

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

October 20, 2015

Present:	Chair	Noel Griffin
	Members	Ted Kopczynski, James Toner, Amy Marion and Andrew Janusas
	Alternate Member	Tim O'Donnell
	Village Attorney	Brian Stolar

The meeting was called to order at 7:30 pm.

Alternate Member O'Donnell did not participate as a member, except where indicated herein.

The Board opened the continued public hearing on the application of Erik Hoover, 407 Littleworth Lane, Sea Cliff, New York to construct a second floor addition and front entry portico, which construction requires variances of the following Village Code sections: (a) 138-606 in that the front property line length is 75 feet, where a minimum of 100 feet is required; (b) 138-608 in that the front entry portico will be 24.1 feet and the second floor addition 27.5 feet, from the front property line, where a minimum of 30 feet is required; (c) 138-611 in that the existing rear building section is 5.4 feet and the proposed second floor addition will be 9.83 feet, from the side property line, where a minimum of 15 feet is required; (d) 138-613.1 in that the second floor addition will encroach into the height setback ratio plane, where no such encroachment is permitted; and (e) 138-1102, to permit the enlargement of a non-conforming structure, where no such enlargement is permitted. Premises are designated as Section 21, Block

M, Lot 532 on the Nassau County Land and Tax Map. The applicant submitted documentation demonstrating that the applicant had obtained approval for the proposed construction from the New York State Department of Environmental Conservation (DEC). The Board closed the hearing, and reserved decision.

The Board opened the continued public hearing on the application of Samiano Realty Corp., 243 Glen Cove Avenue, Sea Cliff, New York to permit a restaurant to operate at the premises, which restaurant requires a special use permit pursuant to Village Code §138-902, and variances of the following Village Code sections: (a) 138-907 in that the front property line length is 75.96 feet, where a minimum of 100 feet is required; and (b) 138-1002 in that the applicant proposes 12 on-site parking spaces and use of an additional 12 off-site parking spaces during evening hours, where a minimum of 34 parking spaces would be required. Premises are designated as Section 21, Block 192, Lot 180 on the Nassau County Land and Tax Map. The applicant provided a copy of a parking license demonstrating the availability of 12 additional parking spaces off-site and across the street from the property, which spaces are available for use by the proposed restaurant beginning at 5:00pm. The Board closed the hearing, and reserved decision.

The Board opened the public hearing on the application of Kelly Galligan and Joseph Dicapua, 2 Dixon Court, Sea Cliff, New York to construct an egress window and side basement entrance, which construction requires variances of the following Village Code sections: (a) 138-404 in that the lot size is 8,465 square feet, where a minimum of 10,000 square feet is required; (b) 138-408 in

that the front yard setback is 24.9 feet, where the minimum required setback is 25 feet; (c) 138-412 in that the rear yard setback is 25.08 feet, where a minimum of 30 feet is required; and (d) 138-411 in that the basement entrance will reduce the side yard setback from 6 feet to 3 feet, and the egress window will reduce the side yard setback from 9.86 feet to 8 feet, where a minimum of 15 feet is required. Premises are designated as Section 21, Block 192, Lot 180 on the Nassau County Land and Tax Map. The Chair recused himself from participation in Galligan matter. Mr. O'Donnell participated in the Galligan matter in the absence of the Chair. In the absence of the Chair, by motion duly made by Mr. Toner, seconded by Mr. Kopczynski, and adopted unanimously (with the Chair not participating), the Board designed Ms. Marion to serve as the Acting Chair for the Galligan matter. The applicants were represented by Robert Labaw, architect. The Board closed the hearing, and reserved decision.

The Chair resumed his position and Mr. O'Donnell did not participate as a Board Member, except as provided herein.

The Board opened the public hearing on the application of Mitchell Pinckney, 184 Carpenter Avenue, Sea Cliff, New York to construct a one story addition, which construction requires variances of the following Village Code sections: (a) 138-504 in that the lot size is 9,840 square feet, where a minimum of 10,000 square feet is required; (b) 138-506 in that the front property line is 60 feet, where a minimum of 100 feet is required; (c) 138-511 in that the side yard setback will be reduced from 9.6 feet to 5 feet, where a minimum of 15 feet is required; (d) 138-513.1 in that the addition, and the existing residence, will

encroach into the height setback ratio plane; and (e) 138-1102 in that the addition increase a non-conformity of the residence where no such increase is permitted. Premises are designated as Section 21, Block 92, Lot 206 on the Nassau County Land and Tax Map. The applicant was represented by James Carballal, architect. The Board closed the hearing, and reserved decision.

The Board discussed the Hoover application. On motion duly made by the Chair, seconded by Mr. Janusas, and adopted unanimously, the Board determined that the Hoover application is a Type II matter under SEQRA which requires no further environmental review and granted the application in accordance with the attached short form decision.

The Board discussed the Samiano application. On motion duly made by Mr. Janusas, seconded by the Chair, and adopted unanimously, the Board determined that the Samiano application is a Type II matter under SEQRA which requires no further environmental review and granted the application in accordance with the attached decision.

The Board discussed the Galligan application. The Chair did not participate in the discussion, and Ms. Marion served as Acting Chair for the discussion of this matter. On motion duly made by the Acting Chair, seconded by Mr. Toner, and adopted unanimously (with Mr. O'Donnell participating and the Chair not participating, the Board determined that the Galligan application is a Type II matter under SEQRA which requires no further environmental review and granted the application in accordance with the attached short form decision.

The Chair resumed his position and Mr. O'Donnell did not participate in the remainder of the meeting.

The Board discussed the Pinckney application. On motion duly made by Mr. Kopczynski, seconded by Mr. Janusas, and adopted unanimously, the Board determined that the Pinckney application is a Type II matter under SEQRA which requires no further environmental review and granted the application in accordance with the attached short form decision.

The Board discussed a September 24, 2015 written request of the owners of 8 Porter Place for a modification of the conditions of a variance granted by the Board on January 20, 2015. The variance was granted to permit the enclosure of a front porch and construction of an addition. The current owners seek only to enclose the porch, and to withdraw their request to construct the addition. The proposal does not require new or additional variances. On motion duly made by Ms. Marion, seconded by Mr. Toner, and adopted unanimously, the Board granted the request to modify the conditions of the January 20, 2015 variance approval to permit construction in accordance with the plans filed with the Village entitled "Tabori Fried Residence", prepared by Maximo Buschfrers, dated 7/17/15 and amended 9/15/15.

There being no further business, the meeting was adjourned at 8:20pm.

NOEL GRIFFIN, CHAIR

HOOVERT 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 October 20, 2015, on motion of the Chair, seconded by Mr. Janusas, and adopted unanimously, the Board, having duly considered the matters brought forth at the public hearing and other matters properly within the Board's consideration and discussed the application, rendered the following findings and determination:

1. Erik Hoover, 407 Littleworth Lane, Sea Cliff, New York applied to construct a second floor addition and front entry portico, which construction requires variances of the following Village Code sections: (a) 138-606 in that the front property line length is 75 feet, where a minimum of 100 feet is required; (b) 138-608 in that the front entry portico will be 24.1 feet and the second floor addition 27.5 feet, from the front property line, where a minimum of 30 feet is required; (c) 138-611 in that the existing rear building section is 5.4 feet and the proposed second floor addition will be 9.83 feet, from the side property line, where a minimum of 15 feet is required; (d) 138-613.1 in that the second floor addition will encroach into the height setback ratio plane, where no such encroachment is permitted; and (e) 138-1102, to permit the enlargement of a non-conforming structure, where no such enlargement is permitted. Premises are designated as Section 21, Block M, Lot 532 on the Nassau County Land and Tax Map.
2. The applicant is the owner of the subject premises.
3. The requested relief is classified as a Type II action under SEQRA, which requires no environmental review.
4. Notice of the application was provided 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 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) applicant shall comply with all requirements of the Village Code and the Building Department, and (c) all work is performed, and all approvals obtained, within the timeframe provided in Village Code §138-1304.

Noel Griffin, Chair

GALLIGAN 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 October 20, 2015, on motion of Ms. Marion, seconded by Mr. Toner, and adopted unanimously (with the Chair not participating and with Mr. O'Donnell participating), the Board, having duly considered the matters brought forth at the public hearing and other matters properly within the Board's consideration and discussed the application, rendered the following findings and determination:

1. Kelly Galligan and Joseph Dicapua, 2 Dixon Court, Sea Cliff, New York applied to construct an egress window and side basement entrance, which construction requires variances of the following Village Code sections: (a) 138-404 in that the lot size is 8,465 square feet, where a minimum of 10,000 square feet is required; (b) 138-408 in that the front yard setback is 24.9 feet, where the minimum required setback is 25 feet; (c) 138-412 in that the rear yard setback is 25.08 feet, where a minimum of 30 feet is required; and (d) 138-411 in that the basement entrance will reduce the side yard setback from 6 feet to 3 feet, and the egress window will reduce the side yard setback from 9.86 feet to 8 feet, where a minimum of 15 feet is required. Premises are designated as Section 21, Block 192, Lot 180 on the Nassau County Land and Tax Map.
2. The applicants are the owners of the subject premises.
3. The requested relief is classified as a Type II action under SEQRA, which requires no environmental review.
4. Notice of the application was provided 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 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) applicant shall comply with all requirements of the Village Code and the Building Department, and (c) all work is performed, and all approvals obtained, within the timeframe provided in Village Code §138-1304.

Amy Marion, Acting Chair

PINCKNEY 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 October 20, 2015, on motion of Mr. Kopczynski, seconded by Mr. Janusas, and adopted unanimously, the Board, having duly considered the matters brought forth at the public hearing and other matters properly within the Board's consideration and discussed the application, rendered the following findings and determination:

1. Mitchell Pinckney, 184 Carpenter Avenue, Sea Cliff, New York to construct a one story addition, which construction requires variances of the following Village Code sections: (a) 138-504 in that the lot size is 9,840 square feet, where a minimum of 10,000 square feet is required; (b) 138-506 in that the front property line is 60 feet, where a minimum of 100 feet is required; (c) 138-511 in that the side yard setback will be reduced from 9.6 feet to 5 feet, where a minimum of 15 feet is required; (d) 138-513.1 in that the addition, and the existing residence, will encroach into the height setback ratio plane; and (e) 138-1102 in that the addition increase a non-conformity of the residence where no such increase is permitted. Premises are designated as Section 21, Block 92, Lot 206 on the Nassau County Land and Tax Map.
2. The applicant is the owner of the subject premises.
3. The requested relief is classified as a Type II action under SEQRA, which requires no environmental review.
4. Notice of the application was provided 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 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) applicant shall comply with all requirements of the Village Code and the Building Department, and (c) all work is performed, and all approvals obtained, within the timeframe provided in Village Code §138-1304.

Noel Griffin, Chair

SAMIANO REALTY CORP.
DECISION

At a meeting of the Board of Appeals of the Village of Sea Cliff, New York, on October 20, 2015, on motion of Mr. Janusas, seconded by the Chair, and adopted unanimously, the Board, having duly considered the matters brought forth at the public hearing, and other matters properly within the consideration of this Board and having discussed the subject application, rendered the following determination:

1. The applicant Samiano Realty Corp., as owner of 243 Glen Cove Avenue, Sea Cliff, New York applied to operate a restaurant at the premises, which use requires a special use permit pursuant to Village Code §138-902, and variances of the following Village Code sections: (a) 138-907 in that the front property line length is 75.96 feet, where a minimum of 100 feet is required; and (b) 138-1002 in that the applicant proposes 12 on-site parking spaces and use of an additional 12 off-site parking spaces during evening hours, where a minimum of 34 parking spaces would be required. Premises are designated as Section 21, Block 192, Lot 180 on the Nassau County Land and Tax Map. The Subject Premises is located in the Village's Business B Zoning District.
2. The Subject Premises is located on the northwest corner of Glen Cove Avenue and is surrounded by commercial uses along Glen Cove Avenue to the south, north and east. There are residential properties to the west of the Subject Premises. The building has been used for commercial purposes, including most recently for a Grimaldi's restaurant.
3. The applicant has applied to the Board to permit alterations to the premises and operate the premises as a restaurant. Such proposed use requires a special use permit pursuant to Village Code §§138-902 and 903.
4. The applicant proposes to use the first floor of the Subject Premises for a restaurant with seating for 43 patrons. The second floor is proposed to be used only for storage and food preparation.
5. The applicant proposes to have valet parking at the site after 5pm. The proposed restaurant hours are 5:00pm-11:00pm Mondays through Friday and 11:00am-11:00pm, Saturdays and Sundays. There is no proposed outdoor seating.
6. The Village building department indicated that the number of on-site parking stalls required would be 34 spaces.

7. The site plan submitted by the applicant depicted 12 on-site parking stalls, including tandem parking. The applicant has committed to provide valet parking in the evening (after 5pm) on Fridays, Saturdays and Sundays.
8. The applicant provided a copy of a license to utilize parking stalls at 259 Glen Cove Avenue after 5pm, and advised that the parking lot at 259 Glen Cove Avenue has limited use on weekends during the day, as the only tenants of the premises that use the parking lot on weekends are the residential tenants. The Board finds that the reserved off-site parking available after 5pm, which is the primary time that the applicant will require the use of additional parking spaces, will be 12 stalls. As the applicant proposes to open the restaurant beginning at 11:00am on weekends, there will be parts of weekend days where the parking available for the site, without using off-site parking, will be for 12 cars.
9. The applicant represents that the customer activity of the Subject Premises in the afternoon will be minimal in comparison to the activity in the evening. Based on the location of the Subject Premises, applicant submits that the afternoon use will primarily involve pedestrian traffic and there will be minimal use of the parking area.
10. The Board hereby grants the parking variance as the Board notes that the premises have been used as a restaurant previously, it is located in an area of the Village that is entirely appropriate for this type of use as it is surrounded primarily by commercial facilities and is located along a primary road, Glen Cove Avenue. The Board further finds that the anticipated reduced vehicular use at the Subject Premises during the afternoon hours is reasonable and likely in view of the location of the Subject Premises.
11. The authority of this Board to grant the variance for parking is limited by law and the provisions of the Zoning Code. The applicant is unable to satisfy the provisions of section 138-1008(A)(1) or (2) prior to 5pm on Saturdays and Sundays. However, as the applicant's primary vehicular use occurs after 5pm, and the applicant was able to demonstrate that he can use a premises within 500 feet of the Subject Premises for the parking of 12 vehicles beginning at 5pm, the Board finds that the applicant has satisfied the provisions of Village Code §138-1008(A)(2) with respect to an additional 12 parking spaces. There are also 12 on-site parking spaces available. Thus, there will be 24 spaces provided, and there is a need for a variance to permit 10 additional spaces (34 total spaces required). Accordingly, the applicant is required to pay the fee imposed under section 138-1008(A)(3) for a

total of ten (10) cars. The fee must be paid to the Village Clerk, and proof of payment of the fee must be provided to the building department prior to issuance of a certificate of occupancy.

12. In reviewing the parking variance in relation to the Village Law §7-712-b, the Board finds that the benefit to the applicant clearly outweighs any detriment to the neighborhood. In this regard, it is important to note that the neighborhood considered by the Board is the neighborhood within 200 feet of the Subject Premises, which includes a number of commercial establishments. There will be no undesirable change in the neighborhood as the use and the provision of parking on-site and off-site on Glen Cove Avenue, both during the pre-5pm use of the premises and post-5pm and weekend use is consistent with the neighborhood. As the actual anticipated parking prior to 5pm is expected to be minimal and the post-5pm vehicular use is accounted for by use of a nearby property and valet services, the variance is neither substantial nor will it have an adverse impact on the neighborhood. The only other feasible alternative would be to provide for a use that has a lower parking demand. However, in light of the fact that some of the spaces are accommodated as tandem parking and there are only 12 spaces on-site utilizing such configuration, the Board does not definitively determine whether another use would result in a compliant on-site parking arrangement. The Board finds that the difficulty is self-created, but that determination alone is insufficient to warrant a denial of the parking variance.
13. To balance the potential impact the proposed use may have on nearby properties in the area with the obligation of this Board to issue a special permit where adequate, reasonable, and appropriate safeguards and restrictions can be imposed to minimize the adverse effects, this Board will grant the special permit requested subject to the following conditions:
 - a. The business shall be conducted as a restaurant with customer seating only on the first floor;
 - b. The second floor shall be used only for food preparation and storage, and in no event for customer seating;
 - c. There shall be no outdoor customer seating;
 - d. No music or amplified sound shall be audible outside the building and the applicant shall be required to apply to this Board for any type of intensification of the proposed use, including the proposed use of live entertainment, dancing or similar forms of occupancy, including any occupancy involving amplified music;
 - e. The maximum number of seats permitted in the Subject Premises, whether by seats, stools or in any other manner, shall be 43;

f. The hours of operation shall be from 5:00pm to 11:00pm Mondays through Fridays and 11:00am to 11pm, Saturdays and Sundays. Applicant may operate during shorter time periods within the timeframe set forth herein, but any increase in hours requires an application to this Board;

g. The premises shall not be used for any use which will intensify or increase the usage or the parking requirements without further application to this Board;

h. The proposed use shall be conducted in such a manner as to minimize, as much as possible, any adverse effect on the nearby residential properties resulting from excessive noise or any other type of nuisance;

i. The parking of vehicles by patrons of the premises, employees, or suppliers, and the loading or unloading of equipment and supplies, shall not interfere with the normal flow of traffic on Lafayette Avenue or Glen Cove Avenue. The valet shall be at a location on Lafayette Avenue that is no closer to Glen Cove Avenue than the dumpster location towards the westerly end of the premises or at such other location as directed by the Superintendent of Buildings;

j. When making deliveries, the suppliers shall not block any portion of the Lafayette Avenue or Glen Cove Avenue;

k. All exhaust fans shall be located as provided in the plans submitted with the application and shall be directed away from any residential properties and shall be installed with any barriers which are necessary to minimize, to the extent possible, any adverse impacts resulting from noise or fumes;

l. The garbage disposal receptacle shall be fully enclosed at all times (excluding when trash is actually being placed in or removed from the receptacle) in a manner that prevents rodents or other animals from accessing the receptacle and prevents odors from traveling to neighboring properties. The precise location shall be subject to the approval of the Building Department and shall be screened from adjoining properties. In the event that the receptacle is determined by the building department to create a nuisance or potential nuisance, the dumpster shall be moved to a location determined by the Building Department. The dumpster shall be removed or emptied only during the hours permitted under the Village Code.

m. The receptacle shall be cleaned and sanitized at least once per month and shall be emptied at least 2 times per week. No trash or debris shall be permitted to accumulate on site outside of these containers.

n. No deliveries shall be made by tractor trailer sized vehicles. No trucks in excess of 24 feet in length shall make any deliveries to or pick-ups from, the property. No deliveries or shipments shall be

made to or from the property before 7:00 am or after 6:00 pm on any day;

o. Prior to issuance of a certificate of occupancy, the applicant shall obtain full approval, if necessary, from the Nassau County Department of Health and all other agencies for the cooking of food, the use of the cooking and cleaning equipment proposed to be used on-site (including the pizza oven) and any required modifications to the septic or water systems;

p. Any fire sprinkler system and use of the premises for cooking purposes shall conform to applicable NFPA requirements, as determined by the Building Superintendent or any municipal agency with jurisdiction;

q. Cooking equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, parking area, alleys, sidewalks, neighboring properties or storm sewers;

r. Because of the proximity of residential properties on Lafayette Avenue to the restaurant use, and the potential for nuisance resulting from permitting dining late at night, the following conditions shall apply:

- i. No food service or use shall occur outside;
- ii. Any outside lighting shall be designed and installed so as to minimize the impact on adjoining properties by appropriate shielding, direction and reduction of glare and reflection. Final approval of any lighting shall be determined by the Building Department. Any new exterior lighting or building lighting shall be mounted at a height and in a location such that no light spillage of 0.1 foot-candle or higher shall extend beyond the property lines;
- iii. No background or ambient (or other type of) music shall be permitted outside, and the doors and/or windows shall not be left open in a manner which would circumvent this restriction;
- iv. Loitering outside of the restaurant is prohibited; and
- v. The special permit is contingent upon the authorization to use the nearby premises for parking purposes after 5pm daily, if the license to so use that parking area is in any way no longer in effect, applicant shall make immediate arrangements for the same number of parking stalls no longer exclusive to the restaurant use.
- s. The applicant shall install signage to advise patrons of the availability of off-site parking. The signage shall require building department approval and shall comply with the Village Code provisions applicable to signs.

14. Because of the potential of abuse which the proposed special permit use presents if not supervised correctly and the resultant adverse impacts on the surrounding property owners and the

Village and its residents that could result, this Board, mindful of its responsibilities to protect nearby residents from over commercialization of the area and other potential adverse impacts and the limited ability of the applicant and/or operator to completely control the adverse impact which the business may generate, will grant the special permit to operate as proposed for a period of eighteen (18) months commencing on the date that this decision is filed with the Village Clerk. The special permit shall be limited to the operation of a restaurant by the applicant, and any change in ownership shall require a new application to this Board for a special permit. To extend the special permit, prior to the expiration of the eighteen (18) month period, but in no event sooner than four months prior to said date, the applicant, if it desires to continue the use of the premises in the manner proposed by the application, shall reapply to the Board having jurisdiction for a renewal of the special permit. The application shall be made in a timely manner so as to permit this Board to render its decision prior to the expiration of the aforesaid eighteen (18) month time period. The provisions of this paragraph shall constitute a condition of this decision.

15. Except as otherwise provided herein, the provisions of Village Code §§138-1304 and 1403 apply.

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