

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

September 16, 2014

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

The meeting was called to order at 8:08 pm.

The Board opened the public hearing on the application of Rachel Gonzalez and Gerard Camarano, 21 Laurel Avenue, Sea Cliff to construct a second floor addition, which construction requires variances of the following Village Code sections: (a) 138-506 to maintain a front property line length of 75 feet, where a minimum of 100 feet is required; (b) 138-507 to maintain a lot width of 75 feet, where a minimum of 100 feet is required; (c) 138-509 to maintain a lot width at the setback line of 75 feet, where a minimum of 100 feet is required; (d) 138-511 to maintain side yard setbacks of 9.5 and 12.8 feet, where the minimum required setback is 15 feet; (e) 138-513.1 in that the construction will encroach into the height-setback ratio plane, where no such encroachment is permitted; and (f) 138-1102 in that the addition will increase a non-conformity, where no such increase is permitted. Premises are designated as Section 21, Block K, Lot 4 on the Nassau County Land and Tax Map. The applicants were represented by John Canning, Esq. At the Board's July meeting, the applicants indicated that they would submit documentation concerning ownership of the premises.

The applicants presented to the Board some documentation relating to ownership, but the dates on the documents did not match and there was no document that contained evidence demonstrating that a deed conveying the property to the applicants was filed with the Nassau County Clerk. The applicant's representative stated that they would research the ownership issue. The Board continued the public hearing to October 21, 2014 at 8:00pm.

The Board noted that Jackie Nathel, 94 Glenlawn Avenue, Sea Cliff requested that her hearing to modify the conditions of an approval granted previously by the Board be adjourned to the next meeting due to a school related conflict. The Board continued the Nathel public hearing to October 21, 2014 at 8:00pm.

The Board opened the public hearing on the application of Mariela Novikov, 25 Glen Avenue, Sea Cliff, to construct a single story rear addition, which construction requires variances of the following Village Code provisions: (a) 138-506 to maintain a front line length of 75 feet, where the minimum required length is 100 feet; (b) 138-507 to maintain a lot width of 75 feet, where the minimum required is 90 feet; (c) 138-509 to maintain a lot width at the setback line of 75 feet, where the minimum required is 100 feet; (d) 138-511 to maintain a side yard setback of 9.45 feet, where the minimum required setback is 15 feet; (e) 138-513 to maintain a height of 30.5 feet, where the maximum permitted height is 30 feet; (f) 138-511 to create a side yard setback of 9.8 feet, where the minimum required is 15 feet; and (g) 138-1102 to increase a non-conformity, where no such increase is permitted. Premises are designated as Section 21, Block 99, Lot 161 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 Noah Blumenthal, 125 Sea Cliff Avenue, New York to install a generator in a side yard, which would require variances of Village Code §§138-516 and 517 in that the generator will be located 6.5

feet from the side property line, where a minimum of 11 feet is required. Premises are designated as Section 21, Block 94, Lot 13 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 Il Villaggio, 227 Sea Cliff Avenue, Sea Cliff to modify a special use permit for a restaurant. Premises are designated as Section 21, Block 136, Lot 327 on the Nassau County Land and Tax Map. The applicant stated that the proposed hours of operation would be modified to 6:00am to 2:00am daily, and that in all other respects they were not seeking to change any fo the conditions of the existing special permit. The Board closed the hearing, and reserved decision.

The Board discussed the Il Villaggio application to modify special permit conditions. On motion duly made by Mr. Toner, seconded by Mr. Kopszynski, and adopted unanimously, the Board determined that the Il Villaggio 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 Blumenthal application. On motion duly made by the Chair, seconded by Mr. Toner, and adopted unanimously, the Board determined that the Blumenthal 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 Novikov application. On motion duly made by Mr. Toner, seconded by Mr. Kopszynski, and adopted unanimously, the Board determined that the Novikov 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 Young application, which hearing had been closed previously by the Board. The Chair moved to grant the application on the condition that there be no bathroom, heating or cooking facilities. There was no second to the motion. On motion duly made by Mr. Griffin, seconded by Mr. Toner, and adopted four votes in favor and the Chair opposed, the Board determined that the Young 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 Vira application. The Chair, who had recused herself, did not participate in the deliberations on the application. On motion duly made by Mr. Toner, seconded by Mr. Griffin, and the Chair abstaining, the Board determined that the Vira application is a Type II matter under SEQRA which requires no further environmental review and denied the application in accordance with the decision annexed hereto.

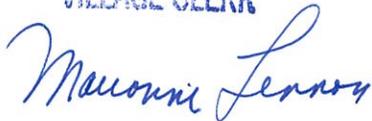
There being no further business, the meeting was adjourned at 10:10 pm.


DINA EPSTEIN, CHAIR

VILLAGE OF SEA CLIFF, NY

OCT - 9 2014

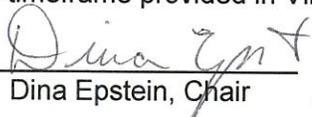
VILLAGE CLERK

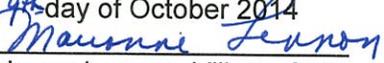


IL VILLAGGIO SHORT FORM DECISION
(as authorized by Village Code §138-1302.1)

At a meeting of the Board of Appeals of the Village of Sea Cliff, New York, on September 16, 2014, on motion of Mr. Toner, 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. Il Villaggio applied to modify a special permit to extend restaurant operating hours at its restaurant located at 227 Sea Cliff Avenue. Premises are designated as Section 21, Block 136, Lot 327 on the Nassau County Land and Tax Map.
2. In March 2005, the Board granted a special permit for a 3 year period. As proposed by the applicants and accepted by the Board, the special permit was conditioned on the restaurant being open until 10:00pm from Sunday through Thursday, and 11:00pm on Friday and Saturday. In January 2009, the Board granted an extension of the special permit for a new 3 year term ending on January 28, 2012. On April 16, 2013, the Board again granted a new extension of the special permit for a period of three years, and that special permit remains valid until June 10, 2016. The current special permit is subject to the same conditions, including hours of operation, as the original permit issued in March 2005. The applicant is the record owner of the subject premises.
3. The applicant now seeks to modify the existing special permit to extend the hours of operation from 6:00am to 2:00am daily to operate a full service restaurant at the premises. According to the applicant, the new restaurant will function in a manner similar to many existing pizzeria restaurants, as there will be a section primarily for pizza and a second section designated for the restaurant. The same on-site facilities and cooking equipment will be used by both uses.
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 conditions of the special permit issued in March 2005, extended in January 2009 and again in April 2013 shall remain in full force, except that the hours of operation shall be permitted to be 6:00am to 2:00am daily for the remaining term of the special permit; (b) the special permit remains in effect through June 10, 2016; and (c) any permits required to be obtained by the applicant to perform work to construct a restaurant with a pizzeria are subject to the timeframe provided in Village Code §138-1304.

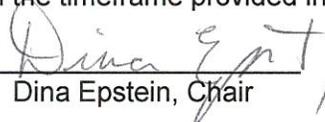

Dina Epstein, Chair

Filed in the Office of the Village Clerk
the 9th day of October 2014

Marianne Lennon, Village Clerk

BLUMENTHAL 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 September 16, 2014, on motion of the Chair, seconded by Mr. Toner, 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. Noah Blumenthal, 125 Sea Cliff Avenue, New York applied to install a generator in a side yard, which would require variances of Village Code §§138-516 and 517 in that the generator will be located 6.5 feet from the side property line, where a minimum of 11 feet is required. Premises are designated as Section 21, Block 94, Lot 13 on the Nassau County Land and Tax Map.
2. The applicant is the owner of the subject premises. The generator is intended to be used for emergency purposes only.
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, (b) the generator shall be used only for emergency purposes, and (c) all work is performed, and all approvals obtained, within the timeframe provided in Village Code §138-1304.


Dina Epstein, Chair

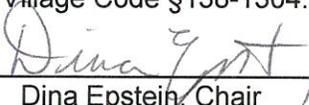
Filed in the Office of the Village Clerk
the 9th day of October 2014


Marianne Lennon, Village Clerk

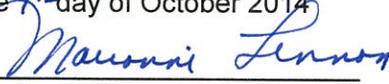
NOVIKOV SHORT FORM DECISION
(as authorized by Village Code §138-1302.1)

At a meeting of the Board of Appeals of the Village of Sea Cliff, New York, on September 16, 2014, on motion of Mr. Toner, 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. Mariela Novikov, 25 Glen Avenue, Sea Cliff, applied to construct a single story rear addition, which construction requires variances of the following Village Code provisions: (a) 138-506 to maintain a front line length of 75 feet, where the minimum required length is 100 feet; (b) 138-507 to maintain a lot width of 75 feet, where the minimum required is 90 feet; (c) 138-509 to maintain a lot width at the setback line of 75 feet, where the minimum required is 100 feet; (d) 138-511 to maintain a side yard setback of 9.45 feet, where the minimum required setback is 15 feet; (e) 138-513 to maintain a height of 30.5 feet, where the maximum permitted height is 30 feet; (f) 138-511 to create a side yard setback of 9.8 feet, where the minimum required is 15 feet; and (g) 138-1102 to increase a non-conformity, where no such increase is permitted. Premises are designated as Section 21, Block 99, Lot 161 on the Nassau County Land and Tax Map.
2. The applicant is the owner of the subject premises. The single story addition parallels the existing side building line of the residence.
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, (b) no second story shall be constructed above the portion of the addition that encroaches into the required 15 foot yard setback, and the Board would not have granted any relief for a second story; and (c) all work is performed, and all approvals obtained, within the timeframe provided in Village Code §138-1304.


Dina Epstein, Chair

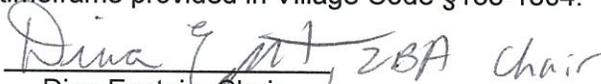
Filed in the Office of the Village Clerk
the ^{9th} day of October 2014


Marianne Lennon, Village Clerk

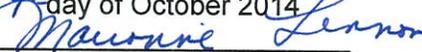
YOUNG SHORT FORM DECISION
(as authorized by Village Code §138-1302.1)

At a meeting of the Board of Appeals of the Village of Sea Cliff, New York, on September 16, 2014, on motion of Mr. Griffin, seconded by Mr. Toner, and adopted four votes in favor and the Chair 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. Cynthia Young, 22 Bathway Steps, Sea Cliff, New York applied 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.
2. The applicant is the owner of the subject premises. The applicant withdrew that portion of the application seeking full bathroom facilities in the accessory structure, and specifically eliminating the shower or bathtub from the proposal. The applicant indicated that there is no heat in the structure and agreed to not provide heat to the structure.
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, (b) the accessory structure shall contain no showering or bathing facilities, except a toilet and sink, and shall not be provided with heat; and (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 9th day of October 2014


Marianne Lennon, Village Clerk

ZONING BOARD OF APPEALS
VILLAGE OF SEA CLIFF

-----X
In the Matter of the Application of

Manish and Pooja Vira

for variances to permit the reconstruction
of a residence

-----X

STATEMENT

This is an application by Manish and Pooja Vira, 328 Carpenter Avenue, Sea Cliff, New York to reconstruct a residence, which construction requires variances of the following Village Code sections: (a) 138-513 to maintain a height of 38.6 feet where a maximum of 30 feet is permitted; (b) 138-514.1 to increase the floor area to 5,688 square feet, where a maximum of 4,389 square feet is permitted; and (c) 138-516 to maintain a side yard setback of 12.9 feet, where a minimum of 15 feet is required. Premises are designated as Section 21, Block 60, Lot 256 on the Nassau County Land and Tax Map.

On motion duly made by Mr. Toner, seconded by Mr. Griffin, and adopted four votes in favor and the Chair abstaining and not participating, Board made the following determination:

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

FINDINGS OF FACT

1. The subject property is located at 328 Carpenter Avenue, Sea Cliff, and is designated as Section 21, Block 60, Lot 256 on the Nassau County Land and Tax Map (the "Premises"). The Premises is located in the Residence B zoning district in the Village of Sea Cliff (the "Village").

2. The Premises is an interior lot with frontage on Carpenter Avenue. The Premises is 23,100 square feet. As demonstrated by the applicant's architect, the existing floor area is 4,967.1 square feet, which is 578.1 square feet in excess of the permitted floor area of 4,389 square feet. The existing height of the residence is 38.6 feet, which exceeds the maximum permitted height by 8.6 feet (30 feet permitted). The Property is 110 feet wide and has a depth of 210 feet. The Property contains a principal dwelling and a 2 car garage detached from, and behind and north of, the existing dwelling. The garage is located only 12.9 feet from the side property line, where a minimum of 15 feet is required.

3. The applicants propose to construct various additions to the residence and to construct a connection between the dwelling and the garage. Among the modifications are the construction of a covered front porch 12 feet deep and approximately 38 feet long, a 1 story and partial 2 story addition in the rear of the house and extending to the rear of the property and towards the rear of the existing detached garage, a 1 story addition, approximately 20 feet in height, connecting the dwelling to the garage, and a bay window style addition on the south side of the residence.

4. As a result of the proposed modifications, the proposed floor area would be 5,688.4 square feet, which is 1,299.4 square feet in excess of the

permitted square footage. This excess is approximately 30% more than the permitted square footage. The applicants did not provide the Board with any documentation or testimony of any properties in the neighborhood with a similar variation.

5. The Premises has a width of 110 feet, which is consistent with the required minimum linear footage. The depth of the property is 210 feet, which is deeper than many of the properties in the neighborhood. However, as discussed further herein, the proposed changes impact the mass and bulk of the dwelling from the perspective of the public along Carpenter Avenue and the neighboring properties along Carpenter Avenue. None of the proposed revisions result in an encroachment into the rear yard setback area so the excessive depth of the property has no practical impact on the substantiality of the proposed building modifications.

6. In reaching the findings and conclusions herein, the Board has considered the testimony, both written and oral, and applied its observations and knowledge of the community and the Premises to the submitted testimony.

7. The variances are area variances. In determining whether to grant an area variance, the Board shall take into consideration 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. For the reasons set forth herein, the Board finds and concludes that the area variances are denied. In reaching this conclusion, the Board has considered the relevant statutory factors in relation to the variances.

9. With regard to whether the proposed area 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 dwelling has an existing height of 38.6 feet, which is imposing even before the proposed modifications. While the house peaks at a height of 38.6 feet, the majority of the top of the roof line, which runs parallel to Carpenter Avenue, is more than 35 feet high. Presently, there is open space between the dwelling and the garage. There is no lower roof line above the

existing front concrete patio running the width of the residence. The proposal would eliminate the open space between the house and garage and replace it with a closed structure with a height of approximately 20 feet (as reflected in the elevational drawings submitted with the application), which is several feet higher than the peak of the existing garage. The proposal also would create a residence that is only 12.9 feet from the side property line. As a stand-alone, detached garage, that setback variation is minimal, but the proposal, in creating a connection with a substantial roof, presents as a more substantial encroachment. The addition of a 12 foot deep covered porch with a roof line running across the entire width of the residence also adds to the mass of the proposal. As proposed, the Board finds that these changes would produce an undesirable change in the character of the neighborhood. No testimony was presented showing any residence to have similar impacts or circumstances. While there has been recent construction in the neighborhood, there was no presentation by the applicants that any of those properties contain a mass similar to the proposal with a floor area increase of nearly 30%, a residence on a 110 foot wide property that now has an effective width of more than 60 feet with a new 20 foot high addition eliminating open space, and a 12 foot deep roofed porch. As proposed, the residence would be completely out of character with the neighborhood. None of the properties along Carpenter Avenue in the vicinity of the Premises suffers from the same multiple zoning deficiencies. The zoning restrictions applicable to properties in the Residence B zoning district seek to effectuate the spacious character of the neighborhood. The proposal, on the other hand, would

create a massive structure not consistent with the rationale for the density restrictions in the Village Code.

10. The Board finds that the requested variances, when considered in relation to the existing conditions, are substantial. In reaching this conclusion, the Board is mindful that substantiality cannot be viewed solely in the abstract based on the numerical variation, but rather must encompass the entire proposal and the impact on the neighborhood, the neighboring properties, and the public. As discussed previously, the height of the existing residence creates a massive structure. That massiveness is exacerbated by the addition of a closed structure connecting the garage to the house, at a height of approximately 20 feet. The mass becomes even more substantial as the house now creates a visual perspective that reduces the side property line width to 12.9 feet, where 15 feet is required. As a detached garage, the side yard setback is minimal. However, given that the new roof will not only be placed above the addition, but also will extend over half of the garage, the setback becomes substantial. Thus, in addition to creating a floor area that is 30% greater than permitted (a substantial variation by itself), the visual appearance of the changes would create an enormous impact. Further exacerbating the excessive bulk, the applicants propose a 12 foot deep roofed porch. While the Board views the addition of a front porch as an aesthetically pleasing modification, the depth is substantial. An 8 foot deep front porch, which would be excluded from floor area, would provide the applicants with the benefit that they seek and would not be counted towards floor area.

11. For the reasons stated in the preceding paragraph, the combined impact of the variances on the applicants' Premises combined with the existing height of the dwelling creates a tremendous substantiality.

12. As to whether there are any feasible alternatives for the applicants to pursue, the applicants repeatedly stated that they could modify the interior of the dwelling and the garage to eliminate portions of the dwelling counted towards floor area. According to the applicants' representative, these modifications could reduce the proposed floor area by 533 square feet. However, the applicants also indicated that if those conditions were eliminated and there was no proposed addition to the residence, the existing house still would exceed the permitted floor area by 64 square feet. Thus, it does not appear that the applicants could achieve the benefit that they seek without requiring a variance of the floor area provisions. If the applicants did not connect the house to the garage, there would be no need for a variance to create a side yard setback from the house to the side property line. Thus, while there does not appear to be a feasible alternative to pursue to eliminate the floor area variance (short of removing certain elements that create the existing excess floor area), there does appear to be an alternative that will eliminate the side yard setback variance from the house to the side property line.

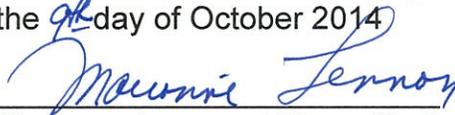
13. As to whether the proposed variances will have an adverse impact on the physical or environmental conditions in the neighborhood, the Board finds that there will be such an adverse impact. The rationale of the Village's zoning plan is to create conformance with standards relevant to the Village and the

zoning districts within the Village. For the reasons identified above, the proposed variances are completely at odds with those requirements.

14. As to the self-created hardship, the Board finds that the proposed variances are self-created. The applicants purchased the property with actual or constructive knowledge of the existing zoning limitations and that any addition to the floor area would result in a need to apply for a variance. Despite this knowledge, the applicants decided to propose additions to the residence. It is evident that the hardship is self-created. Notwithstanding such finding, the Board would deny the variances based on its consideration of the other factors set forth above.

15. For the foregoing reasons, the Board denies the area variances.

Filed in the Office of the Village Clerk
the 9th day of October 2014


Marianne Lennon, Village Clerk

