

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

October 15, 2013

Present:	Chair	Dina Epstein
	Members	Kevin McGilloway
		Ted Kopczynski
		Noel Griffin
		Jamie Weil
Alternate		
Member	James Toner, Esq.	
Village Attorney	Brian S. Stolar, Esq.	

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

The Board opened the public hearing on the application of Russell Charno, 91 Roslyn Avenue, Sea Cliff, New York for (a) a special use permit pursuant to Village Code §138-401 to permit a portion of a single family residence to be used as a home office for use as a chiropractic office, and (b) a variance of Village Code §138-1002 to provide for one (1) off-street parking space where a minimum of four (4) spaces are required. Premises are designated as Section 21, Block 149, Lot 733 on the Nassau County Land and Tax Map. Mr. Toner did not participate in this application. The Board closed the hearing, and reserved decision.

The Board discussed the Charno application. On motion duly made by the Chair, seconded by Mr. Weil, and adopted unanimously, with Mr. Toner not participating, the Board determined that the Charno application is a Type II matter under SEQRA which requires no further environmental review and

that the application for a variance is granted in accordance with the decision annexed hereto.

The Board opened the continued hearing on the application of Peggy Neice, 36 14<sup>th</sup> Avenue, Sea Cliff to construct additions to a residence and convert an existing single family residence to a two family residence to be used as a mother/daughter type residence, which requires variances of the following Village Code sections to maintain existing conditions: (a) 138-404 to maintain a lot size of 4,800 square feet, where a minimum of 7,500 square feet is required; (b) 138-406 to maintain front property lines of 40 feet, where a minimum of 75 feet is required; (c) 138-408 to maintain a setback of 6.7 feet, where the minimum required setback is 20 feet; (d) 138-409 to maintain two lot widths at the front yard setbacks of 40 feet, where the minimum required width is 75 feet; and (e) 138-411 to maintain side yard setbacks of 6.5 and 9 feet, where the minimum required setback is 10 feet. The proposed construction also requires variances of the following Village Code sections: (a) 138-401 and 415 to permit a two family residence where no such use is permitted; (b) 138-411 in that the additions will be located 6.5 feet from the side property line, where a minimum of 10 feet is required; and (c) 138-413.1 in that the additions will encroach further into the existing non-conforming height-setback ratios. Premises are designated as Section 21, Block 134, Lot 1088 on the Nassau County Land and Tax Map. The applicant's representative indicated that he would provide the Village with proposed conditions for the proposed use. The Board closed the public hearing, and reserved decision. Mr. Weil did not participate in this application, and Mr.

Toner participated in the application. The Board closed the public hearing, and reserved decision.

The Board discussed a request by AHRC, as tenant of property owned by St. Boniface Martyr, 12 Main Avenue, Sea Cliff, New York to continue to utilize the basement at the premises for a private school, as authorized previously by the Board of Appeals on September 24, 2002, and on September 16, 2008, which use requires (a) a special permit pursuant to Village Code §§138-401, 501 and (b) variances of Village Code §138-1002(H) and (R) in relation to the on-site parking spaces provided. Mr. Weil did not participate in this application, having been excused from the meeting after the Charno application. In accordance with the terms of the 2008 approval, the variance and special permit are to expire five years after the 2008 determination was filed with the Village Clerk. AHRC now seeks to extend that time period. The Board is aware neither any complaints concerning the use nor of any changed circumstances that would impact the use. On motion duly made by Mr. McGilloway, seconded by Mr. Toner, and adopted unanimously, the Board agreed to waive a public hearing and granted the extension for a period of 5 additional years subject to the terms of the September 16, 2008 and September 24, 2002 decisions and in accordance with the short form decision annexed hereto.

There being no further business, the meeting was adjourned at 9:30 pm.

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DINA EPSTEIN, CHAIR

## CHARNO DECISION

At a meeting of the Board of Appeals of the Village of Sea Cliff, New York, on October 15, 2013, on motion of the Chair, seconded by Mr. Weil, and adopted unanimously, the Board, having duly considered the matters brought forth at the public hearing and other matters properly within the consideration of this Board and discussed the subject application, rendered the following determination:

1. Russell Charno, 91 Roslyn Avenue, Sea Cliff, New York applied for (a) a special use permit pursuant to Village Code §138-401 to permit a portion of a single family residence to be used as a home office for use as a chiropractic office, and (b) a variance of Village Code §138-1002 to provide for one (1) off-street parking space where a minimum of four (4) spaces are required. Premises are designated as Section 21, Block 149, Lot 733 on the Nassau County Land and Tax Map.
2. The applicant is the record owner of the subject premises.
3. The premises are located in the Residence A zoning district, and consist of a single family home, a portion of which is proposed to be used in connection with the applicant's chiropractic business.
4. The Action is classified as a Type II action under SEQRA, which requires no environmental review.
5. Pursuant to Section 239-m of the General Municipal Law and the streamlining agreement between the County and the Village, notice of the application has been given to the Nassau County Planning Commission and the Commission has not requested a full review of the application.
6. The applicant testified that he seeks approval so that he could see patients on Monday through Thursday from 9am to 7pm, Fridays and Saturdays from 9am to 12pm, and for emergency only appointments on Sunday. The applicant further testified that he sees only one patient at a time, and that appointments generally last up to one hour. The applicant employs no employees. The applicant sees up to 8 patients per day on Mondays through Thursdays. There is sufficient parking on-site for the patients and the residents of the dwelling. There was no evidence that the use of the premises would create any negative impact upon the community or that any conditions had changed since the prior approval.
7. Although the proposed professional use of the premises appears appropriate, an over-intensification of the property resulting from an expansion of the use, insufficient parking, or other factors, could result in significant adverse impacts on the adjacent and nearby property owners.

One specific concern is the effects which on-street parking may have on nearby property owners.

8. On the basis that the on-site parking spaces will be maintained and available, this Board, mindful of its responsibility to protect nearby residents from the over-commercialization of the area by on-street parking and the limited ability of the applicant to completely control the parking of this patients, will grant the special permit requested for a period of two (2) years, subject to the below listed conditions. Prior to the expiration of two (2) years from the date this decision is filed with the Village Clerk, but in no event sooner than nine months from said date, the applicant, if he wishes to continue the use of the premises proposed by this application, shall reapply to the Board of Appeals for a renewal of the special permit and variances. 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 period.
9. To balance the potential adverse effect the proposed professional use of the premise may have on nearby properties 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, this Board grants the special permit and variances, subject to the following conditions:
  - a. Regular business hours shall be limited to 9am to 7pm on Mondays through Thursdays, Fridays and Saturdays from 9am to 12pm, and there shall be no regular office hours at any other time or on Sundays. This condition shall not be considered to have been violated if an emergency situation that requires a consultation at a time other than the regular business hours permitted herein.
  - b. The practice shall be limited to individual consultations not exceeding eight (8) patients per day on Mondays through Thursdays. No group practice or sessions shall be permitted.
  - c. No secretary, assistant, or other employee shall be permitted unless further application is made to this Board for a variance regarding additional off-street parking.
  - d. Any parking on the street shall be at such locations so as not to unreasonably interfere with nearby residents' use of their property.
  - e. This Board has granted the variances and special permit requested based upon the specific nature and intensity of the proposed professional use, as to employees, patients, type of practice, length of treatment per patient, and all other factors considered. Accordingly, the variances and special permit granted by this decision shall be limited to the applicant and the currently proposed use of the premises. Any change of ownership of the premises or change in the doctor operating the practice, or any change or

modification of the use, even though the general nature of such modified use shall be similar or identical to the present use of the practice of psychiatry, shall require a reapplication to this Board.

- f. If one or more of the aforesaid conditions are violated, the Village shall have the right to suspend the special permit granted by this Board pending a hearing on the violation by the Board of Appeals or the Board of Trustees. If such hearing shall result in a determination that one or more of the conditions have been violated, or if the applicant shall fail to appear at such hearing, the Village shall have the right to revoke the special permit either temporarily or permanently.
- g. The special permit requested is granted for a limited period of two (2) years to commence on the date that this decision is filed with the Village Clerk, unless extended by this Board following an application and public hearing within the time limitations provided herein.

Respectfully submitted,

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Dina Epstein, Chairman

Filed in the Office of the Village Clerk  
the     day of November 2013

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Marianne Lennon, Village Clerk

## AHRC/ST. BONIFACE DECISION

At a meeting of the Board of Appeals of the Village of Sea Cliff, New York, on October 15, 2013, on motion of Mr. McGilloway, seconded by Mr. Toner, and adopted unanimously, the Board, having duly considered the applicant's request, and other matters properly within the consideration of this Board and discussed the subject application, rendered the following determination:

1. AHRC, as tenant of St. Boniface Roman Catholic Church, 12 Main Avenue, Sea Cliff, applied to utilize the basement at the premises for a private school, as authorized previously by the Board of Appeals on September 24, 2002 and September 16, 2008, which use requires (a) a special permit pursuant to Village Code §§138-401, 501 and (b) variances of Village Code §138-1002(H) and (R) in relation to the on site parking spaces provided. Premises are designated as Section 21, Block 93, Lot 15 on the Nassau County Land and Tax Map.
2. On September 24, 2002, the Board granted an identical application based on the same facts, subject to various conditions, including a condition that the special permit and variances expire on June 30, 2007. On September 16, 2008, the Board also granted an identical application, subject to certain conditions, including a condition that the special permit and variances expire within five (5) years after the decision was filed with the Village Clerk.
3. The applicant requested that the Board grant a permanent special use permit.
4. Based on the request, the lack of any known complaints, and there being no known change of circumstances, the Board grants the special permit and variances on the condition that applicant complies, throughout the term of this approval, with paragraphs 11, 12, 13, 14 and 16 of the September 24, 2002 decision of this Board and the entire September 16, 2008 decision, and the following condition:
5. In order to further determine the sufficiency and availability of the parking facilities, and the adequacy of the traffic pattern for the buses, the variances and special permit granted by this decision and the authorization to use the basement area of the subject premises as classrooms and offices for a private school shall expire and terminate 5 years after the date this decision is filed with the Village Clerk. At least ninety days prior thereto, but not more than 150 days prior thereto, applicant, with the owners' permission, may apply for an extension of the variances and special permit, including a permanent grant thereof.

Respectfully submitted,

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Dina Epstein, Chair

Filed in the Office of the Village Clerk  
the    day of November 2008