

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

March 24, 2015

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

The meeting was called to order at 7:35 pm.

The Board opened the public hearing on the application of Daniel Flanzig and Adrienne Koster, 137 Prospect Avenue, Sea Cliff, to install a generator in a front yard, where no such structure is permitted pursuant to Village Code §138-416. Applicants were represented by architect William Wall. Premises are designated as Section 21, Block 138, Lot 1149 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 Manish and Pooja Vira, 328 Carpenter Avenue, Sea Cliff, New York, to construct a breezeway connecting the house to the garage and a 12 foot deep roofed front porch, 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 5,688.4 square feet, where a maximum of 5,133 square feet is permitted (pursuant to a prior Zoning Board of Appeals approval), and (c) 138-516 to permit a side yard setback of 12.9 feet, where a minimum of 15 feet is required. The Chair recused

herself from participation in the hearing, and stepped off the dais. In the absence of the Chair, on motion of Mr. Griffin, seconded by Mr. Kopczynski, and adopted 4 votes in favor and the Chair not participating, the Board designated Mr. Toner to serve as Acting Chair for the Vira hearing and any discussion of the Vira matter. Applicants were represented by architect William Wall. Premises are designated as Section 21, Block 60, Lot 256 on the Nassau County Land and Tax Map. The Board closed the hearing, and reserved decision.

The Chair resumed her position.

The Board opened the public hearing on the application of Robin Rossi, as agent for Robert Rossi, 64 Glenlawn Avenue, Sea Cliff, New York, to demolish an existing one (1) story residence and construct a new two (2) story residence and detached garage, which construction requires variances of the following Village Code sections: (a) 138-504 to maintain a lot size of 8,250 square feet, where a minimum of 10,000 square feet is required; (b) 138-506 to maintain a lot width of 55 feet, where the minimum required is 100 feet; (c) 138-509 to maintain a lot width at the setback line of 55 feet, where a minimum of 100 feet is required; (d) 138-513 to permit a height of 33.75 feet, where a maximum of 30 feet is permitted; (e) 138-513.1 to permit an encroachment into the height-setback ratio, where no such encroachment is permitted; and (f) 138-514.1 to permit a floor area of 2,900 square feet, where a maximum of 2,557.50 feet is permitted. Premises are designated as Section 21, Block 188, Lot 23 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 William and Lara Petrick, 60 Downing Avenue, Sea Cliff, New York to construct a rear addition and second floor addition to the existing residence at the premises, which requires variances of the following Village Code sections: (a) 138-506 to maintain a lot width of 75 feet, where a minimum of 100 feet is required; (b) 138-509 to maintain a lot width at the

setback line of 71 feet, where the minimum setback required is 100 feet; (c) 138-511 in that the existing residence is 5.5 feet and 11 feet from the easterly and westerly side property lines, respectively, and the additions will be 5.5 feet and 10 feet from the easterly and westerly side property lines, respectively, where a minimum of 15 feet is required; (d) 138-513.1 in that the garage and new second story addition will encroach into the easterly side yard height-setback ratio plane and the new second story addition will encroach into the westerly side yard height-setback ratio plane, where no such encroachments are permitted; and (e) 138-1102 in that the proposed additions increase the existing non-conformities where no such increase is permitted. Premises are designated as Section 21, Block 95, Lot 316 on the Nassau County Land and Tax Map. The Board closed the public hearing, and reserved decision.

The Board opened the public hearing on the application of Sue Fortman, 347 Glen Avenue, Sea Cliff, New York to construct a wrap-around porch, a new side entrance and a 1 story kitchen addition, which requires variances of the following Village Code sections: (a) 138-404 to maintain a lot area of 3,600 square feet, where a minimum of 7,500 square feet is required; (b) 138-406 to maintain a front property line length of 60 feet, where a minimum of 75 feet is required; (c) 138-409 to maintain a lot width at the setback line of 60 feet, where a minimum of 75 feet is required; (d) 138-1002 to maintain a dwelling without the required two (2) parking spaces; (e) 138-413.1 to maintain encroachments into the height-setback ratio plane where no such encroachments are permitted; (f) 138-405 to increase lot coverage to 35.47%, where a maximum of 30% is permitted; (g) 138-408 to permit a front yard setback of 13.083 feet in the northerly front yard and 2.583 feet in the southerly front yard, where a minimum setback of 20 feet is required; (h) 138-413.1 to permit an encroachment into the southerly height-setback ratio plane where no encroachment is permitted; and (i) 138-1102 in that the proposed additions increase the existing non-conformities where no

such increase is permitted. Applicant was represented by engineer Rudolf Shatarah. Premises are designated as Section 21, Block 171, Lot 97 on the Nassau County Land and Tax Map. During the course of the hearing, applicant's representative stated that the proposed additions also included a one (1) foot increase in the height of the residence. As a result, the proposal also requires a variance of the Village height regulations and the notice did not include that height encroachment. The height encroachment must be included in a legal notice or the Board has no jurisdiction to consider the height modification. The Board continued the public hearing to April 28, 2015 at 7:30pm.

The Board discussed the Flanzig/Koster application. On motion duly made by the Chair, seconded by Mr. Griffin, and adopted unanimously, the Board determined that the Flanzig/Koster 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 Rossi application. On motion duly made by the Chair, seconded by Ms. Marion, and adopted unanimously, the Board determined that the Rossi 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.

The Board discussed the Petrick application. On motion duly made by the Chair, seconded by Mr. Toner, and adopted unanimously, the Board determined that the Petrick 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 Chair, having recused herself from participation in the Vira matter, left the meeting. Mr. Toner served as Acting Chair for the purpose of the discussion regarding

the Vira matter. The Board engaged in a lengthy discussion concerning the impacts resulting from the proposed modifications. Mr. Griffin made a motion to deny the application, but there was no second to that motion, and no further motion was made by the Board. The motion was deemed withdrawn. The Board will continue to discuss the application at the next meeting.

There being no further business, the meeting was adjourned at 10:25 pm.

DINA EPSTEIN, CHAIR

FLANZIG/KOSTER 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 March 24, 2015, on motion of 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. Daniel Flanzig and Adrienne Koster, 137 Prospect Avenue, Sea Cliff, applied to install a generator in a front yard, where no such structure is permitted pursuant to Village Code §138-416. Premises are designated as Section 21, Block 138, Lot 1149 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 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 only be tested between 10:00am and 5:00pm on weekdays, (c) the applicants shall comply with all conditions set forth in the approval granted by the New York State Department of State, and (d) 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 day of _____ 2015

Marianne Lennon, Village Clerk

ZONING BOARD OF APPEALS
VILLAGE OF SEA CLIFF

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In the Matter of the Application of

Robert Rossi

for variances to demolish an existing one (1) story residence and construct a new two (2) story residence and detached garage, at premises located at 64 Glenlawn Avenue, Sea Cliff

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STATEMENT

This is an application by Robin Rossi, as agent for Robert Rossi, 64 Glenlawn Avenue, Sea Cliff to demolish an existing one (1) story residence and construct a new two (2) story residence and detached garage, which construction requires variances of the following Village Code sections: (a) 138-504 to maintain a lot size of 8,250 square feet, where a minimum of 10,000 square feet is required; (b) 138-506 to maintain a lot width of 55 feet, where the minimum required is 100 feet; (c) 138-509 to maintain a lot width at the setback line of 55 feet, where a minimum of 100 feet is required; (d) 138-513 to permit a height of 33.75 feet, where a maximum of 30 feet is permitted; (e) 138-513.1 to permit an encroachment into the height-setback ratio, where no such encroachment is permitted; and (f) 138-514.1 to permit a floor area of 2,900 square feet, where a maximum of 2,557.50 feet is permitted. Premises are designated as Section 21, Block 188, Lot 23 on the Nassau County Land and Tax Map.

On motion duly made by the Chair, seconded by Ms. Marion, and adopted unanimously, the 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 64 Glenlawn Avenue, Sea Cliff, and is designated as Section 21, Block 188, Lot 23 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 Glenlawn Avenue. It is 55 feet wide and 150 feet deep. The existing lot is substantially deficient in that it contains 8,250 square feet, where a minimum of 10,000 is required, and a front property line length and lot width at the setback line of 55 feet, where a minimum of 100 feet is required.

3. The Premises contains an existing one family residence located near the extreme rear portion of the Premises. The front portion of the existing dwelling is more than 115 feet from the front property line. The property slopes down in a southwesterly direction and continues to slope down onto the adjoining southerly property.

4. In or around July 2014, the applicant purchased the Premises.

5. The applicant proposes to demolish the existing residence, and construct a new residence approximately 90 feet closer to the front property line than the existing residence and a side entry detached garage in the location of the existing residence with a driveway extending to approximately 4 feet from the rear property line. The front portion of the residence will be 25 feet from the front property line, which is the minimum setback required. Similarly, the new house is

proposed to be constructed to provide the absolute minimum required side yard setbacks on each side of the residence.

6. In addition to proposing the house at the outside limitations for side yard and front yard setbacks, the applicant requires variances related to height and floor area. The height is proposed to be 33.75 feet, where a minimum of 30 feet is permitted and encroaches into the height-setback ratio plane in three (3) separate locations. Also, due to the slope of the property, many portions of the residence will be greater than 33.75 feet, and some portions will be more than 36.5 feet, in height from grade to roof peak. Inexplicably compounding the height issue, the applicant proposes a basement of 8 feet in height with a rear walk in entry. Applicant describes the purpose of this area as being used for storage and placement of necessary mechanicals. This storage level, at a height of 8 feet, impacts the overall height of the dwelling. Applicant did not provide the Board with information concerning the benefit obtained by providing an 8 foot high basement area for storage. Also, although the applicant's proposal to construct a new residence utilizing the confines of the existing deficient lot starts with a clean slate, the applicant has proposed a residence that not only encroaches well above the height limitations and is built to the absolute border of the side and front yard building area, but it will have a floor area more than 13% larger than permitted.

7. Numerous citizens expressed their opinions regarding the styles and sizes of the homes in the neighborhood and the impact the proposed residence would have on the character of the neighborhood. In particular, the neighbors noted that the proposed house will not fit in with the general neighborhood character of the smaller and lower homes on this side of Glenlawn Avenue in the vicinity of the Premises.

8. The applicant submitted that a variance granted by the Board for a property at 59 The Boulevard should be considered as a similar situation. The Board noted that the Premises are not in the same neighborhood and that the neighborhood where the other property is located is substantially different from the neighborhood in the vicinity of the Premises. The Board specifically indicated that the house referred to by the applicant was in a setting where the back of the property is a hillside that creates a huge wall effect behind the houses on The Boulevard thus generally softening the impact of the need to construct a higher house. Even with that situation, the referred to house was permitted to only be built 3.75 feet above the permitted height and that it has no perceptible portion exceeding that height. As discussed further below, The Boulevard is neither part of the neighborhood considered in the Board's review of the impact of the Premises on the surrounding neighborhood nor does it have any characteristics that are similar to the Premises or the neighborhood surrounding the Premises.

9. 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.

10. The variances sought by the applicant 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.

11. 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.

12. 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 will be 3.75 feet above the permitted height and will have a height in some portions of more than 36 feet, on a narrow lot, with houses on this side of Glenlawn Avenue being smaller, and the proposed encroachments occurring at the extreme edges of the side and front yard setbacks. The applicant does not even attempt to soften these impacts given the location proposed for the house and the proposal to exceed the permitted floor area by more than 13% of the area permitted. The applicant demonstrated no similar situation in the neighborhood, and the Board finds that the existing lot deficiencies, proposed attempt to squeeze an oversized building into a small lot at the extreme setback edges results in an

undesirable change. Moreover, the slope of the property creates an effect of an even larger dwelling. The monstrous nature of this impact is even further exacerbated as the height from grade to the top of the residence along the southwest portion of the residence will be over 36 feet. Combine this actual height with the slope downward onto the adjoining property and the height of the residence will appear to be substantially higher than the 30 feet permitted (and even higher than the 36 foot height of the side wall of the dwelling). This is a detriment not just to the neighboring residence, but also to the overall neighborhood in the immediate vicinity of the Premises.

13. Presently, there is limited open space between the neighboring properties. Restricting that space with a house with a height as proposed, excessive floor area built to the extreme outward border of the building envelope further limits that open space. The zoning restrictions applicable to properties in the Residence B zoning district seek to effectuate the spacious character of the neighborhood. In contradiction, the proposal would create a visual impingement not consistent with the rationale for the density restrictions in the Village Code.

14. 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 proposal will create a greater than 12.5% variation (33.75, where 30 feet is permitted) in height and almost a 22% increase at its highest point (36.6 feet) above the surrounding grade as well as 13% excess floor area. Placing

these encroachments at the extreme edge of the building area on a narrow lot where applicant has not shown any houses to have similar situations is substantial.

15. For the reasons stated in the preceding paragraph, the combined impact of the variances on the applicant's Premises and the neighboring property and the neighborhood setting combined with the existing deficient lot width and size creates a tremendous substantiality.

16. As to whether there are any feasible alternatives for the applicants to pursue, the Board notes that the applicant starts with a clean slate. The applicant will not be able to resolve the lot size and width deficiencies, but he has the ability to modify the plans to eliminate the height and floor area variances. In this regard, the applicant also has the opportunity to reduce the height of the interior spaces, including the storage level, to comply with the Village Zoning Code.

17. 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.

18. 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 encroachment into the side yard setback 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.

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

Filed in the Office of the Village Clerk
the day of March 2015

Marianne Lennon, Village Clerk

PETRICK 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 March 24, 2015, 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. William and Lara Petrick, 60 Downing Avenue, Sea Cliff, New York applied to construct a rear addition and second floor addition to the existing residence at the premises, which requires variances of the following Village Code sections: (a) 138-506 to maintain a lot width of 75 feet, where a minimum of 100 feet is required; (b) 138-509 to maintain a lot width at the setback line of 71 feet, where the minimum setback required is 100 feet; (c) 138-511 in that the existing residence is 5.5 feet and 11 feet from the easterly and westerly side property lines, respectively, and the additions will be 5.5 feet and 10 feet from the easterly and westerly side property lines, respectively, where a minimum of 15 feet is required; (d) 138-513.1 in that the garage and new second story addition will encroach into the easterly side yard height-setback ratio plane and the new second story addition will encroach into the westerly side yard height-setback ratio plane, where no such encroachments are permitted; and (e) 138-1102 in that the proposed additions increase the existing non-conformities where no such increase is permitted. Premises are designated as Section 21, Block 95, Lot 316 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 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) applicants shall comply with all requirements of the Village Code and the Building Department, including compliance with the requirements related to storm water runoff, 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 day of _____ 2015

Marianne Lennon, Village Clerk