

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

September 11, 2019

Present:	Chair	Bruce Treiber
	Members	Timothy Driscoll, Cormac Brady, and Allan Mitzner
	Alternate Members	Laurie Martone and Vince Gimondo
	Village Attorney	Brian S. Stolar, Esq.

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

Ms. Martone did not participate in the Harris or Doherty applications.

The Board opened the continued public hearing on the application of Irene Harris, 156 16<sup>th</sup> Avenue, Sea Cliff, New York, for a permit pursuant to Village Code Chapter 64, to erect a nine (9) foot high wall. Premises are designated as Section 21, Block 151, Lot 12 on the Nassau County Land and Tax Map.

The minutes of the hearing were stenographically transcribed. The hearing was closed, and decision reserved.

The Board opened the public hearing on the application of Joseph Doherty, 111 Littleworth Lane, Sea Cliff, New York, for site plan approval pursuant to Village Code Chapter 107, to construct an inground swimming pool, which will result in an increase in the topography in excess of one foot. Premises are designated as Section 21, Block 77, Lot 48 on the Nassau County Land and Tax Map.

The minutes of the hearing were stenographically transcribed. The hearing was closed, and decision reserved.

Mr. Gimondo did not participate in the 14 Bay Avenue hearing, and Ms. Martone participated.

The Board opened the public hearing on the application of 14 Bay Avenue LLC and Eugene Alleto, 14 Bay Avenue, Sea Cliff, New York to construct retaining walls at the premises, maintain and/or modify the driveway and the rear yard, and modify the topography in the rear area of property located at 14 Bay Avenue, which construction requires (a) approval pursuant to Village Code Chapter 64 in that retaining walls in excess of four (4) feet in height require Planning Board approval and (b) amended site plan approval pursuant to Village Code Chapter 107, to permit the proposed site improvements. Premises are designated as Section 21, Block F, Lot 89 on the Nassau County Land and Tax Map.

The minutes of the hearing were stenographically transcribed. The hearing was closed, and decision reserved.

The Board discussed the Harris application. Ms. Martone did not participate in the discussion. On motion duly made by the Chair, seconded by Mr. Brady, and adopted unanimously, the Board determined that it is the lead agency, the requested relief is a Type II matter under SEQRA that requires no environmental review, and granted the application for a permit to construct the wall, subject to the following conditions: (a) the wall shall be installed in the location, and of a size and material, as indicated in the plans submitted to the

Board, (b) if determined appropriate by the Building Department, applicant shall provide the Building Department with a final survey depicting the location of the wall; and (c) applicant shall obtain a building permit from the Building Department within six (6) months, and a certificate of completion within one (1) year, of the filing of this determination with the Village Clerk.

The Board discussed the Doherty application. Ms. Martone did not participate in the discussion. On motion duly made by the Chair, seconded by Mr. Driscoll, and adopted unanimously, the Board determined that it is the lead agency, the requested relief is a Type II matter under SEQRA that requires no environmental review, and granted the application for site plan approval, subject to the following conditions: (a) applicant shall construct the swimming pool and related improvements in conformance with the plans submitted with the application, (b) applicant shall install drainage facilities in a location and size as determined by the Building Department, to accommodate the impervious coverage and prevent any storm-water from running off the property, (c) applicant shall comply with all requirements of the Building Department, and (d) applicant shall obtain a building permit from the Building Department within six (6) months, and a certificate of completion within one (1) year, of the filing of this determination with the Village Clerk.

Ms. Martone participated in the remainder of the meeting, and Mr. Gimondo did not.

The Board discussed the environmental impact of the 14 Bay Avenue application. On motion duly made by the Chair, seconded by Mr. Mitzner, and adopted unanimously, the Board adopted the following resolution:

RESOLVED, that the Board hereby finds and concludes that

(a) the combined application for site plan approval and wall permits is an Unlisted action under the State Environmental Quality Review Act and its regulations;

(b) the Board has conducted an uncoordinated review and is the lead agency with respect to environmental review of this proposed action for site plan approval and wall permits;

(c) the Board has considered the following factors in respect to its review of the environmental impacts of the proposed action:

(i) whether the proposed action would result in any substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic or noise levels, nor any substantial increase in solid waste production, nor create a substantial increase in the potential for erosion, flooding, leaching or drainage problems;

(ii) whether the proposed action would result in the removal or destruction of large quantities of vegetation or fauna, substantial interference with the movement of any resident or migratory fish or wildlife species, impacts on a significant habitat area, substantial adverse impacts on a threatened or endangered species of animal or plant, or the habitat of such a species, or other significant adverse impacts to natural resources;

(iii) whether the proposed action would impair the environmental characteristics of any Critical Environmental Area;

(iv) whether the proposed action would conflict with the community's current plans or goals as official approved or adopted;

(v) whether the proposed action would impair the character or quality of important historical, archeological, architectural or aesthetic resources or of existing community or neighborhood character;

(vi) whether the proposed action would result in a major change in the use of either the quantity or type of energy;

(vii) whether the proposed action would create a hazard to human health;

(viii) whether the proposed action would create a substantial change in the use, or intensity of use, of land, including agricultural, open space or recreational resources, or in its capacity to support existing uses;

(ix) whether the proposed action would encourage or attract large numbers of persons to any place for more than a few days, compared to the number who would come to such place without such action;

(x) whether the proposed action would create changes in two or more elements of the environment, no one of which would have a

significant impact on the environment, but when taken considered together would result in a substantial adverse impact on the environment;

(xi) whether the proposed action would create substantial adverse impacts when considered cumulatively with any other actions, proposed or in process;

(xii) whether the proposed action would result in substantial adverse impact with respect to any relevant environmental consideration, including noise, aesthetics, traffic, air quality, water quality or adequacy of water supply, drainage, soil conditions, or quality of life in the community in general and the immediate neighborhood in particular;

(d) the proposed action, particularly given the plans as reviewed by a retained engineer and approved by the NYS Department of Environmental Conservation would not have a significant adverse environmental impact; and

(e) no further environmental review is required with respect to the proposed action

The Board discussed the 14 Bay Avenue application. On motion duly made by the Chair, seconded by Mr. Mitzner, and adopted unanimously, the Board approved the site plan and wall permit application of 14 Bay Avenue Commons in accordance with the attached decision.

There being no further business, the Chair closed the meeting at 8:25 pm.

  
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BRUCE TREIBER, CHAIR

VILLAGE OF SEA CLIFF, NY

SEP 23 2019

VILLAGE CLERK



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In the Matter of the Application of

14 BAY AVENUE LLC and EUGENE ALLETO

to construct retaining walls at the premises, maintain and/or modify the driveway and the rear yard, and modify the topography in the rear area of property located at 14 Bay Avenue, which construction requires (a) approval pursuant to Village Code Chapter 64 in that retaining walls in excess of four (4) feet in height require Planning Board approval and (b) amended site plan approval pursuant to Village Code Chapter 107, to permit the proposed site improvements. Premises are designated as Section 21, Block F, Lot 89 on the Nassau County Land and Tax Map.

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RESOLVED, upon consideration of the evidence presented at the public hearing held by the Planning Board (the "Board"), all proceedings had herein, all documentation submitted to the Board, following the personal inspection of the subject property by the Board members, and after due deliberation, the Board makes the following findings of fact and decision:

1. This is an application by 14 Bay Avenue LLC, owner of property located at 14 Bay Avenue, Sea Cliff, New York and designated on the Nassau County Land and Tax Map as Section 21, Block F, Lot 89 (the "Premises"), to construct retaining walls at the premises, maintain and/or modify the driveway and the rear yard, and modify the topography in the rear area of property located at 14 Bay Avenue, which construction requires (a) approval pursuant to Village Code Chapter 64 in that retaining walls in excess of four (4) feet in height require Planning Board approval and (b) amended site plan approval pursuant to Village Code Chapter 107, to permit the proposed site improvements. The proposed work is depicted on plans submitted by the applicant, and include plans prepared by Dietrich Engineering,

P.C., dated 03/2019, last revised 07/02/2018, and date stamped by the Village on August 30, 2019, sheets C-1 through C-10, inclusive (the "Proposed Work").

2. In connection with the Proposed Work, the applicant has received approval from the New York State Department of Environmental Conservation (DEC) for a tidal wetlands permit (permit ID 2824-03199/00001) effective January 31, 2017 and amended effective July 17, 2019 (the "DEC Approval" or "DEC Permit"). The Proposed Work requires no variances.

3. The Board has declared itself to be the lead agency with respect to this application under the State Environmental Quality Review Act (SEQRA) and determined that the proposed action requested under this application is an Unlisted Action under SEQRA and adopted a negative declaration. The Board referred the application to the Nassau County Planning Commission and no response has been received from the Planning Commission. Accordingly, the Board may take such action on this application as the Board deems appropriate.

4. In rendering its determination, the Board has considered the testimony and documentary evidence submitted with the application and during the public hearing process, its own inspections of the Premises and the surrounding neighborhood, and the review comments provided by Newport Engineering, P.C. The Board has reviewed the site plan application in accordance with the provisions of Chapter 107, including Section 107-5, and the wall permit criteria in Chapter 64, and finds that the Proposed Work, subject to the conditions herein, including strict adherence to the DEC Approval, complies with the criteria set forth within Chapters 107 and 64. Accordingly, the Board grants site plan and wall permit approval, subject to the following conditions:

a. The Proposed Work shall adhere strictly to the plans identified in paragraph 1 herein.

b. The proposed walls shall be constructed in the locations, at the heights, and utilizing the construction materials indicated in the aforesaid plans.

c. The site improvements, including all topography changes, drywells, stormwater runoff and drainage features, shall be constructed in strict conformance with the aforesaid plans.

d. The applicant shall comply with all conditions contained in the DEC Permit. If the Proposed Work has to be modified for any reason, no such modification will be permitted unless authorized by the DEC and this Board.

e. Plantings shall be planted and maintained west of each of the three (3) easterly retaining walls (identified in the plans as Retaining Wall #1, #2 and #3) in a manner that restricts the view of the aforesaid walls from Hempstead Harbor, as approved by the DEC and the Building Department.

f. If the Village is required to retain the services of any professional to observe the work or address any specific conditions, the costs and expenses incurred by the Village in connection with such work shall be borne and paid by applicant, and if such payment is not made, shall be assessed by the Board of Trustees upon the Premises. Applicant, upon being provided with written notice of the costs and expenses incurred, or anticipated to be incurred, shall make payment to the Village. If applicant shall fail to pay such costs or expenses within 15 days of the giving of such notice, the Village Clerk shall thereupon notify the Village Assessor, who shall immediately fix and determine a special assessment against the Premises in the amount of such costs and expenses, and present such assessment to the Board of Trustees for confirmation. A lien shall attach to the Premises as of the time such assessment is confirmed, which lien shall have the same priority as a Village tax. Collection and cancellation of such special assessment shall be in accordance with the provisions of Village



Law. In addition, except as necessitated by emergency circumstances (as determined by the Superintendent of Buildings) no inspections may take place or permits or certificates may issue until all such costs and expenses are paid.

g. Removal of construction materials shall comply with all requirements of the building department, including the timing of such removal and the use of dumpsters and dump truck. No such dumpsters or dump trucks shall be placed off-site.

h. Parking shall be on-site, and no parking of vehicles associated with the work shall be located on Bay Avenue or any roads intersecting Bay Avenue.

i. Construction equipment and materials, and staging materials, shall be stored on-site or on Hempstead Harbor on barges, but not on Bay Avenue.

j. Except as indicated in the approved plans, the applicant shall make no changes to the topography of the Premises.

k. The drainage system shall comply with all applicable laws and regulations and shall contain all storm-water on-site.

l. A qualified engineer, or other professional consultant, as deemed acceptable by the building department, after consultation with an engineer, shall remain on-site during the entirety of the proposed work to assure that there will not be any damage to adjoining properties or the public roadways and that the land will remain stabilized during and after completion of the construction. Applicant shall be responsible to obtain such professional at applicant's sole cost and expense. The applicant's engineer shall provide site engineering inspections according to proper protocol, which shall include any special agency inspections required in relation to the tie-back anchor testing, soil requirements and off-site

sources, soil compaction, structural stability and all other standard engineering inspections.

m. If any portion of the Proposed Work requires use of, or access to, an abutting premises, applicant shall obtain written authorization from the abutting neighbor prior to commencing such work.

n. Applicant shall install erosion protections on the site to assure that there is no erosion of any materials onto neighboring properties, Hempstead Harbor or the public roadways. As this site has the potential for erosion due to topography and the potential for any such eroded materials to enter the waterway due to the proximity of the Premises to Hempstead Harbor, applicant shall be responsible to assure that such erosion protections shall remain working and functional throughout the construction period. Also, in the event of a forecasted rain or snow storm during the construction, the applicant shall secure the site with additional erosion protection measures, including sandbags.

o. Applicant shall provide safety and shoring, as per OSHA and site specific shoring plans provided by a licensed engineer and accepted by the building department and Newport Engineering.

p. Applicant shall provide the building department with a site logistic, including access, which plan is subject to review and approval of the building department.

q. A copy of the final DEC approval shall be filed with the Village as a condition of any building permit issued in connection with the Proposed Work.

r. Applicant shall file with the Village an existing conditions report together with photographs of abutting properties and conditions of the abutting properties within 20 feet of the Premises.

s. Applicant shall provide a vibration monitoring plan to the building department, and no work shall commence until such plan is approved by the building department. The vibration monitoring plan shall incorporate sensors at each of the three property lines (north, south and east), and shall include the corporate curriculum vitae of the firms and/or personnel performing any monitoring work.

t. All construction or other on-site debris shall be contained in a covered container to assure that no such debris is blown or otherwise removed unintentionally from the Premises.

u. Work shall be performed during hours permitted by the building department, and no construction related work shall take place on Saturdays between Memorial Day weekend and Labor Day weekend. No work is permitted on Sundays.

v. Prior to the issuance of a certificate of occupancy for, or other authorization of the occupancy of, the residence, applicant shall be required to repair any damage to curbing or roadways, if such damage is determined by the Village building department to have occurred due to any construction activity.

w. Upon the completion of the Proposed Work, and as a predicate to any final sign off by the building department of the Proposed Work, applicant's engineer shall provide the building department with certification that the Proposed Work complies with the plans and the New York State Uniform Code was performed in accordance with applicable engineering standards and requirements, and has been completed in accordance with such Uniform Code and engineering standards and requirements.

