

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

March 15, 2016

Present: Members	Ted Kopczynski and Andrew Janusas
Alternate Member	Timothy O'Donnell
Village Attorney	Brian Stolar

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

In the absence of the Chair, on motion duly made by Mr. O'Donnell, seconded by Mr. Janusas, and adopted unanimously, the Board designated Mr. Kopczynski to serve as Acting Chair for the meeting.

The Acting Chair advised the applicants that the concurring vote of all three (3) members present would be required for action to be taken on any application.

The Board acknowledged receipt of an adjournment request from Richard LaSalle, 168 Prospect Avenue, Sea Cliff, New York in connection with the scheduled public hearing on an application for a variance of Village Code §138-1007 to permit a curb cut on 15th Avenue within 25 feet of the intersection of 15th Avenue and Prospect Avenue. The Board adjourned the hearing to May 17, 2016 at 7:30pm.

The Board opened the continued public hearing on the application The Drunken Pig Inc., as tenant, and Samiano Realty Corp., as owner, 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 was represented by Michael Imbriano. The Board noted that it had received a revised menu cover identifying the restaurant as The Crispy Pig and a parking license agreement providing for 7 additional parking spaces for employees to park at premises located at 238 Glen Cove Avenue beginning at 4pm. Accounting for the 12 parking spaces on site, the 12 parking spaces available pursuant to a license agreement with the owners of the property at 259 Glen Cove Avenue, and the 7 spaces available at 238 Glen Cove Avenue, the applicant represents that it has 31 of the required 34 parking spaces on site or available pursuant to license agreements beginning at 4pm (for 7 parking spaces) and 5pm (for 12 parking spaces). The applicant also represented that the proposed restaurant will be similar in character to the nature of the operation proposed in the original Samiano Realty application (which was approved by the Board in October 2015). The Board closed the public hearing, and reserved decision.

The Board opened the public hearing on the application of Richard Esposito and Kathleen Murphy, 312 Littleworth Lane, Sea Cliff, New York to construct a second story addition, which requires variances of the following Village Code sections: (a) 138-506 in that the front property line length is 90 feet, where a minimum of 100 feet is required; (b) 138-507 in that the lot width is 90 feet, where a minimum of 100 feet is required; (c) 138-509 in that the lot width at the setback line is 90 feet, where a minimum of 100 feet is required; and (d) 138-514.1 in that the floor area will be 3,571 square feet, where a maximum of 3,065 square feet is permitted. Premises are designated as Section 21, Block L, Lot 92 on the Nassau County Land and Tax Map. James Carballal, architect, represented the applicants. After hearing the applicants' presentation and concerns raised by the neighbors, the Board continued the public hearing to April 19, 2016 at 7:30pm.

The Board opened the public hearing on the application of Ed and Kathie Lieberman, 172 8th Avenue, Sea Cliff, New York to construct a one story addition and maintain an accessory structure, which requires variances of the following Village Code sections: (a) 138-504 in that the lot size is 8,660 square feet, where a minimum of 10,000 square feet is required; (b) 138-506 in that the front property line length is 62.33 feet, where a minimum of 100 feet is required; (c) 138-507 in that the lot width is 62.33 feet, where a minimum of 100 feet is required; (d) 138-509 in that the lot width at the setback line is 62.33 feet, where a minimum of 100 feet is required; (e) 138-511 in that the side yard setback will be 7.6 feet, where a minimum of 15 feet is required; and (f) 138-516 in that the shed is located 2 feet, and the garage 2.3 feet, from the rear yard property line, where a minimum of 5 feet is required, and the garage is located 1 foot from the side property line, where a minimum of 10 feet is required. Premises are designated as Section 21, Block 91, Lot 105 on the Nassau County Land and Tax Map. James Carballal, architect, represented the applicants. The Board closed the public hearing, and reserved decision.

The Board discussed The Drunken Pig application. After such discussion, on motion duly made by Mr. Janusas, 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 decision annexed hereto.

The Board discussed the Lieberman application. After such discussion, on motion duly made by Mr. Janusas, 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

**THE DRUNKEN PIG, INC.
DECISION**

At a meeting of the Board of Appeals of the Village of Sea Cliff, New York, on March 15, 2016, on motion of Mr. Janusas, seconded by Mr. O'Donnell, and adopted unanimously by those present, 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 The Drunken Pig, Inc., as tenant, and 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 owner of the premises obtained approval for the use and the parking variance in October 2015, but that approval did not include the current tenant. The current tenant, which proposes to operate the restaurant under the business name The Crispy Pig, stated that the use and operation of the restaurant, as well as the menu offerings, will be the same as proposed in the previous application.
5. The applicants propose 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.

6. 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.
7. The Village building department indicated that the number of on-site parking stalls required would be 34 spaces.
8. 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.
9. 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 applicant also provided a copy of a license that permits the applicants' employees to utilize 7 parking stalls at 238 Glen Cove Avenue beginning at 4pm. The Board finds that the reserved off-site parking available after 5pm for customers and 4pm for employees, which is the primary time that the applicant will require the use of additional parking spaces, will be 19 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.
10. 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.
11. 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 applicants obtained parking licenses for 19 additional parking spaces during the prime restaurant usage time. 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.

12. 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.
13. 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, and off-site employee parking pursuant to a license agreement, 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.
14. 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.

15. 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.

16. 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.

LIEBERMAN SHORT FORM DECISION

At a meeting of the Board of Appeals of the Village of Sea Cliff, New York, on March 15, 2016, on motion duly made by Mr. Janusas, 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. Ed and Kathie Lieberman, 172 8th Avenue, Sea Cliff, New York applied to construct a one story addition and maintain an accessory structure, which requires variances of the following Village Code sections: (a) 138-504 in that the lot size is 8,660 square feet, where a minimum of 10,000 square feet is required; (b) 138-506 in that the front property line length is 62.33 feet, where a minimum of 100 feet is required; (c) 138-507 in that the lot width is 62.33 feet, where a minimum of 100 feet is required; (d) 138-509 in that the lot width at the setback line is 62.33 feet, where a minimum of 100 feet is required; (e) 138-511 in that the side yard setback will be 7.6 feet, where a minimum of 15 feet is required; and (f) 138-516 in that the shed is located 2 feet, and the garage 2.3 feet, from the rear yard property line, where a minimum of 5 feet is required, and the garage is located 1 foot from the side property line, where a minimum of 10 feet is required. Premises are designated as Section 21, Block 91, Lot 105 on the Nassau County Land and Tax Map.
2. The applicants are the record owners of the subject premises.
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 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, and (c) all work is performed, and all approvals obtained, within the timeframe provided in Village Code §138-1304.