

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

June 19, 2012

Present:	Chair	Kevin McGilloway
	Members	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 continued 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 noted that it had received documentation from the applicant that notice was provided to the neighbor concerning the applicant's request for extended hours. The Board closed the public hearing, and reserved decision.

The Board opened the public hearing on the application of Kevin and Danielle Feldman, 94 14<sup>th</sup> Avenue, Sea Cliff, New York to excavate a parking area and increase a curb cut, which requires variances of (a) Village Code §138-405 to permit lot coverage of 2,404 square feet (50%), where a maximum of 1,440 square feet (30%) is permitted, and (b) Village Code §138-1007 to permit a curb cut of 62 feet, where the maximum permitted is 25 feet. Premises are

designated as Section 21, Block 142, Lot 1074 on the Nassau County Land and Tax Map. The Board noted that the testimony necessitated additional observations of the site. The Board continued the public hearing to July 17, 2012 at 8:00pm.

The Board opened the public hearing on the application of Greg Accolla, 15 Marlan Court, Sea Cliff, New York to construct a swimming pool with a side yard setback of 2.91 feet, where a minimum of 15 feet is required pursuant to Village Code §115-12. Premises are designated as Section 21, Block 50, Lot 11 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 Laurie Petroske, 245 Sea Cliff Avenue, Sea Cliff, New York to construct a second story terrace over an existing structure, which requires variances of the following Village Code sections: (a) 138-808 to maintain a setback of 1.33 feet, where the minimum setback is 3 feet; (b) 138-811 to permit the building to be maintained 1 foot beyond the side property line, where a minimum setback of 10 feet is required; (c) 138-815 to construct a second story roof terrace with no side yard setback, where a minimum of 10 feet is required, and with a square footage of 718 square feet, where a maximum of 500 square feet is permitted; and (d) 138-816 to maintain a building without the required buffer area. Premises are designated as Section 21, Block 136, Lot 1278 on the Nassau County Land and Tax Map. The Board closed the hearing, and reserved decision.

The Board discussed a letter dated June 13, 2012 from Donald J. Kavanagh, Jr., Esq. concerning DM Acquisitions LLP and James Muir d/b/a Artaux Catering relating to the conditions set forth in the Board's May 15, 2012 decision pertaining to an application for a special permit and variances. The letter clarified the presentation relating to the food preparation operations, and Mr. Muir clarified the number of employees using the premises during the food preparation operations.

The Board opened the public hearing on the application of 625 Main Street LLC, 456 Glen Cove Avenue, Sea Cliff, New York to convert the second story from apartment use to office use and for outdoor storage of store heavy equipment, which requires variances of the following Village Code sections: (a) 138-901 and 138-902 in that the proposed outdoor storage is not a permitted use or a use permitted by special permit; (b) 138-912 to maintain a side yard of 12.92 feet, where a minimum of 15 feet is required; and (c) 138-917 to provide no buffer area where one is required. Premises are designated as Section 21, Block 50, Lot 103 on the Nassau County Land and Tax Map. The Board requested information concerning the types of trucks and equipment proposed to be stored on site. The applicant provided some of this information, but only in general terms. The Board continued the public hearing to July 17, 2012 at 8:00pm.

The Board discussed the DM Acquisitions/Muir letter requesting a modification of the conditions to accommodate the food preparation use at the premises (5 Sea Cliff Avenue). After such discussion, on motion duly made by the Chair, seconded by Mr. Griffin, and adopted three votes in favor and Mr.

Doherty abstaining, the Board granted the request to amend the decision set forth in the Board's May 15, 2012 minutes, and a copy of the amended decision is annexed hereto.

The Board discussed the NS Metropolitan Bistro application. After such discussion, on motion duly made by Mr. Kopczynski, seconded by Mr. Griffin, and adopted three votes in favor, and Mr. Doherty 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 Accolla application. After such discussion, on motion duly made by Mr. Doherty, 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 Petroske application. After such discussion, on motion duly made by Mr. Griffin, seconded by Mr. Doherty, 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 625 Main Street LLC application. The Board determined that additional documentation would be necessary before such a determination could be made, and directed Board counsel to inform the applicant that such documentation would be needed.

There being no further business, the meeting was adjourned at 10:22pm.

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## **DM ACQUISITIONS, LLC and JAMES MUIR d/b/a ARTAUX CATERING**

At a meeting of the Board of Appeals of the Village of Sea Cliff, New York, on June 19, 2012, on motion of the Chair, seconded by Mr. Griffin, and adopted three votes in favor, and Mr. Doherty abstaining, the Board, having duly considered the matters brought forth at the public hearing on the application and the clarification made by the applicant concerning the hours of operation, and other matters properly within the consideration of this Board and having discussed the subject application, rendered the following determination, which supersedes the determination made by the Board on May 15, 2012:

1. DM Acquisitions, LLC, as owner, and James Muir d/b/a Artaux Catering, 5 Sea Cliff Avenue, Sea Cliff, New York applied 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 "Subject Premises").
2. The Subject Premises is located in a Business B zoning District, and are improved with a commercial building. At the hearings, the applicant testified:
  - a. Currently, the building is occupied by a hair salon. Three of the presently configured units are vacant, including the westerly unit that is the subject of this application. The westerly unit contains approximately 1,390 square feet, and the applicants propose to use that unit for a food preparation facility. Mr. Muir operates a catering establishment and intends to utilize the unit solely for food preparation associated with the catering business and a tasting room for potential clients. The tasting room will include a table that will accommodate no more than 8 people. As described by the applicant, the tasting room will only be for potential clientele by appointment. It is not intended to be a walk in

restaurant, and it will not be advertised as a restaurant. The tasting room will take place only on Thursdays, Fridays and Saturdays from 5pm through 10pm. The food preparation is party/event dependent, and may take place daily from 9am through 6pm, and occasionally until 8pm. Only 2 employees are required for the food preparation. The business has only one van and that van will be parked in the parking lot adjoining the premises.

- b. The Subject Premises has no parking. Parking is available on the street, and also in a parking lot adjoining the Subject Premises. According to the applicant, the tenant will have the right to use 4 parking stalls in the adjoining parking lot. The applicant testified that the catering business requires only 2 employees to prepare the food.
- c. Presently, the only other occupant utilizing the premises in the evening is the hair salon, which is open on Thursdays until 8pm. The owner of the Subject Premises testified that the space, which previously was occupied by a butcher shop, is difficult to rent due, in part, to the parking limitations. The proposed use will require less parking usage than the butcher shop and only will require parking spaces in the evening hours. The parking lot on the adjoining premises contains stalls for 27 cars, and the applicant will enter into a license agreement with the parking lot owner to rent 4 spaces.
- d. The applicant provided the Board with detailed information concerning the rooftop exhaust system. The applicant testified that the system, and the food preparation area, will comply with Department of Health and Fire Marshal requirements. To mitigate the impact caused by an exterior dumpster, the applicant proposes interior storage of garbage in compliance with any laws applicable to food establishments.
- e. The applicant stated that he would be obtaining a liquor license for off-site functions, as well as for client presentations for a maximum of 8 people. Implicit in this statement was that the license would not be for service on premises, and the Board's determination herein was rendered with this understanding. In fact, the applicant confirmed that it was not his intent to utilize the premises for a bar or for a bar to be accessory to a typical restaurant use.

3. In addition to the variance for parking spaces, the proposed use requires a special permit. As a matter of law, special permits allow specific uses in a given district, provided that the applicant can demonstrate that it meets or complies with certain standards set forth in the zoning regulations related to such use and that the proposed use will not be a detriment to the neighborhood.
4. In connection with the granting of a special permit, the Board has the power to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property and which are not inconsistent with the provisions of the zoning regulations.
5. With regard to the parking, Village Code §138-1008 provides that where the required off-street parking spaces cannot be located on the same lot with the use served, a variance may be granted by the Board to the extent that the applicant can provide the required number of spaces within 500 feet of the premises or the applicant can lease the required number of spaces from other property owners within 500 feet of the lot (as long as those spaces are available to the applicant during the times of operation of the use). A variance still may be granted even if the applicant is unable to demonstrate either of the above so long as the applicant agrees to pay to the Village an amount of money equal to the cost of construction of the number of spaces the applicant is required to provide. This cost is to be computed in accordance with the amounts most recently set by resolution of the Board of Trustees.
6. As there are no spaces available on-site and the applicant has not been able to demonstrate that only four (4) other spaces may be available on an adjoining site, to obtain a parking variance for the total of 14 spaces required for the use, the applicant may obtain the variance for the 14 parking spaces if the applicant pays to the Village the required parking fee for the 10 parking spaces not available as provided in paragraph 6 above.
7. The Board hereby grants the parking variance as the Board finds that the use requires the parking of one vehicle at all times (catering van), the operational hours where clientele may utilize the premises and the parking area are substantially limited (Thursday, Friday and Saturday, from 5pm-10pm), the nature of the business limits the number of parking spaces needed as the only people utilizing the premises will be not more than 8 potential clients and 2 employees at any one time, that only 2 employees will be present and require parking during the food preparation hours of 9am through 8pm, and that 4 parking spaces are being made available to the applicant in an adjoining parking lot. Under such circumstances, the proposed use of the space at the Subject Premises mitigates the potential parking issues that normally would be associated with a retail or commercial use of the Subject Premises.

8. The authority of this Board to grant the variance for parking is limited by law and the provisions of the Zoning Code. Since the applicant is unable to satisfy the provisions of section 138-1008(A)(1) or (2), the authority of this Board to grant a variance is conditioned upon the applicant complying with the provisions of section 138-1008(A)(3). Accordingly, subject to compliance with section 138-1008(A)(3), including payment of the required fee for 10 spaces, and the conditions set forth below, the Board grants a variance of Village Code §§138-918 and 1002. The sums due are to be paid no later than 30 days after this decision is filed with the Village Clerk. To fully satisfy this requirement, the applicant must file a letter with the Village Clerk acknowledging its consent to this condition and agreeing to pay the required sum for 10 parking spaces. In addition, this approval is subject to the applicants' providing the Village with a copy of the license agreement demonstrating that 4 parking spaces are dedicated to the applicant for use during the hours proposed and for the period of the special permit granted herein. Such license agreement, to be considered acceptable and compliant with the Board's condition herein, must be approved as to form by the Village Attorney.
9. As to the remaining variances, each variance relates to an existing condition of the premises. As none of those conditions is changed by the application, the Board grants those variances.
10. The applicants' request for a special permit is also granted on the conditions set forth below. To balance the potential adverse impacts the proposed use may have on nearby properties and traffic in the area with the obligation of this Board to issue a special permit where adequate, reasonable, and appropriate conditions and restrictions can be imposed to minimize the adverse effects, the special permit is granted to operate the portion of the Subject Premises depicted in the plans submitted with the application as a restaurant subject to the following conditions:
  - a. The special permit is granted to the applicants only or to any business or entity in which the tenant applicant has a controlling interest;
  - b. There shall be no use of the premises for a bar, either as a principal use or as an accessory to a restaurant. Absent this limitation, as proposed by the applicant, the Board would not have granted either the parking variance or the special permit. This shall not preclude the applicant from obtaining a license from the New York State liquor authority to permit the service of alcohol to a maximum of 8 patrons utilizing the premises in a manner consistent with the proposed tasting use of the premises. If the applicant intends to utilize the premises for a full service restaurant or a full service bar, not

in conjunction with the tasting use, the applicant shall be required to reapply to the Board for relief, both with regard to the parking variance and the special use permit;

- c. The parking of vehicles by patrons of the premises, employees or suppliers shall not interfere with the normal flow of traffic on the adjoining streets;
- d. There shall be no outside storage of supplies, equipment, materials, garbage, rubbish or any other items used in connection with the restaurant;
- e. Exterior lighting of the premises shall be designed so as to minimize any impact on the adjoining properties through shielding, directional lighting and reduction of glare and reflection. Any new exterior lighting or building lighting shall be mounted at a height and in a location such that no light spillage of 0.1 foot-candle or higher shall extend beyond the property lines of any nearby residential property. There shall be no additional lighting for outdoor usage, except for table candlelight;
- f. The applicant shall comply with the conditions imposed in connection with the granting of the parking variance application, including submitting the required letter and paying the fee required for all 10 spaces;
- g. Seating shall be limited to prospective clientele only. The catering business shall not be advertised as a restaurant and shall not be open to the general public (except by appointment in connection with the tasting of food by prospective clientele of the catering business). Such seating shall be limited to 8 total seats;
- h. The cooking equipment shall be limited to the equipment proposed by the applicant, and the exhaust system for the cooking facilities shall be identical to the exhaust system proposed by the applicant. Any change to the system shall require the approval of the Superintendent of Buildings. The exhaust system shall be in conformity with any requirements imposed by the Fire Marshal and/or Nassau County Department of Health;
- i. No noise, fumes, or similar sources of nuisance are to emanate in a manner as to be unreasonably annoying to surrounding property owners;
- j. There shall not be any outside seating on the Subject Premises without additional application to this Board;
- k. The hours of operation for the tasting of food by prospective or existing clientele shall be Thursdays, Fridays and Saturdays from 5pm through 10pm. The hours of operation for the preparation of food may commence daily at 9am and conclude no later than 8pm (except during tastings, in which

case the food preparation may continue to 10pm). Any extension of hours beyond the hours proposed by the applicant, and conditioned herein, requires a reapplication to this Board, as the Board has granted the application based on the limited hours;

- l. Any music provided shall be background music only, provided through non-amplification methods, and shall be played at a volume so as not to be audible outside of the premises or in any adjoining tenant space;
- m. The Subject Premises shall not be used for any use that intensifies or increases the usage or the parking requirements or the potential impacts of the premises without further application to the Board;
- n. The applicant may obtain a liquor license in accordance with the applicant's representation that such license would be used for off-site catered functions and on-site tasting functions only;
- o. Loitering outside of the premises is prohibited;
- p. Cooking equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, parking area, alleys, sidewalks, neighboring properties or storm sewers;
- q. Prior to issuance of a certificate of occupancy, the applicant shall obtain full approval, if necessary, from the Nassau County Department of Health and all other agencies for the preparation of food and any required modifications to the septic or water systems;
- r. Any fire sprinkler system and use of the premises for cooking purposes shall conform to applicable NFPA requirements, as determined by the Building Superintendent or any municipal agency with jurisdiction;
- s. No trash or debris from the restaurant shall be stored outside;
- t. No employees or customers shall be permitted to smoke on the premises or outside the premises, either on the Subject Premises or in the public right-of-way
- u. The applicant shall provide the Village with a license agreement demonstrating the availability of four parking spaces on the adjoining property, and such agreement shall be subject to review and approval as to form of the Village Attorney;
- v. The applicant shall conduct employee training sessions on an ongoing basis, including as part of any employee orientation, to discuss all special use permit conditions and requirements contained herein; and

- w. Because of the potential of abuse which the proposed special permit use presents if not supervised correctly and the resultant adverse impacts on the surrounding property owners and the Village and its residents that could result, this Board, mindful of its responsibilities to protect nearby residents from over commercialization of the area and other potential adverse impacts and the limited ability of the applicant and/or operator to completely control the adverse impact which the business may generate, will grant the special permit to operate as proposed for a period of one (1) year commencing on the date that this decision is filed with the Village Clerk. The special permit shall be limited to the operation of a restaurant by the applicant, and any change in ownership shall require a new application to this Board for a special permit. To extend the special permit, prior to the expiration of the one (1) year period, but in no event sooner than four months prior to said date, the applicant, if it desires to continue the use of the premises in the manner proposed by the application, shall reapply to the Board having jurisdiction for a renewal of the special permit. The application shall be made in a timely manner so as to permit this Board to render its decision prior to the expiration of the aforesaid one (1) year time period. The provisions of this paragraph shall constitute a condition of this decision.
11. If one or more of the aforesaid conditions of this decision are violated, the Village shall have the right to suspend or revoke the special permit in accordance with the procedures set forth in the Village Code.

### **NS METROPOLITAN BISTRO DECISION**

At a meeting of the Board of Appeals of the Village of Sea Cliff, New York, on June 19, 2012, on motion of Mr. Kopczynski, seconded by Mr. Griffin, and adopted three votes in favor, and Mr. Doherty 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 having discussed the subject application, rendered the following determination:

1. The applicant NS Metropolitan Bistro, Inc., is a tenant of premises located at 39 Roslyn Avenue, which is in the Village's Business A Zoning District. The premises are owned by RA Hendrickson Real Estate, Inc., and designated as Section 21, Block 134, Lot 1 on the Nassau County Land and Tax Map. In July 2010, the Board

granted the applicant a special permit and a modification of the conditions of the previously issued special permit approvals to permit a restaurant to be operated at the premises. The applicant seeks to reinstate that special permit, which expired after one year, and also to obtain modifications of the hours of operation approved in July 2010.

2. The portion of the premises proposed to be occupied by the applicant has been used as a restaurant pursuant to various approvals of the Board dating back to 1980.
3. The use proposed provides for a total of 60 seats, including seasonal outdoor seating. The proposed number of seats and the resultant parking requirements necessary for such seating is identical to prior approvals. In a 1994 decision, and continuing in subsequent Board determinations, the applicant was granted a variance related to four parking spaces located on-site upon submission of proof verifying the existence of and permission to use those four spaces in the parking area located east of the building from 5pm until closing. As a condition of the approval granted by the Board herein, the applicant is required to submit for review by the Building Department proof that those four spaces are made available exclusively to the applicant from 5pm until closing. Upon such proof, no further variances for parking are required.
4. The outdoor seating is proposed to be identical in size and location as the prior approvals. It utilizes an area approximately ten (10) feet wide by twenty-two (22) feet long on the sidewalk located adjacent to and westerly of the building. The area of the outdoor seating is located on the premises, and no portion of the seating or the planters separating the seating from the sidewalk is located in the right-of-way.
5. The applicant testified that the use of the premises will be identical to the use of the premises under the 2010 special permit, except that the hours of operation are proposed to be extended. The applicant proposes to extend the closing hours as follows:
  - a. Sundays – presently 9pm; proposed 11pm;
  - b. Mondays through Thursdays – presently 12am; proposed 2am;
  - c. Saturdays and Sundays – presently 1am; proposed 2am;
  - d. Outdoor seating – presently 10pm; proposed 11pm.
6. The Board is mindful of the fact that the premises have been operated as a restaurant for 30 years, and the proposed use will be

consistent with that use. To balance the potential impact the proposed use may have on nearby properties in the area with the obligation of this Board to issue a special permit where adequate, reasonable, and appropriate safeguards and restrictions can be imposed to minimize the adverse effects, this Board will grant the special permit requested subject to the following conditions:

- a. The business shall be conducted as a restaurant with bar only, and not for catering, except for an occasional private party during which time the restaurant shall be closed to the public;
- b. No music or amplified sound shall be audible outside the building and the applicant shall be required to apply to this Board for any type of intensification of the proposed use, including the proposed use of live entertainment, dancing or similar forms of occupancy, including any occupancy involving amplified music;
- c. The maximum number of seats permitted at the premises, including the number of persons accommodated at the bar and outdoors whether by seats, stools, standing or in any other manner, shall be 60;
- d. Except as provided elsewhere in this decision, there shall not be any outside seating on the premises without additional application to this Board;
- e. The hours of operation shall be from 11am to 11pm on Sundays, 5pm to 2am on Mondays through Saturdays;
- f. The premises shall not be used for any use which will intensify or increase the usage or the parking requirements without further application to this Board;
- g. The entrance to the restaurant shall face Roslyn Avenue;
- h. The proposed use shall be conducted in such a manner as to minimize, as much as possible, any adverse effect on the surrounding residential properties resulting from excessive noise or any other type of nuisance;
- i. The parking of vehicles by patrons of the premises, employees, or suppliers shall not interfere with the normal flow of traffic on Roslyn Avenue or Tenth Avenue;
- j. Loading operations shall be conducted in the rear or on the side of the premises. When making deliveries, the suppliers shall not block the driveway of adjoining property owners nor interfere with the normal flow of traffic in the area;
- k. All exhaust fans shall be located on the roof and shall be directed away from any residential properties and shall be installed with any barriers which are necessary to minimize, to the extent possible, any adverse impacts resulting from noise or fumes. The air conditioning units shall be located in the rear near the on-site parking area;
- l. The dumpster shall be located east of the building in the back are just north of the north wall of the premises. The precise

location shall be subject to the approval of the Building Department and shall be screened from adjoining properties. The dumpsters shall be removed or emptied only during the hours permitted under the Village Code.

- m. All garbage disposal receptacles shall be fully enclosed and sealed at all times (excluding when trash is being placed in or removed from the receptacle) in a manner that prevents rodents or other animals from accessing the receptacle and prevents odors from travelling to neighboring properties. The receptacles shall be cleaned and sanitized at least once per month and shall be emptied at least 2 times per week. No trash or debris shall be permitted to accumulate on site outside of these containers.
- n. No deliveries shall be made by tractor trailer sized vehicles. No trucks in excess of 24 feet in length shall make any deliveries to or pick-ups from, the property. All deliveries and shipments shall be made so as not to obstruct or interfere with the flow of traffic on Sea Cliff Avenue, Roslyn Avenue or Tenth Avenue. No deliveries or shipments shall be made to or from the property before 7:00 am or after 6:00 pm on any day;
- o. The applicant shall maintain full approval, if necessary, from the Nassau County Department of Health and all other agencies for the cooking of food and any required modifications to the septic or water systems;
- p. Any fire sprinkler system and use of the premises for cooking purposes shall conform to applicable NFPA requirements, as determined by the Building Superintendent or any municipal agency with jurisdiction;
- q. Cooking equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, parking area, alleys, sidewalks, neighboring properties or storm sewers;
- r. Because of the proximity of residential properties to the restaurant use, and the potential for nuisance resulting from permitting dining late at night, the following conditions shall apply to the outdoor seating area:
  - i. The outside operation shall be limited to the hours of 11:30am to 11pm. All tables and chairs shall be removed from the outside area by 11:15pm and shall not be placed outside prior to 11am;
  - ii. The outside operation shall be limited to 4 tables and 16 chairs, and shall be located entirely on applicants' property;
  - iii. The proposed outside use will not increase the existing seating capacity of the restaurant beyond a total of 60 for chairs and bar use. Any tables and seats used outside shall be equally offset by a reduction of the number used inside so that the maximum of 60 people shall not be exceeded;

- iv. No heating or cooking apparatus related to food preparation and no bar shall be located outside, including any bar for the service or storage of alcoholic or non-alcoholic beverages;
- v. The use shall be limited to lunch service, evening cocktails and hors d'oeuvres, and dinner dining;
- vi. The proposed outside use shall be conducted in such a manner as to minimize, as much as possible, any adverse impact on the surrounding residential properties resulting from excessive noise or any other type of nuisance;
- vii. Any outside lighting shall be designed and installed so as to minimize the impact on adjoining properties by appropriate shielding, direction and reduction of glare and reflection. Final approval of any lighting shall be determined by the Building Department. Any new exterior lighting or building lighting shall be mounted at a height and in a location such that no light spillage of 0.1 foot-candle or higher shall extend beyond the property lines. There shall be no additional lighting for outdoor usage, except for table candlelight and lighting in the planters subject to the limitations herein;
- viii. No background or ambient (or other type of) music shall be permitted outside, and the doors and/or windows shall not be left open in a manner which would circumvent this restriction;
- ix. Loitering outside of the restaurant is prohibited;
- x. No mechanical means of ventilation, heating or cooling shall be utilized for the outdoor seating area; and
- xi. All plantings and planted areas shall be maintained in good and neat condition to accomplish the purposes intended, and shall be replaced as necessary to maintain the screening and planted areas in a manner that serves as a buffer area for the residential properties on Roslyn Avenue.

7. Because of the potential of abuse which the proposed special permit use presents if not supervised correctly and the resultant adverse impacts on the surrounding property owners and the Village and its residents that could result, this Board, mindful of its responsibilities to protect nearby residents from over commercialization of the area and other potential adverse impacts and the limited ability of the applicant and/or operator to completely control the adverse impact which the business may generate, will grant the special permit to operate as proposed for a period of two (2) years commencing on the date that this decision is filed with the Village Clerk. The special permit shall be limited to the operation of a restaurant by the applicant, and any change in ownership shall

require a new application to this Board for a special permit. To extend the special permit, prior to the expiration of the two (2) year period, but in no event sooner than four months prior to said date, the applicant, if it desires to continue the use of the premises in the manner proposed by the application, shall reapply to the Board having jurisdiction for a renewal of the special permit. The application shall be made in a timely manner so as to permit this Board to render its decision prior to the expiration of the aforesaid two (2) year time period. The provisions of this paragraph shall constitute a condition of this decision.

8. If one or more of the aforesaid conditions of this decision are violated, the Village shall have the right to suspend or revoke the special permit in accordance with the procedures set forth in the Village Code.

## ACCOLLA SHORT FORM DECISION

At a meeting of the Board of Appeals of the Village of Sea Cliff, New York, on June 19, 2012, on motion duly made by Mr. Doherty, 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. Greg Accolla, 15 Marlan Court, Sea Cliff, New York applied to construct a swimming pool with a side yard setback of 2.91 feet, where a minimum of 15 feet is required pursuant to Village Code §115-12. Premises are designated as Section 21, Block 50, Lot 11 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 structures are maintained in the location as depicted in the plans submitted with the application and all requirements of the building department; (b) the pool shall be provided with a barrier, safety cover or any other required safety feature to prevent unattended access, as required by law, and shall comply with all other safety features applicable to pools, as required by law, and (c) the work is performed, and all approvals obtained, within the timeframe provided in Village Code §138-1304.

## PETROSKE SHORT FORM DECISION

At a meeting of the Board of Appeals of the Village of Sea Cliff, New York, on June 19, 2012, on motion duly made by Mr. Griffin, seconded by Mr. Doherty, 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. Laurie Petroske, 245 Sea Cliff Avenue, Sea Cliff, New York applied to construct a second story terrace over an existing structure, which requires variances of the following Village Code sections: (a) 138-808 to maintain a setback of 1.33 feet, where the minimum setback is 3 feet; (b) 138-811 to permit the building to be maintained 1 foot beyond the side property line, where a minimum setback of 10 feet is required; (c) 138-815 to construct a second story roof terrace with no side yard setback, where a minimum of 10 feet is required, and with a square footage of 718 square feet, where a maximum of 500 square feet is permitted; and (d) 138-816 to maintain a building without the required buffer area. Premises are designated as Section 21, Block 136, Lot 1278 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 structures are maintained in the location as depicted in the plans submitted with the application and all requirements of the building department; (b) the terrace shall be provided with a barrier, safety cover or any other required safety feature to prevent unattended access, as required by law, and shall comply with all other safety features applicable to second story terraces, as required by law, and (c) the work is performed, and all approvals obtained, within the timeframe provided in Village Code §138-1304.