

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

October 18, 2011

Present:	Chair	Kevin McGilloway
	Members	Dina Epstein Noel Griffin Ted Kopczynski
	Alternate Member	Matthew Doherty
	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 Steven Grapstein, 290 8th Avenue, Sea Cliff to remove an existing rear yard pool and install a new pool, deck and terrace, which requires variances of the following Village Code provisions: : (a) 138-404 to maintain a lot size of 7,100 square feet where the minimum lot size required is 7,500 square feet; (b) 138-405 to increase lot coverage from 3,262.67 square feet to 3,990.97 square feet, where the maximum is 2,130 square feet; (c) 138-408 to maintain a setback of 8.5 feet, where the minimum required setback is 20 feet; and (d) 138-416(D) to install a pool deck and terrace which is 833 square feet, where the maximum permitted floor area for the pool deck and terrace is 500 square feet. Premises are designated as Section 21, Block 123, Lot 1557 on the Nassau County Land and Tax Map. The applicant and one of the neighbors indicated that an elevational

drawing would be provided by the applicant. The Board continued the hearing to November 15, 2011 at 8:00pm.

The Board opened the public hearing on the application of Michael Napoli, as tenant, and Samiano Realty Corp., as owner, 243 Glen Cove Avenue, Sea Cliff to operate a restaurant at the premises, which use requires (a) a special permit pursuant to Village Code §§138-902 and 903 to permit a restaurant use and (b) a variance of Village Code §§138-1001 and 1002 to not provide the required number of off-street parking spaces (30 required). Premises are designated as Section 21, Block 192, Lot 180 on the Nassau County Land and Tax Map. The applicants indicated that the interior cooking facilities, with the exception of a new brick oven, would remain as it currently exists. The Board noted that the application is an Unlisted Action under SEQRA, and that it must be referred to the Nassau County Planning Commission. The Board continued the hearing to November 15, 2011 at 8:00pm.

The Board opened the continued public hearing on the application of Barbara Topalian, Christian Berntsen and Andrew Lapinski for subdivision approval to subdivide property into two (2) residential dwelling lots, one to be located on Sixteenth Avenue (Parcel A) and one to be located on Seventeenth Avenue (Parcel B), which requires variances of the following Village Code sections: (a) 138-404 to permit two parcels with 4,800 square feet of lot area each, where a minimum lot area of 7,500 square feet per lot is required; (b) 138-408 to (i) maintain an accessory structure with a setback of 9.7 feet (Parcel B), and (ii) construct a dwelling with a setback of 13.3 feet (Parcel B), where the

minimum required setback is 20 feet; (c) 138-411 to maintain a side yard setback of (i) 3.2 feet (Parcel A) and (ii) 3.3 feet (Parcel B), where the minimum required setback is 10 feet; (d) 138-412 to create a rear yard setback of 10 feet, where a minimum of 20 feet is required (Parcel A); (e) 138-413.1 to (i) maintain a structure (Parcel A) and (ii) construct a dwelling (Parcel B), which encroach into the height/setback ratio plane; (f) 138-416 to maintain an accessory structure in a front yard (Parcel B); and (g) A153-2 to maintain curb cuts on Parcel A greater than permitted percentages. Premises are designated as Section 21, Block 154, Lots 561 and 562 and 579 and 580 on the Nassau County Land and Tax Map. The Board noted that it received a resolution from the Nassau County Planning Commission recommending local determination of the application. The applicant submitted a revised drawing depicting some changes to the proposed residence on Parcel B. The changes included the reduction of the height-setback ratio plan encroachment and reduced the front yard setback on Parcel B to 14.8 feet. The Board closed the public hearing, and reserved decision.

The Board acknowledged the receipt of a letter from the operators of Metropolitan Bistro concerning the extension of a previously approved special permit and variance. The Board decided to take the request under advisement.

The Board acknowledged receipt of a letter request to extend time limitations set forth in the variances granted to 85 Cliff Way. On motion duly made by the Chair, seconded by Mr. Griffin, and adopted unanimously, the Board denied the request for additional time.

The Board acknowledged receipt of a letter request to extend the timeframes in the Board's determination granting variances to 12 The Drive. On motion duly made by the Chair, seconded by Mr. Griffin, and adopted unanimously, the Board approved the request and granted a one year extension of all timeframes in the decision, with the one year period commencing on the date that the minutes reflecting this approval are filed with the Village Clerk.

The Board opened the public hearing on the application of 76 Summit Avenue Corporation appealing a Notice of Disapproval issued by the Superintendent of Buildings dated August 8, 2011 in connection with premises located at 304-310 Sea Cliff Avenue (Section 21, Block 127, Lot 4 on the Nassau County Land and Tax Map) and requesting a revised Notice of Disapproval to reflect additional Village Code sections as identified in the appeal. Appellant is the owner of property adjoining the premises that are the subject of the Notice of Disapproval. James Dunne, Esq., appeared on behalf of the appellant. The appellant acknowledged that many of the appealed items were now set forth in a revised denial letter, but still requested that the Board determine that the denial letter, as revised, does not contain all required variances. The Board noted that the request is an Unlisted Action under SEQRA, and that it would provide a copy of the application to the Nassau County Planning Commission for its review and recommendation. The Board continued the public hearing to November 15, 2011 at 8:00pm.

The Board opened the public hearing on the application of Paradise X Corp. and Jerry Caldari, 304-310 Sea Cliff Avenue, Sea Cliff to use the first floor

of the premises for a restaurant. Applicant appeals the determination of the Superintendent of Buildings dated October 5, 2011, and, in the alternative seeks (i) a special use permit pursuant to Village Code §§138-801 and 802, and (ii) variances of the following Village Code provisions: (a)138-808 to maintain structures (building and fence) with less than the required setback of 3 feet; (b) 138-813 to maintain a structure with a height greater than permitted; (c) 138-815 to permit an accessory structure in a front yard; (d) 138-1001 and 138-1002 to not provide the required off street parking of 15 stalls, where no off-street parking is available and a variance was obtained previously for 9 stalls; (e) 138-1004 to not provide an off-street loading space; and (f) 138-1102 to increase a non-conformity on an already non-conforming parcel by intensifying parking requirements. Premises are designated as Section 21, Block 127, Lot 4 on the Nassau County Land and Tax Map. The Board noted that the variances sought include additional variances that were not included previously, but were subsequently determined to be necessary by the Superintendent of Buildings after the submission of an appeal by 76 Summit Avenue Corporation. The Board noted that the amendment should be referred to the Nassau County Planning Commission. The Board continued the public hearing to November 15, 2011 at 8:00pm.

At 10:35pm, on motion duly made by the Chair, seconded by Ms. Epstein, and adopted unanimously, the Board decided to convene in executive session to obtain privileged legal advice. At 10:50pm, the Board reconvened in public session.

The Board discussed the environmental significance of the 76 Summit Avenue Corporation appeal. After such discussion, on motion duly made by Mr. Griffin, seconded by Mr. Doherty, and adopted unanimously, the Board adopted the following resolution:

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
- e. no further environmental review is required with respect to the proposed action.

The Board discussed its prior determination of environmental significance with respect to the Paradise X application, as well as the current revised application. After such discussion, on motion duly made by Mr. Griffin, seconded by Mr. Doherty, and adopted unanimously, the Board adopted the following resolution with respect to the revised 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
- e. no further environmental review is required with respect to the proposed action.

The Board discussed the environmental significance of the Napoli/Samiano application. After such discussion, on motion duly made by Mr. Griffin, seconded by Mr. Doherty, and adopted unanimously, the Board adopted the following resolution:

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
- e. no further environmental review is required with respect to the proposed action.

The Board discussed the Topalian/Lapinsky application, and on motion by Ms. Epstein, seconded by Mr. Doherty, and adopted three votes in favor and the Chair and Mr. Griffin opposed (but indicating that they may not have denied an application related to the variances for the new residence), the

Board approved certain variances and denied other variances in accordance with the decision annexed hereto.

The Board discussed the minutes of the September 20, 2011 and October 4, 2011 meeting. On motion duly made by Mr. McGilloway, seconded by Mr. Kopczynski, and adopted unanimously, the Board approved the minutes of the September 20, 2011 and October 4, 2011 meetings.

There being no further business, the meeting was adjourned at 11:25pm.
