

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

December 20, 2016

Present:Chair	Noel Griffin
Members	Ted Kopczynski and Tim O'Donnell
Village Attorney	Brian Stolar, Esq.
Superintendent of Buildings	Andrew Lawrence

The meeting was held in the Village Library, adjoining Village Hall and notice of the location was provided at all entrances to Village Hall.

The meeting was called to order at 7:32 pm.

The Board opened the public hearing on the application of Madalyn Rivosecchi, 2 Foster Place, Sea Cliff, New York to install an air conditioner condenser unit in a front yard, which requires variances of Village Code §138-516 in that no accessory structure is permitted in a front yard, and §138-1102 in that the proposal increases an existing non-conformity, where no such increase is permitted. Premises are designated as Section 21, Block 197, Lot 123 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 310 Sea Cliff Avenue LLC, 310 Sea Cliff 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 §§138-801 and 802. Premises are designated as Section 21,

Block 127, Lot 4 on the Nassau County Land and Tax Map. Alan and Lisa Geller appeared on behalf of the applicant. Mr. Geller advised that the proposal is identical to the approval granted by the Board in 2011. The Board closed the hearing, and reserved decision.

The Board noted that the application of George Schmitz, 3 Laurel Way requires approval from the Board of Trustees in relation to a portion of the proposed improvements. The Board adjourned the Schmitz hearing to January 27, 2017 at 7:30pm.

The Board continued the public hearing on the application of Richard LaSalle, 168 Prospect Avenue to February 21, 2017, as the applicant is awaiting approval from Nassau County.

The Board discussed the Rivosecchi application. After such discussion, on motion made by Mr. Kopczynski, seconded by Mr. O'Donnell, and adopted unanimously, the Board determined that it is the lead agency with respect to environmental review, the action is a Type II matter under SEQRA that requires no further environmental review, and granted the application in accordance with the short form decision annexed hereto.

The Board discussed the 310 Sea Cliff Avenue application. After such discussion, on motion made by Mr. Kopczynski, seconded by Mr. O'Donnell, and adopted unanimously, the Board determined that it is the lead agency with respect to environmental review, the action is a Type II matter under SEQRA that requires no further environmental review, and granted the application in accordance with the short form decision annexed hereto.

There being no further business, the meeting was adjourned at 7:52pm.

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NOEL GRIFFIN, CHAIR

## RIVOSECCHI SHORT FORM DECISION

At a meeting of the Board of Appeals of the Village of Sea Cliff, New York, on December 20, 2016, on motion duly made by Mr. Kopczynski, seconded by Mr. O'Donnell 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. Madalyn Rivosecchi, 2 Foster Place, Sea Cliff, New York applied to install an air conditioner condenser unit in a front yard, which requires variances of Village Code §138-516 in that no accessory structure is permitted in a front yard, and §138-1102 in that the proposal increases an existing non-conformity, where no such increase is permitted. Premises are designated as Section 21, Block 197, Lot 123 on the Nassau County Land and Tax Map.
2. The applicant is the record owners of the subject premises. The applicant seeks to replace an existing unit with a new unit.
3. The requested relief is classified as a Type II action under SEQRA, which requires no environmental review.
4. The Board provided notice of the application to the Nassau County Planning Commission in accordance with the requirements of the agreement between the Village and the Planning Commission, and no response was submitted by the Planning Commission.
5. The relief requested in the application is granted provided that (a) the unit shall be maintained in conformity with the plans submitted with the application, (b) applicant shall install lattice fencing surrounding the unit to restrict the view of the unit from the public roadway; (c) applicant shall comply with all requirements of the Village Code and the Building Department, and (d) all work is performed, and all approvals obtained, within the timeframe provided in Village Code §138-1304.

### **310 SEA CLIFF AVENUE LLC SHORT FORM DECISION**

At a meeting of the Board of Appeals of the Village of Sea Cliff, New York, on December 20, 2016, on motion duly made by Mr. Kopczynski, seconded by Mr. O'Donnell, 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. 310 Sea Cliff Avenue LLC, 310 Sea Cliff Avenue, Sea Cliff, New York applied to permit a restaurant to operate at the premises, which restaurant requires a special use permit pursuant to Village Code §§138-801 and 802. Premises are designated as Section 21, Block 127, Lot 4 on the Nassau County Land and Tax Map.
2. The applicant is the record owners of the subject premises. In 2011, the Board granted a special permit and variances to permit the operation of a restaurant at the premises. That approval expired in 2013, and the applicant seeks to permit a restaurant at the premises subject to the same conditions. The Board is not aware of any changed conditions that would impact the request. A restaurant has operated at the premises for many years.
3. The requested relief is classified as a Type II action under SEQRA, which requires no environmental review.
4. The Board provided notice of the application to the Nassau County Planning Commission in accordance with the requirements of the agreement between the Village and the Planning Commission, and no response was submitted by the Planning Commission.
5. The relief requested in the application is granted provided that (a) any construction shall conform with the plans submitted with the application and all approvals shall be obtained within the timeframe provided in Village Code §138-1304 and (b) applicant shall comply with all requirements of the Village Code and the Building Department.
6. The special permit also is granted subject to the same conditions as contained in the 2011 approval, which are restated here: (a) the special permit is granted to the applicant and restaurant operator only or to any business or entity in which the applicant and the restaurant operator has a controlling interest; (b) 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 the adjoining streets, (c) there shall be no outside storage of supplies, equipment, materials or any other items used in connection with the restaurant, except in the walk-in refrigerator; (d) exterior lighting of the premises shall be designed so as to minimize any impact on the adjoining properties through shielding, directional lighting and reduction of glare and reflection. 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. There shall be no additional lighting for outdoor usage, except for table candlelight; (e) Seating shall be limited to the proposed seating, including 20 seats at inside tables, 7 seats at the sushi bar, and no more than 10 outdoor seats to be used for seasonal dining. If additional seating is necessary, applicant must reapply to the Board for appropriate relief as then identified by the Superintendent of Buildings; (f) cooking equipment shall be limited to the equipment proposed by the applicant, as shown in the plans approved in 2011; (g) 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; (h) 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 and any required modifications to the septic or water systems; (i) 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; (j) 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; (k) no noise, fumes, or similar sources of nuisance are to emanate in a manner as to be unreasonably annoying to surrounding property owners; (l) except as provided elsewhere in this decision, there shall not be any outside seating on the Subject Premises without additional application to this Board; (m) the hours of operation for the interior of the restaurant shall be weekdays from 11:30am to 12am and Saturdays and Sundays from 11am to 12am. Any extension of hours beyond the hours proposed by the applicant, and conditioned herein, requires a reapplication to this Board; (n) interior music shall be limited to prerecorded background type music and shall not include any live music. No music shall be permitted outside, and the doors and/or windows shall not be left open in a manner that would circumvent this restriction; (o) outdoor seating and use of the outside area shall be limited to no later than 10:00 pm. All tables and chairs shall be removed from the outside area by 10:15pm and shall not be placed outside prior to opening of the restaurant on the next business day; (p) applicant may seek a beer and wine license, but shall not seek any type of alcohol license that is deemed to permit additional drinks at the site (ie., a full bar license) without making an application to the Board for a modification and/or intensification of the restaurant use proposed at the Subject Premises; (q) no heating or cooking apparatus related to food preparation and no bar shall be located outside, including any bar for the service or storage of alcoholic or non-alcoholic beverages. (r) all plantings and planted areas shall be maintained in good and neat condition to accomplish the purposes intended, and shall be replaced as necessary to maintain the screening and planted areas in a manner that serves as a buffer area for the residential properties on Summit Avenue; (s) the Subject Premises shall not be used for any use that intensifies or increases the usage or the parking requirements or the potential impacts of the premises without further application to the Board; (t) loitering outside of the restaurant is prohibited; (u) no mechanical means of ventilation, heating or cooling shall be utilized for the outdoor seating area; (v) no trash or debris from the restaurant shall be stored outside unless placed in

fully enclosed and sealed garbage disposal receptacles. Such receptacles shall be sanitized in a manner so as not to permit odors to emanate outside such receptacles. No such receptacles shall be visible from Summit, Central or Sea Cliff Avenues; (w) employees or customers shall not be permitted to smoke in the outside seating area of the premises, and as otherwise permitted under any applicable law related to smoking; (x) applicant shall conduct employee training sessions on an ongoing basis, including as part of any employee orientation, to discuss all special use permit conditions and requirements contained herein; and (y) 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 two (2) years 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 two (2) year 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 two (2) year time period. The provisions of this paragraph shall constitute a condition of this decision.

