

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

September 11, 2012

Present:	Chair	Kevin McGilloway
	Members	Dina Epstein
		Noel Griffin
		Ted Kopczynski
		Jamie Weil
	Village Attorney	Brian Stolar

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

The Board acknowledged the receipt of a letter from Donna Stanco on behalf of 625 Main Street, LLC seeking additional time to submit a draft scoping document. The Board discussed the request. On motion duly made by the Chair, seconded by Mr. Griffin, and adopted with four votes in favor (Mr. Weil arrived at the meeting at the conclusion of the discussion of this item, and did not participate in the vote), the Board granted the request and extended the time to file the draft scope to October 16, 2012. The Board also continued the public hearing on the 625 Main Street, LLC application to October 23, 2012 at 8:00pm.

The Board discussed the application of Jeffrey Piciullo. The Board had closed the public hearing on August 14, 2012. Ms. Epstein acknowledged that she had reviewed the July hearing transcript, the file on the application and previously had observed the premises, and confirmed that she had thus become familiar with the application in its entirety and able to participate in the discussion and vote on the application. After such discussion, Mr. Griffin moved that the application be granted. Mr. Weil seconded the motion, and Mr. Griffin and Mr. Weil voted in favor of the motion. The Chair, Ms. Epstein and Mr. Kopczynski voted against the motion. After

such vote concluded, on motion duly made by the Chair, seconded by Mr. Kopczynski, and adopted three votes in favor and Mr. Griffin and Mr. Weil opposed, the Board determined that the application is a Type II matter under SEQRA, it is the lead agency with respect to environmental review, and no further environmental review is required, and denied the application in accordance with the decision annexed hereto.

The Board discussed general zoning matters.

There being no further business, the meeting was adjourned at 8:45 pm.

DECISION

At a meeting of the Board of Appeals of the Village of Sea Cliff, New York, on September 11, 2012, on motion of the Chair, seconded by Mr. Kopczynski, and adopted three votes in favor and Mr. Griffin and Mr. Weil 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 determination:

1. Jeffrey Piciullo, 188 Maple Avenue, Sea Cliff, New York applied 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 "Premises").
2. The applicant is the record owner of the Premises.
3. The Premises is located in the Residence A zoning district. It has 2 street frontages, and is bordered by 12th Avenue to the north and Maple Avenue to the south. The house is configured such that the length of the house runs north to south (or south to north), which gives it the appearance that it is sideways on the lot. There is a detached garage currently located on the northeast corner of the Premises. The applicant proposes to remove the detached garage and add an attached garage to the northern portion of the dwelling. The applicant also proposes a second story above the proposed garage for use as a bedroom.
4. Neighbors expressed their views about the proposed addition. The neighbor located at 182 Maple Avenue, whose property is immediately east of the Premises and whose residence is situated towards the southern end of the adjoining property, expressed concerns related to the impact to her winter waterview. It was contended by this neighbor that there presently exists a view to Hempstead Harbor between the house and the detached garage on the Premises.
5. In an attempt to mitigate the concerns expressed by the neighbors, the applicant's representative Denise Bradley, AIA proposed a slight modification of the addition that would reduce its height by approximately 2.6 feet, remove a 1 foot portion of the northerly addition, and move the addition 4 feet west.

6. Based on recent clarifications of the Village Code and of interpretations of the building department, it was determined that the paved surfaces on the property would not count towards lot coverage. Thus, the lot coverage was reduced to approximately 31.25% (where not more than 30% was permitted). It also was determined that the cellar area (an approximate 634 square foot reduction) would not count towards floor area. The floor area calculation was further reduced due to the modification that eliminated approximately 168 square feet. Accordingly, the total floor area as proposed (and based on the applicant's presentation and plans) is approximately 3,792 square feet (2,975 square feet is permitted), resulting in a floor area encroachment of approximately 27.5%. Additionally, the height-setback encroachment was reduced by approximately 1 linear foot based on the removal of a 1 foot portion of the northerly addition. Likewise, a portion of the height-setback encroachment was also reduced upon the height reduction of the addition.
7. The applicant had placed a wood structure on the Premises to represent the approximate northeast corner of the addition. It was extended skyward to a height that reflected the original proposed height of the addition. The Board members are familiar with the neighborhood and the immediate area, and also observed the structure placed on the Premises by the applicant.
8. The applicants' representative testified that the removal of the garage and placement of the garage as the lower level of a 2 story addition to the house would improve visibility for adjoining neighbors. The Board does not concur with this assessment, and as addressed herein, finds that the addition makes the dwelling appear extremely long and massive. The Board also finds that the reduction of the length by only one foot, the height by 2.6 feet and the 4 foot offset towards the west do little to this impact.
9. 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.

10. For the reasons set forth herein, the Board finds and concludes that the variances should be denied. In reaching this conclusion, the Board has considered each of the relevant statutory factors.
11. 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 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 homes, regardless of the configuration of the residence that exceeded the permitted floor area by 27.5% where a portion of the top of the residence encroaches into a front height-setback ratio. The house runs from north to south, and the addition to the north will create a 2 story house that is more than 80 feet long. It already encroaches into the southerly front yard setback and comes within 3 feet of the northerly front yard setback. The Board is not aware of any house in the immediate neighborhood that has so much length. This length, which is exacerbated by the 2 story height throughout, is an anomaly in the neighborhood. Moreover, by placing the addition to the north of the house, and eliminating a previous open area, further restricts the open feel of the neighborhood. The dwelling is already long and large, and the addition causes further detriment on the neighborhood. Further, the proposed covered patio, while not substantial by itself, when combined with the complete addition, the overall changes to the building are not in conformity with the area. The floor area and height/setback variances combined would result in a detriment to the nearby properties.
12. The Board finds that the requested variances 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. The floor area overage is substantial in and of itself. Adding the minor front yard height setback variance and minor lot coverage increase, together with the existing non-conforming side and front yard setbacks, creates an even more substantial variance.
13. The applicant failed to pursue any feasible alternative. The applicant informed the Village that the creation of an additional bedroom in a different location in the house or in a different location on the property would result in an ill-conceived building configuration not in keeping with

the architectural integrity the applicant seeks. The Board finds that the applicant could have constructed additions to the residence that would have been compliant with, or more compliant with, the proposed additions. While such additions may limit the usability of other portions of the property, doing so would have limited the massive length of the house.

14. 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. The proposed variances will result in a very long house that creates a walled effect that impacts the enjoyment of the properties to the east of the Premises and are completely at odds with the zoning limitations.
15. 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.
16. For the foregoing reasons, the relief requested in this application is denied in its entirety.

Respectfully submitted,
