

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

May 20, 2014

Present:	Chair	Dina Epstein, Esq.
	Members	Noel Griffin
		Ted Kopczynski
		James Toner, Esq.
		Amy Marion, Esq.
	Village Attorney	Brian S. Stolar, Esq.

The meeting was called to order at 8:05 pm.

Neither the Chair nor Mr. Toner were present at the beginning of the meeting, but arrived during the applicant's presentation in the Twelfth & Roslyn matter.

In the absence of the Chair, by motion duly made by Mr. Griffin, seconded by Ms. Marion, and adopted by a vote of three votes in favor, and the Chair and Mr. Toner not yet present, the Board designated Mr. Kopczynski to serve as the Acting Chair until the arrival of the Chair.

The Board opened the continued public hearing on the application of Twelfth & Roslyn LLC, 54 Roslyn Avenue, Sea Cliff, New York to convert an existing building to a three unit multiple dwelling, which requires variances of the following Village Code sections: (a) 138-801 in that the proposed use is not permitted; (b) 138-811 in that the existing side yard setback is 4.6 feet, where a minimum of 10 feet is required; (c) 138-812 in that the existing rear yard is 2.9 feet, where a minimum of 5 feet is required; (d) 138-816 in that the buffer area

will be 1 foot, where a minimum of 5 feet is required; and (e) 138-1001 and 1002 in that no parking spaces are proposed, and the proposed use requires 5.5 spaces. Premises are designated as Section 21, Block 136, Lot 282 on the Nassau County Land and Tax Map. During the applicant's presentation, the Chair and Mr. Toner arrived at the meeting, and the Chair resumed her position as Chair for the remainder of the meeting. The applicant was represented by Paul Russo, AIA. Applicant informed the Board that it was not seeking to utilize the premises for a 3 family unit, but instead now is seeking approvals related to a continuation of the building to include 2 residential units and convert retail space to office space. The office space and the residential portions of the building would be separated. The office space would be approximately 500 square feet. The applicant also noted that the additional parking required by the renovation and conversion would require 1 more parking space than the current use of the premises. As the applicant modified the use to an office use and 2 apartments, the variance related to the use is no longer applicable, and the Board does not address that use. The Board closed the public hearing, and reserved decision.

The Board opened the public hearing on the application of Michael and Kelly Butler, 21 Prospect Avenue, Sea Cliff to install an air conditioner condensing unit in a side yard, which installation requires a variance of Village Code §138-517. Premises are designated as Section 21, Block 117, Lot 3 on the Nassau County Land and Tax Map. Based on the request of the applicants, the Board continued the Butler hearing to June 17, 2014 at 8:00pm.

The Board opened the public hearing on the application of Terry Donovan-Lange, Sea Cliff to install air conditioner condensing units in a side yard, which installation requires a variance of Village Code §138-417. Premises are designated as Section 21, Block 131, Lots 1408 and 1409 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 Lawrence Maier, 49 Adams Street, Sea Cliff, to construct a shed in a front yard which construction requires a variance of Village Code §138-416 to permit an accessory structure in a front yard where no such accessory structure is permitted, and variances to maintain existing conditions relating to the following Village Code sections: (a) 138-404 to maintain a lot size of 4,800 square feet, where a minimum of 7,500 square feet is permitted; (b) 138-406 to maintain a front property line of 40 feet, where a minimum of 75 feet is required; (c) 138-407 to maintain lot widths of 40 and 64.81 feet, where a minimum of 67.5 feet is required; (d) 138-408 to maintain setbacks of 15 and 8 feet, where a minimum of 20 feet is required; (e) 138-409 to maintain lot widths at the setback line of 40 feet, where the minimum required is 75 feet; and (f) 138-411 to maintain a side yard setback of 11.2 feet, where a minimum of 10 feet is required. Premises are designated as Section 21, Block 177, Lot 431 on the Nassau County Land and Tax Map. The applicant previously applied for relief in connection with the shed, but that application was denied by the Board. The current application modifies the location of the shed. The Board closed the hearing, and reserved decision.

The Board opened the public hearing on the application of Stephen and Deanna Spinelli, 118 Main Avenue, Sea Cliff, to construct a patio, shed and playground equipment in a front yard which construction requires a variance of Village Code §138-416 to permit accessory structures in a front yard where no such accessory structures are permitted, and variances to maintain existing conditions relating to the following Village Code sections: (a) 138-404 to maintain a lot size of 5,640 square feet, where a minimum of 7,500 square feet is permitted; (b) 138-406 to maintain front property lines of 30 and 64.81 feet, where a minimum of 75 feet is required; (c) 138-407 to maintain lot widths of 30 and 64.81 feet, where a minimum of 67.5 feet is required; (d) 138-408 to maintain setbacks of 16.79 and 18.24 feet, where a minimum of 20 feet is required; (e) 138-409 to maintain lot widths at the setback line of 61.92 feet and 49.92 feet, where the minimum required is 75 feet; and (f) 138-411 to maintain a side yard setback of 2 feet, where a minimum of 10 feet is required. Premises are designated as Section 21, Block 143, Lot 1793 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 Christopher Semlies, 60 10th Avenue, Sea Cliff, New York to construct an in-ground swimming pool and accessory patio, which construction requires variances of the following Village Code sections: (a) 115-12 and 138-416 to permit the in-ground swimming pool and accessory patio in a front yard where no such structures are permitted, and (b) 115-12 to permit the pool within 4 feet of the side property line, where a minimum of 10 feet is required. Premises are designated as Section

21, Block 130, Lot 1446 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 Cynthia Young, 22 Bathway Steps, Sea Cliff, New York to construct a second floor deck above an existing deck and a rear addition to the second floor of a garage to accommodate a bathroom for use with an art studio, which construction requires variances of the following Village Code sections: (a) 138-504 to maintain a lot size of 3,529 square feet, where a minimum of 10,000 square feet is permitted; (b) 138-505 to increase lot coverage to 973 square feet, where a minimum of 1,058.7 square feet is permitted; (c) 138-506 to maintain a front property line of 18.2 feet, where a minimum of 100 feet is required; (d) 138-507 to maintain a lot width of 18.2 feet, where a minimum of 100 feet is required; (e) 138-509 to maintain a lot width at the setback line of 50 feet, where the minimum required is 100 feet; (f) 138-511 to maintain side yards of 12.5 feet and 4 feet, where a minimum of 15 feet is required; (g) 138-512 to maintain a rear yard of 8.3 feet, where a minimum of 30 feet is required; (h) 138-514.1 to increase floor area to 1,833 square feet, where the maximum permitted is 1,552.76 square feet; (i) 138-516 to increase the size of an accessory structure in a front yard, where no such structure is permitted; and (j) 138-1102 to increase a non-conformity where no such increase is permitted. Premises are designated as Section 21, Block 197, Lot 232 on the Nassau County Land and Tax Map. The Board continued the public hearing to June 17, 2014 at 8:00pm.

The Board discussed the Twelfth & Roslyn application. On motion duly made by Mr. Griffin, seconded by Ms. Marion, and adopted three votes in favor and Mr. Kopczynski and Mr. Toner opposed, the Board determined that the Twelfth and Roslyn application is a Type II matter under SEQRA which requires no further environmental review and granted the application in accordance with the short form decision annexed hereto.

The Board discussed the Donovan-Lange application. On motion duly made by the Chair, seconded by Ms. Marion, and Mr. Toner opposed, the Board determined that the Donovan-Lange application is a Type II matter under SEQRA which requires no further environmental review and granted the application in accordance with the short form decision annexed hereto.

The Board discussed the Maier application. On motion duly made by Ms. Marion, seconded by Mr. Kopczynski, and adopted unanimously, the Board determined that the Maier application is a Type II matter under SEQRA which requires no further environmental review and granted the application in accordance with the short form decision annexed hereto.

The Board discussed the Spinelli application. On motion duly made by the Chair, seconded by Mr. Kopczynski, and adopted unanimously, the Board determined that the Spinelli application is a Type II matter under SEQRA which requires no further environmental review and granted the application in accordance with the short form decision annexed hereto.

The Board discussed the Semlies application. On motion duly made by the Chair, seconded by Ms. Marion, and adopted unanimously, the Board

determined that the Semlies application is a Type II matter under SEQRA which requires no further environmental review and granted the application in part and denied in part in accordance with the decision annexed hereto.

The Board discussed a request by Arata's to extend a special permit for a restaurant. The Board noted that it was not aware of any complaints concerning the current use, and on motion duly made by Mr. Griffin, seconded by Mr. Kopczynski, and adopted unanimously, the Board voted to waive any public hearing requirement and granted an extension of the special permit for a period of 5 years from the date of the filing of this determination with the Village Clerk.

The Board discussed a request related to 93 Lafayette Place for additional time to complete the construction in connection with variances granted previously by the Board. On motion duly made by the Chair, seconded by Mr. Kopczynski, and adopted unanimously, the Board voted to waive any public hearing requirement and granted an extension of time of 6 months to obtain a building permit, and 12 months to obtain a certificate of occupancy, from the date of the filing of this determination with the Village Clerk.

On motion duly made by the Chair, seconded by Mr. Griffin, and adopted four votes in favor and Ms. Marion abstaining, the Board approved the April 2, 2014 minutes.

There being no further business, the meeting was adjourned at 10:58 pm.

DINA EPSTEIN, CHAIR

TWELFTH & ROSLYN LLC SHORT FORM DECISION
(as authorized by Village Code §138-1302.1)

At a meeting of the Board of Appeals of the Village of Sea Cliff, New York, on May 20, 2014, on motion of Mr. Griffin, seconded by Ms. Marion, and adopted three votes in favor and Mr. Kopczynski and Mr. Toner opposed, 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. Twelfth & Roslyn LLC, 54 Roslyn Avenue, Sea Cliff, New York applied to convert an existing building to a three unit multiple dwelling, which requires variances of the following Village Code sections: (a) 138-801 in that the proposed use is not permitted; (b) 138-811 in that the existing side yard setback is 4.6 feet, where a minimum of 10 feet is required; (c) 138-812 in that the existing rear yard is 2.9 feet, where a minimum of 5 feet is required; (d) 138-816 in that the buffer area will be 1 foot, where a minimum of 5 feet is required; and (e) 138-1001 and 1002 in that no parking spaces are proposed, and the proposed use requires 5.5 spaces. Premises are designated as Section 21, Block 136, Lot 282 on the Nassau County Land and Tax Map.
2. The applicant advised the Board that the proposal was amended to retain the 2 residential apartment units, and convert the retail use to an office use. Accordingly, the use variance was not considered by the Board.
3. The applicant is the record owner of the subject premises.
4. The requested relief is classified as a Type II action under SEQRA, which requires no environmental review.
5. The application was referred to the Nassau County Planning Commission in accordance with the streamlining agreement between the Village and the Planning Commission, and no response was received from the Planning Commission.
6. The relief requested in the application is granted provided that (a) the construction shall conform substantially with the plans submitted with the application, (b) the office use and residential use shall be kept entirely separate and there shall be no interior access from the office use to and from the residential use; (c) all work is performed, and all approvals obtained, within the timeframe provided in Village Code §138-1304.

Dina Epstein, Chair

Filed in the Office of the Village Clerk
the day of June 2014

Marianne Lennon, Village Clerk

DONOVAN-LANGE SHORT FORM DECISION
(as authorized by Village Code §138-1302.1)

At a meeting of the Board of Appeals of the Village of Sea Cliff, New York, on May 20, 2014, on motion of the Chair, seconded by Ms. Marion, and adopted four votes in favor and Mr. Toner opposed, 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. Terry Donovan-Lange, Sea Cliff applied to install air conditioner condensing units in a side yard, which installation requires a variance of Village Code §138-417. Premises are designated as Section 21, Block 131, Lots 1408 and 1409 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 application was referred to the Nassau County Planning Commission in accordance with the streamlining agreement between the Village and the Planning Commission, and no response was received from the Planning Commission.
5. The relief requested in the application is granted provided that (a) the construction shall conform substantially with the plans submitted with the application, and (b) all work is performed, and all approvals obtained, within the timeframe provided in Village Code §138-1304.

Dina Epstein, Chair

Filed in the Office of the Village Clerk
the day of June 2014

Marianne Lennon, Village Clerk

MAIER SHORT FORM DECISION
(as authorized by Village Code §138-1302.1)

At a meeting of the Board of Appeals of the Village of Sea Cliff, New York, on May 20, 2014, on motion of Ms. Marion, 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. Lawrence Maier, 49 Adams Street, Sea Cliff, applied to construct a shed in a front yard which construction requires a variance of Village Code §138-416 to permit an accessory structure in a front yard where no such accessory structure is permitted, and variances to maintain existing conditions relating to the following Village Code sections: (a) 138-404 to maintain a lot size of 4,800 square feet, where a minimum of 7,500 square feet is permitted; (b) 138-406 to maintain a front property line of 40 feet, where a minimum of 75 feet is required; (c) 138-407 to maintain lot widths of 40 and 64.81 feet, where a minimum of 67.5 feet is required; (d) 138-408 to maintain setbacks of 15 and 8 feet, where a minimum of 20 feet is required; (e) 138-409 to maintain lot widths at the setback line of 40 feet, where the minimum required is 75 feet; and (f) 138-411 to maintain a side yard setback of 11.2 feet, where a minimum of 10 feet is required.
2. The application differs from the previous application as the modified plan relocates the shed further from the roadway and the neighboring property.
3. The applicant is the record owner of the subject premises.
4. The requested relief is classified as a Type II action under SEQRA, which requires no environmental review.
5. The application was referred to the Nassau County Planning Commission in accordance with the streamlining agreement between the Village and the Planning Commission, and no response was received from the Planning Commission.
6. The relief requested in the application is granted provided that (a) the construction shall conform substantially with the plans submitted with the application, and (b) all work is performed, and all approvals obtained, within the timeframe provided in Village Code §138-1304.

Dina Epstein, Chair

Filed in the Office of the Village Clerk
the day of June 2014

Marianne Lennon, Village Clerk

SPINELLI SHORT FORM DECISION
(as authorized by Village Code §138-1302.1)

At a meeting of the Board of Appeals of the Village of Sea Cliff, New York, on May 20, 2014, on motion of the Chair, seconded by Mr. Kopczynski, and adopted four votes in favor and Mr. Toner opposed, 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. Stephen and Deanna Spinelli, 118 Main Avenue, Sea Cliff, applied to construct a patio, shed and playground equipment in a front yard which construction requires a variance of Village Code §138-416 to permit accessory structures in a front yard where no such accessory structures are permitted, and variances to maintain existing conditions relating to the following Village Code sections: (a) 138-404 to maintain a lot size of 5,640 square feet, where a minimum of 7,500 square feet is permitted; (b) 138-406 to maintain front property lines of 30 and 64.81 feet, where a minimum of 75 feet is required; (c) 138-407 to maintain lot widths of 30 and 64.81 feet, where a minimum of 67.5 feet is required; (d) 138-408 to maintain setbacks of 16.79 and 18.24 feet, where a minimum of 20 feet is required; (e) 138-409 to maintain lot widths at the setback line of 61.92 feet and 49.92 feet, where the minimum required is 75 feet; and (f) 138-411 to maintain a side yard setback of 2 feet, where a minimum of 10 feet is required. Premises are designated as Section 21, Block 143, Lot 1793 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 application was referred to the Nassau County Planning Commission in accordance with the streamlining agreement between the Village and the Planning Commission, and no response was received from the Planning Commission.
5. The relief requested in the application is granted provided that (a) the construction shall conform substantially with the plans submitted with the application, and (b) all work is performed, and all approvals obtained, within the timeframe provided in Village Code §138-1304.

Dina Epstein, Chair

Filed in the Office of the Village Clerk
the day of June 2014

Marianne Lennon, Village Clerk

SEMLIES DECISION

At a meeting of the Board of Appeals of the Village of Sea Cliff, New York, on May 20, 2014, on motion of the Chair, seconded by Ms. Marion, 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 determination:

1. Christopher Semlies, 60 10th Avenue, Sea Cliff, New York applied to construct an in-ground swimming pool and accessory patio, which construction requires variances of the following Village Code sections: (a) 115-12 and 138-416 to permit the in-ground swimming pool and accessory patio in a front yard where no such structures are permitted, and (b) 115-12 to permit the pool within 4 feet of the side property line, where a minimum of 10 feet is required. Premises are designated as Section 21, Block 130, Lot 1446 on the Nassau County Land and Tax Map.
2. The applicant is the record owner of the subject premises.
3. The premises are located in the Residence A zoning district. The premises has 2 front property lines, one along 9th Avenue and one along 10th Avenue. The proposed pool would be located in the 9th Avenue frontage, only 4 feet from a neighboring property. The neighboring residence fronts on 9th Avenue and has a large front porch in the vicinity of the proposed pool location. 9th Avenue is a narrow street.
4. Residents expressed their concern that the noise generated by a pool in a front yard and the proximity of the pool to the side and front yard would negatively impact the neighborhood.
5. The variances sought are area variances. In determining whether to grant an area variance, the Board shall take into consideration of the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board is required to consider: (1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; (3) whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision, but shall not necessarily preclude the granting of the area variance. In granting a variance, the Board shall grant only the minimum

variance that it deems necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

6. For the reasons set forth herein, the Board finds and concludes that the variances for the pool should be denied, but the patio should be approved. The pool variances would result in a detriment to the neighborhood that exceeds the benefit to the applicant. In reaching this conclusion, the Board has considered each of the relevant statutory factors.
7. With regard to whether the proposed variances would produce an undesirable change in the character of the neighborhood or a detriment to nearby properties, the evidence demonstrates that the proposed variances for the pool would create an undesirable change in the neighborhood character and a detriment to nearby properties. The Board is not aware of, and the applicant failed to present, any pools similarly located on a narrow street, in a front yard, 4 feet from a property line, and close to the front property line. The proposed pool location is an anomaly in the neighborhood. The combined variances would result in a detriment to the nearby properties and the neighborhood.
8. The Board finds that the requested variances for the pool are substantial. In reaching this conclusion, the Board is mindful that the combined variances must be considered as they represent the full nature of the proposed changes.
9. The applicant failed to pursue any feasible alternative. The applicant could have constructed proposed a smaller pool in a different location, but has decided not to pursue that alternative. The Board takes no position on whether such an alternative would be acceptable to the Board.
10. As to whether the proposed variances will have an adverse impact on the physical or environmental conditions in the neighborhood, the Board finds that there will be such an adverse impact. The rationale of the Village's zoning plan is to create conformance with standards relevant to the Village and the zoning districts within the Village. In the particular neighborhood, the proposed variances are completely at odds with those requirements.
11. As to the self-created hardship, the Board finds that the proposed variances are self-created. Notwithstanding such finding, the Board would deny the variances based on its consideration of the other factors set forth above.
12. Unlike the concerns related to the pool, the patio will not have any adverse impact on the neighborhood, and the benefit to the applicant exceeds the detriment to the neighborhood.

13. For the foregoing reasons, the relief requested in this application for the pool is denied, but the variance for the patio is granted.

Respectfully submitted,

Dina Epstein, Chair

Filed in the Office of the Village Clerk
the day of June 2014

Marianne Lennon, Village Clerk