

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

July 17, 2012

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

The meeting was called to order at 8:04 pm.

The Board stated that the application of Rosario and Frances Pizzuto, 298 Prospect Avenue was deemed moot, as the driveway and uncovered patio area are not being counted towards lot coverage. As a result, the lot coverage associated with the driveway and patio construction would be compliant with the lot coverage limitations in the Village Code.

The Board discussed a request from Frank Scavone, 137 Prospect Avenue to modify a condition of the Board's April 17, 2012 determination regarding air conditioner units at the premises. The determination includes a condition that evergreen shrubbery be planted and continually maintained around the unit. Mr. Scavone requested that the planting requirement be modified to permit a 4 foot high lattice panel screen due to limited space to plant shrubbery. Mr. Scavone further indicated that the screen would be painted to match the color scheme of the residence.

The Board opened the public hearing on the application of Jeffrey Piciullo, 188 Maple Avenue, Sea Cliff, New York for variances from the following Village Code sections: (a) 138-405 in that the lot coverage, including the pavement, will be 38.9%, where a maximum of 30% is permitted; (b) 138-408 in that the front yard setback will be 16.2 feet, where a minimum of 20 feet is required; (c) 138-411 to maintain an existing side yard setback of 5.87 feet, where a minimum of 10 feet is required; (d) 138-413.1 in that the addition will encroach into the front yard height/setback plane; and (e) 138-414.1 in that the floor area will be 4,594 square feet, where a maximum of 2,976 square feet is permitted. Premises are designated as Section 21, Block 138, Lot 1152 on the Nassau County Land and Tax Map. The applicant was represented by Denise Bradley, RA. The Board indicated that while the members had inspected the premises, they wanted an additional opportunity to do so in view of the concerns expressed by the neighbors. The hearing was continued to August 14, 2012 at 8:00pm.

The Board opened the public hearing on the application of Barbara Buccola, 22 Highland Avenue, Sea Cliff to demolish an existing entry vestibule and construct a new vestibule with additional space, which requires variances of the following Village Code sections: (a) 138-506 to maintain a front yard on Preston Avenue with a width of 80 feet, where a minimum of 100 feet is required; (b) 138-508 to permit a 21.7 front yard setback, where a minimum of 25 feet is required; (c) 138-511 to maintain a side yard of 10.4 feet, where the minimum required side yard setback is 15 feet; (d) 138-512 to maintain a rear yard setback of 11 feet, where the minimum required yard is 30 feet; (e) 138-513.1 to maintain

a structure that encroaches into the height/ratio setback plane; and (f) 138-517 to permit front steps to be located 17.3 feet from the front property line, where a minimum of 21 feet is required. Premises are designated as Section 21, Block 195, Lot 2 on the Nassau County Land and Tax Map. The Board closed the hearing, and reserved decision.

The Board opened the continued hearing on the application of Kevin and Danielle Feldman, 94 14th 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 closed the hearing, and reserved decision.

The Board opened the public hearing on the application of Arlyn Dimatulac, 69 The Boulevard, Sea Cliff to demolish an existing residence and construct a new residence, which requires variances of the following Village Code sections: (a) 138-505 to permit lot coverage, including paved areas, of 3,721.25 square feet, where a maximum of 3,288 square feet is permitted; (b) 138-506 to maintain front yard widths of 40 and 80 feet, where a minimum of 100 feet is required; (c) 138-509 to maintain a lot width less than permitted at the setback line; (d) 138-512 to permit a rear yard setback of 16.3 feet, where a minimum of 30 feet is required; (e) 138-514.1 to permit a floor area of 3,349 square feet, where the maximum permitted is 2,959.2 square feet; (f) 138-

1007(H) to permit a driveway closer than 4 feet to the property line; and (g) A153-2 to permit a curb cut of 12 feet on Foster Place where the maximum curb cut is 10 feet. Premises are designated as Section 21, Block 197, Lots 8, 17 and 233 on the Nassau County Land and Tax Map. During the hearing, the applicant's representative stated that that the applicant would agree to modify the driveway and curb cut on Foster Place, thus making both of these items compliant and the associated variances required moot. The Board closed the hearing, and reserved decision.

The Board opened the continued 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 continued the hearing to August 14, 2012 at 8:00pm.

The Board discussed the Dimatulac application. After such discussion, on motion duly made by Mr. Griffin, seconded by Mr. Weil, and adopted unanimously, the Board determined that it is the lead agency with respect to environmental review, and granted the application in accordance with the decision annexed hereto.

The Board discussed the Scavone request for a modification of the conditions to the April 17, 2012 approval for 137 Prospect Avenue. After such discussion, on motion duly made by the Chair, seconded by Mr. Griffin, and adopted unanimously, the Board granted the request to amend the decision set forth in the Board's April 17, 2012 to remove the requirement in paragraph 5(b) of that approval and replace with the requirement that the applicant install four foot high lattice panel screen painted to match the color of the residence around the air conditioner condenser unit, as set forth in the attached amended decision.

The Board discussed the Feldman application. After such discussion, on motion duly made by the Chair, seconded by Mr. Kopczynski, and adopted three votes in favor and Mr. Weil abstaining, the Board determined that it is the lead agency with respect to environmental review, and granted the application in accordance with the short form decision annexed hereto.

The Board discussed the Buccola application. After such discussion, on motion duly made by Mr. Weil, seconded by Mr. Kopczynski, and adopted three votes in favor and Mr. Griffin 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 environmental impacts of the 625 Main Street LLC application. After such discussion, the Board adopted the following resolution:

WHEREAS, 625 Main Street LLC has applied to the Board to convert the second story from apartment use to office use and for outdoor storage of 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. The subject property is located at 456 Glen Cove Avenue, Sea Cliff, New York and is designated as Section 21, Block 50, Lot 103 on the Nassau County Land and Tax Map (the "Premises"); and

WHEREAS, pursuant to the New York State Department of Environmental Conservation ("DEC") regulations, Part 617 ("Part 617"), the subject application to utilize a portion of the Premises is an "Unlisted Action" for which this Board determines itself to be lead agency; and

WHEREAS, pursuant to Part 617 and the New York State Environmental Quality Review Act ("SEQRA") this Board, as lead agency, is required to make a determination of environmental significance as to whether the action may include the potential for one or more significant adverse environmental impacts; and

WHEREAS, this Board has reviewed the Environmental Assessment Form as prepared by the applicant, and makes the following findings in support of its determination of significance; and

WHEREAS, this Board has considered carefully all of the documents, testimony and statements that presently comprise the record before this Board in this application with respect to the environmental significance of the application; and

WHEREAS, this Board makes the following findings:

1. The applicant seeks to obtain permission to store heavy equipment outdoors in the front of the Premises. Such storage requires variances of Village Code §§138-901 and 138-902 in that the proposed outdoor storage is not a permitted use or a use permitted by special permit.
2. The Premises are located partially in the Village's Business B District and partially in the Residence C District, and are located on the west side of Glen Cove Avenue. The residential portion of the Premises does not have frontage on any public road. It occupies the rear portion of the Premises, and accounts for approximately 30% of the Premises. The Premises abuts commercial type uses on Glen Cove Avenue and residential uses along the westerly portion of its southerly boundary line (side property line) and its westerly boundary (rear property line).
3. In 1999, a prior owner of the Premises applied for relief to the Board to permit the owner to occupy the Premises as a full service landscaping business and/or permit the use of the easterly portion of the Premises for outside storage of trucks, tools and equipment used in connection with a landscaping business. The Board granted the applicant's request to

continue a non-conforming use at the Premises subject to conditions that limited such use to the use that pre-existed the application. In reaching this conditional approval, the Board found that (a) no part of the landscaping business was run on the Premises other than the storage of landscaping vehicles. The vehicles and the equipment went off the Premises to other properties during the day and came back to be stored at night; (b) there never have been any heavy construction vehicles at the Premises; (c) nothing is stored in the back, residential area of the Premises. All vehicles and equipment are stored in the front; and (d) the landscaping business was usually conducted from Monday through Friday and sometimes on Saturday for half a day.

4. After making such findings, the Board concluded that the Premises may be utilized for the storage of landscaping vehicles and equipment as a lawful non-conforming use, but that such use may not be expanded or altered. To preserve the then-current use and to prevent any extension of the non-conforming use, the Board imposed the following conditions: (a) The property shall be used for the storage of vehicles and equipment used in connection with the landscaping business of the owner of the property. Other than the storage of vehicles, no part of the landscaping business shall be conducted on the premises. The vehicles and the equipment shall go off the premises to other properties to work during the day and shall come back at night to be stored; (b) The westerly boundary of the commercial area shall be at a line shown on the survey filed with the application, such line ranging from approximately 53 feet at the north property line to approximately 70 feet at the southerly end. The area which can be used as a non-conforming use for commercial purposes as a landscaping business shall be limited to the area of the lot located between the stockade fence (representing the line for the commercial area) and Glen Cove Avenue; (c) Not more than 10 pieces of equipment shall be stored on the property. This includes all equipment whether motorized, trailered, or carried on or towed behind other vehicles. The dump trucks shall not be larger than a 6 wheel truck, the backhoe shall be limited in size such that the front loading bucket shall not exceed a capacity of 2.5 cubic yards, and the bobcat, trailers, and other equipment shall be of similar or equivalent size and purpose. In addition, no more than 3 snow plows shall be stored on the premises; (d) No sand, salt, rock, asphalt, railroad ties, cement, shrubbery, fertilizer, lime, insecticide, weed control products, cuttings, branches, wood or other similar equipment, materials, supplies or refuse used or produced in connection with the landscaping business shall be stored on the premises without further application to this Board. Except for the vehicles and equipment permitted, no storage of any type or for any purpose shall be permitted outside on the premises; (e) No heavy construction vehicles shall be parked or stored at the premises. Only vehicles used in a landscaping business and in connection with snow removal in parking lots and driveways, which can be done by pick-up trucks, a pay loader, and a jeep

- shall be permitted; (f) The hedge along the frontage of the property on Glen Cove Avenue shall be maintained. If the hedge is removed, either intentionally or by natural causes, it shall be replaced; (g) No vehicles, equipment, supplies, debris, or any item or material of any kind associated with or resulting from the conduct of the business shall be stored in or on any area of the property located west of the stockade fence line; (h) No other business or commercial activity, including the sale of Christmas trees, shall be conducted on the property; (i) The vehicles shall leave the property at approximately 7-7:45am and return between 5-6pm. The vehicles shall not come and go during the day; (j) The landscaping business shall be conducted Monday through Saturday only; (k) No vehicles or equipment shall be parked or staged on Glen Cove Avenue or any other streets in the vicinity of the property. No vehicles shall idle for more than 5 minutes at a time; (l) The area between the stockade fence and the pool fence shall be retained as a buffer area and shall be developed, improved and maintained with trees, shrubs or other suitable plantings; (m) No lights shall be installed to illuminate the parking area unless approved by the Village Planning Board; (n) No noise, fumes, odor or similar sources of nuisance shall emanate from the premises in such a manner as to be unreasonably annoying to surrounding property owners; (o) All fences, plantings, planted areas and parking 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 intended to be maintained by this decision; and (p) Owner shall execute a deed restriction containing the aforesaid conditions and specifying the extent of the non-conforming use.
5. According to the applicant, none of the proposed use conforms to the use approved in 1999. The applicant now seeks to use the premises to store trucks and similar vehicles at the premises, together with accessories, for a bridge painting business. The vehicles shown by the applicant on the premises all are older vehicles, some of which do not even appear to be registered. The applicant stated that other vehicles that are also used in the business currently are located on a project site and will remain on that site until the project is complete. The applicant also proposes to substantially expand the outdoor storage area such that the area previously improved with a swimming pool will be utilized for heavy equipment storage. Based on the submissions by the applicant, the building and a portion of the storage area are located in the Village's Residence C zoning district. Observations of the premises indicated that the premises are at times in complete disarray with construction equipment and materials related to painting business strewn over parts of the front area of the premises. No buffer areas are proposed by the applicant. Instead, the applicant proposes to utilize the existing fencing and the existing grade of the property to offset the visual impact created by the proposed storage. The applicant also proposes to leave the storage area in its present form and will not pave the area so as to allow

- for a clear demarcation of the proper location and parking of the storage of the vehicles in a neat manner.
6. To legalize the storage use, the applicant requires a use variance. The storage use, which is surrounded partially by residential property, is at odds, and in material conflict, with the objectives and goals as officially adopted in the Village zoning code.
 7. The proposed use has the potential to permanently impair the aesthetic nature of the area, and is inimical to the surrounding area, all of which was part of the plan that the Board in 1999 sought to assure would continue. The expansion of the area of the storage of vehicles, as well as the storage of what appear to be non-street worthy or even operable vehicles, some of which are not currently registered, would exacerbate the impact on the neighborhood. The adverse impact associated with these potentially irreversible changes should be addressed in more detail.
 8. If there is an accident at the premises there could be a release of air contaminants or toxic or hazardous substances or an explosion or fire at the premises. If this were to occur, the proximity of the proposed storage to a residential community would exacerbate the damage caused by such accident. There is insufficient information at this time to know if said adverse effect is addressed or can be mitigated by the applicant.
 9. The storage of vehicles and equipment associated with a painting business, with some vehicles not currently in use, could result in the leakage of painting fluids or other vehicle fluids at a site that does not appear to have proper facilities to accommodate the loss of such fluids. This could not only impact the surface of the premises, but also may possibly impact the surface or groundwater resources and/or the air quality in the area. These potentially adverse impacts must be explored further.
 10. The use of the premises to store vehicles associated with a painting business could result in objectionable odors. This also must be explored further.
 11. The impact of the expansion of the storage area into an area that never has been occupied for industrial or commercial purposes could impact the character of the community. This impact must be explored.

NOW, THEREFORE, BE IT RESOLVED that based upon the foregoing findings of fact, this Board has identified one or more potentially large or significant adverse environmental impacts which may occur; and

BE IT FURTHER RESOLVED that the Board hereby makes a positive determination of environmental significance in accordance with SEQRA and Part 617 for the proposed action, and confirms that an Environmental Impact State (the "EIS") will be required; and

BE IT FURTHER RESOLVED that the Board requests that the Village Clerk or Village Attorney duly file and publish Notice of Positive Declaration pursuant to the provisions of Part 617; and

BE IT FURTHER RESOLVED that the Board has determined to conduct a public scoping process, and that the applicant will prepare and submit a draft written scope of issues to be addressed in the EIS containing at a minimum the items identified in Part 617.8(f)(1) through (5); and

BE IT FURTHER RESOLVED that such draft written scope shall be filed with the Board no later than September 10, 2012 or the application shall be deemed withdrawn without prejudice, but should the applicant require additional time to submit the draft written scope such request shall be made and submitted in writing to the Board for receipt by the Board no later than September 10, 2012; and

BE IT FURTHER RESOLVED that the Board will schedule a public hearing on said scoping document to be held before this Board at the earliest practicable date upon receipt of said draft scoping document.

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

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In the Matter of the Application of

Arlyn Dimatulac

for variances in connection with
premises designated as Section 21,
Block 197, Lots 8, 17 and 233

on the Nassau County Land and Tax Map.

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RESOLVED, upon consideration of the evidence presented at the public hearing held by the Zoning Board of Appeals (the “Board”), all proceedings had herein, all documentation submitted to the Board, following the personal inspection of the subject property by the Board members, and after due deliberation, the Board makes the following findings of fact and decision:

1. This is an application by Arlyn Dimatulac, owner of property located at 69 The Boulevard, Sea Cliff, New York and designated on the Nassau County Land and Tax Map as Section 21, Block 197, Lots 8, 17 and 233 (the “Subject Premises”), to construct a new residence, which requires variances of the following Village Code sections: (a) 138-505 to erect a dwelling with lot coverage of approximately 3,721.25 square feet, where a maximum of 3,288 square feet is permitted; (b) 138-506 to maintain front property lines of 40 feet on Foster Place and 80 feet on The Boulevard, where a minimum of 100 feet is required; (c) 138-509 to erect a dwelling with less than the required lot width at the setback lines; (d) 138-512 to permit a rear yard setback of 16.3 feet, where a minimum of 30 feet is required; (e) 138-514.1 to permit a floor area of 3,349 square feet, where the maximum permitted is 2,959.2 square feet; (f) 138-1007(H) to permit a driveway closer than 4 feet to the property line; and (g) A153-2 to permit a curb cut of 12 feet on Foster Place where the maximum curb cut is 10 feet. The applicant also owns property located east of the Subject Premises, separated by a 10 foot right-of-way, designated on the Nassau County Land and Tax Map as Section 21, Block 197, Lot 239.

2. The applicant purchased the Subject Premises and lot 239 in or about September 2010. Applicant submits that upon acquiring the Subject Premises, applicant believed that she purchased a larger contiguous parcel that encompassed the right-of-way and lot 239. With that knowledge, the applicant then sought to demolish the existing residence on the Subject Premises and construct a new residence. The applicant utilized the land area in the right-of-way and in lot 239 in attempting to plan and design a residence at the Subject Premises. After filing an application with the Village building department, she learned that neither the area in the right-of-way nor lot 239 (a non-contiguous lot) could be utilized for the development of a new residence on the Subject Premises. As became evident from the documentary evidence, the right-of-way was part of a subdivision approval whereby ownership was reserved to the subdivider, and at no time was owned by the applicant. As the right-of-way extends along the entire eastern boundary of the Subject Premises and lot 239 is separated from the Subject Premises by the right-of-way, without title to the right-of-way or any land contiguous with both the Subject Premises and lot 239, lot 239 is a separate parcel for zoning purposes. Thus, no part of lot 239 may be considered to be used for the area and setback calculations applicable to the Subject Premises.

3. The applicant made a prior application to construct a dwelling with greater variances than are proposed in this application. That application required variances for lot coverage (4,414sf proposed, where 3,288sf is the maximum permitted), lot width, side yard setback (0.33 feet, where a minimum of 15 feet is required), height (47.08 feet, where a maximum of 30 feet is permitted), height-setback ratio, floor area (4,684sf,

where a maximum of 2,959.2sf is permitted), and a sub-grade garage. By decision dated February 16, 2012, the Board denied that application.

4. The current application varies substantially from the original application. The side yard setback, height, height-setback ratio and sub-grade garage variances have been eliminated entirely, the lot coverage has been reduced from 4,414sf to 3,721.25sf, and the floor area has been reduced from 4,684sf to 3,349sf. These are substantial reductions. The applicant also now seeks variances in relation to the curb cut and driveway on Foster Place, but, during the presentation, the applicant's representative stated that the plan could be modified to eliminate those variances.

5. After reviewing the application documents, receiving and considering testimony, and inspecting the Subject Premises and the surrounding neighborhood, the Board hereby declares itself to be the lead agency with respect to this application under the State Environmental Quality Review Act (SEQRA) and determines that the proposed action requested under this application is a Type II Action under SEQRA and requires no further environmental review. Prior to the public hearing, the Board notified the Nassau County Planning Commission in accordance with the streamlining agreement with the Village, and no response has been received from the Planning Commission. Accordingly, the Board may take such action on this application as the Board deems appropriate.

6. In rendering its determination, the Board has considered the testimony and the documentary evidence submitted with the application and at the public hearing, and has observed the neighborhood where the residence is proposed. The Board

considered these items in relation to the considerations required in Village Law §7-712-b(3).

7. The variances sought are area variances. In determining whether to grant an area variance, as required by Village Law §7-712-b(3), 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.

8. The Board grants the proposed variances for a new residence. In reaching this conclusion, the Board has considered each of the factors set forth in Village Law §7-712-b-3.

9. The Board finds that the proposed residence, and the reduced variances required to develop the proposed residence, would not create an undesirable change in the

neighborhood character, a detriment to nearby properties or a detriment to the Village in general. The residence requires variances to permit lot coverage that exceeds the permitted lot coverage by 433.25 square feet. Of the total lot coverage of 3,721 square feet, the building footprint covers only 2,252 square feet. As the building department now views uncovered at-grade driveway and walkway areas as excluded from lot coverage and a substantial portion of the proposed lot coverage is based on such excluded areas, the lot coverage now is either compliant or much less than the 3,721 square feet identified in the application. The residence also requires a variance to permit floor area 390 square feet more than permitted. As to the rear yard setback, the residence is proposed to align with the neighboring property. Moreover, approximately 8 linear feet of the residence will appear to be at or below grade from the rear property line and the proximity of the portion of the residence that sits at a higher level closest to the rear lot line will be approximately 24 feet from that property line. The applicant agreed to eliminate the curb cut and driveway related variances. In view of the topography of the property, the location of the dwelling in relation to the adjoining 10 foot right-of-way, the existence of property owned by the applicant adjoining the right-of-way that, while not included in the overall calculations, provides an appearance that reduces the impact of the variances, and the minimization of the variances necessary, the Board finds that there will be a limited detriment to the neighborhood. The dwelling will be larger than the existing dwelling, but unlike the previous application, it will not be imposing. In addition, while the Board recognizes that the residents on Foster Place and other upland areas are not entitled to a vista or visual easement to see the water, the applicant has reduced the size and bulk of the house in a way that it is built more into the cliff and not in a manner that

would obstruct the viewpoints of Foster Place in a substantial way. Instead, the design appears to be considerate of the charm of the bluff overlooking the Harbor and prevalent in Sea Cliff.

10. The Board does recognize that the rear yard setback encroaches 13.7 feet into the rear yard setback, but it also was demonstrated that approximately 8 feet of that encroachment will be located in such a manner that it appears to be below or at grade, and also aligns with the neighboring rear building line. Under such circumstances, there will be no detriment to the neighborhood.

11. The Board also finds that the requested variances, individually and when considered in relation to the neighborhood, are minimal. 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, but also has reviewed them individually. For the reasons discussed above, when considered in view of the neighborhood setting, the variances to permit a lot coverage variation (which has been minimized or eliminated), the floor area variation and the rear yard variation, as well as the variances for existing property conditions, have no real detrimental impact on the neighborhood.

12. As to whether there are any feasible alternatives for the applicant to pursue, the Board finds that the applicant could have submitted plans that depict a residence compliant with zoning regulations, but that the proposed residence mitigates the extent of the variances requested in the prior application.

13. As to whether the proposed variances will have an adverse impact on the physical or environmental conditions in the neighborhood, the Board finds, for the reasons set forth above, that there will not be such an adverse impact.

14. As to the self-created hardship, the Board finds that the proposed variances are self-created. The applicant has chosen to submit plans that show a house non-compliant with the zoning requirements. That is her choice. Notwithstanding that the Board finds the hardship to be self-created, the Board would grant the variances based on its consideration of the other factors set forth above.

15. For the foregoing reasons, the Board finds that the benefit to the applicant outweighs any purported detriment to the neighborhood, and grants the application in its entirety, subject to the compliant modification of the driveway and curb cut on Foster Place.

SCAVONE SHORT FORM DECISION

At a meeting of the Board of Appeals of the Village of Sea Cliff, New York, on July 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. 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 unit 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 install and maintain a 4 foot high painted lattice panel with painted posts surrounding the air conditioner unit so as to completely screen the unit from view from the public and the neighboring property and to reduce any noise emanating from the unit, as depicted in the sketch entitled "F. Scavone 137 Prospect Ave Proposed Alternative to Short Form Decision" dated 7/1/2012, which was filed with the Building Department, (c) and all approvals for the units be obtained within the timeframe provided in Village Code §138-1304.

FELDMAN SHORT FORM DECISION

At a meeting of the Board of Appeals of the Village of Sea Cliff, New York, on July 17, 2012, on motion duly made by the Chair, seconded by Mr. Kopczynski, and adopted three votes in favor and Mr. Weil 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. Kevin and Danielle Feldman, 94 14th Avenue, Sea Cliff, New York applied 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.
2. The applicants are the record owners 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.
6. The relief requested in the application is granted provided that (a) the construction is performed in accordance 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.

BUCCOLA SHORT FORM DECISION

At a meeting of the Board of Appeals of the Village of Sea Cliff, New York, on July 17, 2012, on motion duly made by Mr. Weil, seconded by Mr. Kopczynski, and adopted three votes in favor and Mr. Griffin 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. Barbara Buccola, 22 Highland Avenue, Sea Cliff applied to demolish an existing entry vestibule and construct a new vestibule with additional space, which requires variances of the following Village Code sections: (a) 138-506 to maintain a front yard on Preston Avenue with a width of 80 feet, where a minimum of 100 feet is required; (b) 138-508 to permit a 21.7 front yard setback, where a minimum of 25 feet is required; (c) 138-511 to maintain a side yard of 10.4 feet, where the minimum required side yard setback is 15 feet; (d) 138-512 to maintain a rear yard setback of 11 feet, where the minimum required yard is 30 feet; (e) 138-513.1 to maintain a structure that encroaches into the height/ratio setback plane; and (f) 138-517 to permit front steps to be located 17.3 feet from the front property line, where a minimum of 21 feet is required. Premises are designated as Section 21, Block 195, Lot 2 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 proposed construction shall comply 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.

