

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

April 19, 2016

Present: Chair	Noel Griffin
Members	Ted Kopczynski, James Toner and Timothy O'Donnell
Village Attorney	Brian Stolar

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

The Board opened the continued 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. The Board closed the hearing, and reserved decision.

The Board opened the public hearing on the application of Adam and Kristin Hogan, 10 Marden Avenue, Sea Cliff, New York to construct a detached garage, which requires variances to (a) maintain existing lot conditions, as follows: (i) Village Code §138-504 in that the lot size is 7,834 square feet, where a minimum of 10,000 square feet is required, (ii) Village Code §138-506 to maintain a front property line length of 50.27 feet, where a minimum of 100 feet is required, (iii) Village Code §138-507 to maintain a lot width of 50.27 feet, where a minimum of 100 feet is required, (iv) Village

Code to maintain a lot width at the setback line of 50.27 feet, where a minimum of 100 feet is required, and (v) Village Code §138-510 to maintain a lot width on a corner lot of 50.27 feet, where a minimum of 100 feet is required; (b) maintain the existing residence, as follows: (i) Village Code §138-508 in that the front yard setback is 18.4 feet, where a minimum of 25 feet is required, (ii) Village Code §138-511 to maintain a side yard setback of 6.7 feet, where a minimum of 15 feet is required, (iii) Village Code §138-5512 to maintain a rear yard setback of 4.2 feet, where the minimum required setback is 30 feet, and (iv) Village Code §138-513.1 to maintain encroachments into the height-setback ratio plane; and (c) permit an accessory building in a front yard, where no such building is permitted pursuant to Village Code §138-516 and increase a non-conformity where no such non-conformity is permitted pursuant to Village Code §138-1103. Premises are designated as Section 21, Block 89, Lot 209 on the Nassau County Land and Tax Map. The applicants were represented by James Carballal. The Board closed the hearing, and reserved decision.

The Board opened the public hearing on the application of John Kle, 223 Glen Cove Avenue, Sea Cliff, New York to convert a portion of a building used presently as an office to an apartment, which use, in combination with a second apartment on the premises, requires a variance of Village Code §138-901 in that the combined use is not a permitted use and Village Code §138-1103 in that no pre-existing non-conforming use may be changed unless the new use is a permitted use. Premises are designated as Section 21, Block 99, Lot 268 on the Nassau County Land and Tax Map. The Board noted that the application seeks relief for a use variance, that the applicant failed to complete and submit a full Environmental Assessment Form which is required for the Board to consider the environmental impacts of the application, and that the application is required to be referred to the Nassau County Planning Commission. The Board continued the public hearing to May 17, 2016 at 7:30pm.

The Board opened the public hearing on the application of Frank Caruso and La Spezia Ristorante LLC, 400 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. Premises are designated as Section 21, Block 68, Lot 32 on the Nassau County Land and Tax Map. The applicants advised that it intended to utilize the existing restaurant and provide a kid friendly restaurant atmosphere, and that the restaurant would be open from 12pm through 11pm every day. The applicants also informed the Board that there is no outdoor seating. The Board closed the public hearing, and reserved decision.

The Board opened the public hearing on the application of Esther and Howard Weiner, as owners, and Bari Levy, as contract vendee, 62 Clinton Street, Sea Cliff, New York to utilize a portion of the residence as a psychotherapy office, which requires (a) a variance of Village Code §138-1002 in that the premises does not accommodate the minimum required off-street parking, and (b) a special permit pursuant to Village Code §§138-501 and 502 to permit a professional home occupation use at the premises. Premises are designated as Section 21, Block 181, Lot 19 on the Nassau County Land and Tax Map. The existing professional office had been used as a dental office pursuant to a previous approval by the Board. The new use would involve psychotherapy sessions with not more than 1 patient scheduled for every hour, for sessions of 45 minutes. Based on the proposed use, only one (1) parking space is expected to be required at any particular time while the office is open. The applicant further advised that the office hours would be 8:30am through 5pm weekdays and from 9am to 12pm on Saturdays. The applicant also informed the Board that she does not have any regular staff, but utilizes an office assistant on occasion to assist with office organization. The Board closed the hearing, and reserved decision.

The Board discussed the Esposito application. After such discussion, on motion duly made by Mr. Toner, 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 Hogan application. After such discussion, on motion duly made by Mr. O'Donnell, seconded by Mr. Kopczynski, 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 Caruso/La Spezia Ristorante application. After such discussion, on motion duly made by Mr. Toner, 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 Weiner/Levy application. After such discussion, on motion duly made by Mr. Toner, 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 referral of the Kle application to the Nassau County Planning Commission. On motion by the Chair, seconded by Mr. Kopczynski, the Board recommended that the Village Attorney forward the application to the Planning Commission prior to the completion of the environmental review process.

There being no further business, the meeting was adjourned at 9:10 pm.

ESPOSITO SHORT FORM DECISION

At a meeting of the Board of Appeals of the Village of Sea Cliff, New York, on April 19, 2016, on motion duly made by Mr. Toner, 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. Richard Esposito and Kathleen Murphy, 312 Littleworth Lane, Sea Cliff, New York applied 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.
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.

HOGAN SHORT FORM DECISION

At a meeting of the Board of Appeals of the Village of Sea Cliff, New York, on April 19, 2016, on motion duly made by Mr. O'Donnell, seconded by Mr. Kopczynski, 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. Adam and Kristin Hogan, 10 Marden Avenue, Sea Cliff, New York applied to construct a detached garage, which requires variances to (a) maintain existing lot conditions, as follows: (i) Village Code §138-504 in that the lot size is 7,834 square feet, where a minimum of 10,000 square feet is required, (ii) Village Code §138-506 to maintain a front property line length of 50.27 feet, where a minimum of 100 feet is required, (iii) Village Code §138-507 to maintain a lot width of 50.27 feet, where a minimum of 100 feet is required, (iv) Village Code to maintain a lot width at the setback line of 50.27 feet, where a minimum of 100 feet is required, and (v) Village Code §138-510 to maintain a lot width on a corner lot of 50.27 feet, where a minimum of 100 feet is required; (b) maintain the existing residence, as follows: (i) Village Code §138-508 in that the front yard setback is 18.4 feet, where a minimum of 25 feet is required, (ii) Village Code §138-511 to maintain a side yard setback of 6.7 feet, where a minimum of 15 feet is required, (iii) Village Code §138-5512 to maintain a rear yard setback of 4.2 feet, where the minimum required setback is 30 feet, and (iv) Village Code §138-513.1 to maintain encroachments into the height-setback ratio plane; and (c) permit an accessory building in a front yard, where no such building is permitted pursuant to Village Code §138-516 and increase a non-conformity where no such non-conformity is permitted pursuant to Village Code §138-1103. Premises are designated as Section 21, Block 89, Lot 209 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) evergreen plantings along the Littleworth Lane front

property line, and within the applicants' premises, at a minimum height of 8 feet, shall be maintained in perpetuity in accordance with a landscape plan filed with the building department, which plantings shall be maintained for the purpose of restricting the view of the garage from the view of pedestrians and vehicles utilizing the public right-of-way, (c) plantings shall otherwise comply with all applicable Village requirements, and not restrict visibility or access along the public right-of-way, (d) applicants shall file with the County Clerk a declaration of restrictive covenants, in a form approved by the Village Attorney, providing for the continued maintenance of plantings provided in the landscape plan approved by the building department in accordance with the terms of this decision, (e) applicants shall comply with all requirements of the Village Code and the Building Department, and (f) all work is performed, and all approvals obtained, within the timeframe provided in Village Code §138-1304.



**CARUSO/LA SPEZIA RISTORANTE LLC
DECISION**

At a meeting of the Board of Appeals of the Village of Sea Cliff, New York, on April 19, 2016, on motion of Mr. Toner, 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. Frank Caruso, as owner, and La Spezia Ristorante LLC, as tenant, 400 Glen Cove 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 §138-902. Premises are located in the Business B Zoning District and are designated as Section 21, Block 68, Lot 32 on the Nassau County Land and Tax Map.
2. The portion of the Subject Premises proposed to be used by the applicants as a restaurant has previously been used for restaurant purposes, and last obtained a special permit and variances to operate a restaurant at the premises on June 19, 2001.
3. The applicants propose to use the restaurant daily from 12pm through 11pm for customer service with sufficient preparation time prior to the opening of the restaurant to customers. The applicants propose no outdoor seating, and the Board's decision is based on the proposal to not include outdoor seating. In the event outdoor seating is proposed, the applicants will be required to submit a new application to this Board.
4. The applicant stated that the proposed interior of the restaurant is to remain the same and there is no intent to increase the number of tables or seats.
5. The applicants have applied to the Board to permit alterations to the premises to continue to be operated as a restaurant. Such proposed use requires a special use permit pursuant to Village Code §§138-902 and 903.
6. 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 grants the special permit requested subject to the following conditions:

- a. The business shall be conducted as a restaurant;
- b. There shall be no outdoor customer seating;
- d. No music or amplified sound shall be audible outside the building and in addition to any requirements for a cabaret license pursuant to Village Code chapter 50, 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 not exceed the permitted premises occupancy;
- f. The hours of operation shall be from 12:00pm to 11:00pm daily. 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 Glen Cove Avenue or Glenola Avenue.
- j. When making deliveries, the suppliers shall not obstruct or occupy any portion of Glen Cove Avenue or Glenola 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; and

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;

7. 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 three (3) 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 three (3) 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 three (3) year time period. The provisions of this paragraph shall constitute a condition of this decision.

8. Except as otherwise provided herein, the provisions of Village Code §§138-1304 and 1403 apply.
9. 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.

**WEINER/LEVY
DECISION**

At a meeting of the Board of Appeals of the Village of Sea Cliff, New York, on April 19, 2016, on motion of Mr. Toner, 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. Esther and Howard Weiner, as owners, and Bari Levy, as contract vendee, 62 Clinton Street, Sea Cliff, New York applied to utilize a portion of the residence as a psychotherapy office, which requires (a) a variance of Village Code §138-1002 in that the premises does not accommodate the minimum required off-street parking, and (b) a special permit pursuant to Village Code §§138-501 and 502 to permit a professional home occupation use at the premises. Premises are designated as Section 21, Block 181, Lot 19 on the Nassau County Land and Tax Map.
2. On November 27, 2001, the Board granted a parking variance and special use permit to permit a portion of the premises to be used as a dental office subject to conditions set forth in a decision issued by the Board on November 27, 2001.
3. The applicant proposes to operate a psychotherapy office using the same interior space. The applicant represented that there is no staff on site during office hours and that she sees patients on an individual basis. The applicant also represented that there are no group therapy sessions. The applicant proposes to meet with patients between 8:30am and 5:00pm weekdays and 9:00am and 12:00pm on Saturdays. The applicant schedules appointments to provide a 15 minute period between appointments, and therefore restricts the need for on-site parking to not more than one additional vehicle at any time.
4. On the basis that on-site parking shall remain available for one (1) vehicle, and in an effort to maintain the residential character of the property, this Board, mindful of its responsibility to protect nearby residents from the over commercialization of the areas by excessive on-street parking and the a limited ability of the applicant to assure that patients park on the premises, and in order to balance the potential adverse effect the continued use of the premises may have on nearby properties with the obligation of this Board to issue a special permit where adequate, reasonable, and appropriate conditions can be imposed to minimize any adverse effects, the Board grants the special permit subject to the following conditions:

- a. Regular office hours shall be limited to 8:30am to 5:00pm on weekdays and 9:00am to 12:00pm on Saturdays. No regular office hours shall be conducted at any other times during these days and no regular office hours shall be scheduled at any time on Sundays. This condition shall not be considered to be violated if an emergency situation that requires consultation arises at a time other than the regular office hours permitted herein.
 - b. There shall be no group therapy sessions.
 - c. The professional use shall be limited to the applicant (Mrs. Levy) and her patients and no office staff is permitted on site when a patient is present unless required for safety reasons.
5. The Board has granted the special use permit based on the specific nature and intensity of the proposed professional use, as to employees, patients, type and specialization of practice, length of treatment per patient, regular office hours, and other relevant factors. Accordingly, the 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 in the psychotherapist 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 for psychotherapy, shall require a reapplication to this Board.
6. The special permit granted herein shall take effect only after Mrs. Levy is an owner of the premises and after compliance with all building department requirements.
7. If one or more of the aforesaid conditions are violated, the Village and/or the Board shall have the right to suspend or revoke the special permit granted by this Board as provided in the Village Code. The special permit shall expire upon the third anniversary of the filing of this decision with the Village Clerk, and the applicant shall apply to the Board for a special permit for any period thereafter.