER SHORT FORM DECISION

At a meeting of the Board of Appeals of the Village of Sea Cliff, New York, on April 17, 2012, on motion duly made by Mr. Weil, seconded by Ms. Epstein, and adopted unanimously, the Board, having duly considered the matters brought forth at the public hearing and other matters properly within the consideration of this Board and discussed the subject application, rendered the following findings and determination:

1. Vincent Parker, 3 Harriet Court, Sea Cliff to construct a 234 square foot patio that requires variances of the following sections of the Village Code: (a) 138-504 to maintain a lot size of 6,440 square feet, where a minimum of 10,000 square feet is required; (b) 138-505 to increase lot coverage to 2,542 square feet, where a maximum of 1,932 square feet is permitted; (c) 138-506 to maintain a front property line of 46 feet, where a minimum of 100 feet is required; and (d) 138-508 to maintain a setback of 23 feet, where a minimum of 25 feet is required. Premises are designated as Section 21, Block 89, Lot 6 on the Nassau County Land and Tax Map.
2. The applicant is the record owner of the subject premises.
3. The requested relief is classified as a Type II action under SEQRA, which requires no environmental review.
4. The Board provided notice of the application to the Nassau County Planning Commission in accordance with the requirements of the agreement between the Village and the Planning Commission, and no response was submitted by the Planning Commission.
5. The relief requested in the application is granted provided that (a) the construction is in compliance with the plans submitted with the application and all requirements of the building department; and (b) the work is performed, and all approvals obtained, within the timeframe provided in Village Code §138-1304.