

MINUTES

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

April 11, 2012

Present: Chair	Bruce Treiber
Members	Laurie Martone
	Timothy Driscoll
	Nicholas Virgilio
	Edward Camiolo
	Alternate: Edward Lieberman (present, but did not participate)
Superintendent of Buildings	Andrew Lawrence
Village Attorney	Brian Stolar

The meeting was called to order at 8:00 pm.

The Board opened the continued public hearing on the application of SCO Family of Services, 101 Downing Avenue, Sea Cliff, New York for a special permit pursuant to Village Code §64-3 to construct fencing and gates in excess of the permitted height of four feet, and for amended site plan approval to construct gates across portions of the driveway and pedestrian accessways. Premises are designated as Section 21, Block M, Lot 40 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 Chris Marchioli, 17 7<sup>th</sup> Avenue, Sea Cliff, New York for a special permit pursuant to Village Code chapter 107 for site plan approval to widen a driveway apron from 9.5 feet to 13.5 feet. Premises are designated as Section 21, Block 91, Lots 6 and 205 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 Henry Zendle, 201 Maple Avenue, Sea Cliff, New York for a special permit pursuant to Village Code chapter 107 for site plan approval to maintain an existing curb cut and driveway. Premises are designated as Section 21, Block F, Lot 96 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 Laitin and Xin Yam, 333 Carpenter Avenue, Sea Cliff, New York for a special permit pursuant to Village Code §64-3 to construct a six foot high fence. Premises are designated as Section 21, Block 49, Lot 304 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 Vincent Parker, 3 Harriet Court, Sea Cliff, New York for a special permit pursuant to Village Code §64-3 to construct a six foot high fence. Premises are designated as Section 21, Block 89, Lot 6 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 Marianna Kreatsoulas, 35 Hawthorne Road, Sea Cliff, New York to construct a second story addition, garage with habitable space and a six foot high fence, which require site plan approval pursuant to Village Code chapter 107 and a special permit pursuant to Village Code §64-3 to construct a six foot high fence.

Premises are designated as Section 21, Block 31, Lot 28 on the Nassau County Land and Tax Map. The Board continued the hearing to May 9, 2012 at 8:00pm, as the applicant had not submitted landscaping plans.

The Board discussed a request from James Carballal, architect for Maureen Raftery, 59 The Boulevard for a waiver of the requirement to install underground electric service. On motion duly made by Mr. Driscoll, seconded by Mr. Camiolo, the Board granted the waiver request.

The Board discussed the Marchioli application. On motion duly made by Dr. Virgilio, seconded by Ms. Martone, and adopted unanimously, the Board determined that the Marchioli application to widen a driveway is a Type II matter under SEQRA, that the Board is the lead agency and the application requires no further environmental review, and granted the application, subject to the following conditions: (a) the driveway and driveway apron shall remain located in the location depicted on the plans submitted with the application; (b) a final survey depicting the location of the driveway and setback from adjoining properties shall be filed with the Village building department for review in accordance with this approval, unless such survey is determined by the building department to be unnecessary; (c) the applicant shall comply with all requirements of the Superintendent of Buildings and the Village Code, including requirements related to stormwater runoff, except as modified by this approval; and (d) within the timeframe provided in Village Code §138-1304(A), applicant shall complete the work and obtain all certificates necessary for the work.

The Board discussed the Zendle application. On motion duly made by Ms. Martone, seconded by Mr. Driscoll, and adopted unanimously, the Board determined that the Zendle application to maintain an existing curb cut and driveway is a Type II matter under SEQRA, that the Board is the lead agency and the application requires no further environmental review, and granted the application, subject to the following conditions: (a) the driveway and curb cut apron shall remain located in the location depicted on the plans submitted with the application; (b) the curb cut and curbing shall be repaired in a safe and workmanlike manner in accordance with Village Code specifications and as determined by the Superintendent of Buildings; (c) a final survey depicting the location of the driveway and curb cut setback from adjoining properties shall be filed with the Village building department for review in accordance with this approval, unless such survey is determined by the building department to be unnecessary; (d) the applicant shall comply with all requirements of the Superintendent of Buildings and the Village Code, including requirements related to the retention of stormwater runoff, except as modified by this approval; and (e) within the timeframe provided in Village Code §138-1304(A), applicant shall complete the work and obtain all certificates necessary for the work.

The Board discussed the Yam application, but did not render a determination.

The Board discussed the Parker application. On motion duly made by Ms. Martone, seconded by Dr. Virgilio, and adopted unanimously, the Board determined that the Parker application is a Type II matter under SEQRA, that the

Board is the lead agency and the application requires no further environmental review, and granted the application in part and denied the application in part, as set forth in the attached determination.

The Board discussed whether to require sanitary and stormwater runoff plans be submitted by the applicant in the Kreatsoulas application. The Board determined that it would waive any requirements to provide such plans, and that the only additional plans to be submitted prior to the next meeting would be landscaping plans depicting existing and proposed landscaping.

The Board discussed the Curtis application. On motion duly made by the Chair, seconded by Mr. Driscoll, and adopted unanimously, the Board granted the applicant's request for preliminary and final subdivision, subject to the following conditions:

1. The subdivision shall permit the division of the property, which previously became one parcel in accordance with the New York State merger doctrine and the Village Code, into two distinct building lots, as set forth on the plat submitted to the Board.
2. The applicant shall comply with any requirements imposed by the Nassau County Clerk's office in connection with the formalization of the subdivision of the 4 tax lots into 2 building parcels, except that the Board hereby waives the requirement for filing a subdivision plat in accordance with Real Property Law §334-a and the Nassau County Charter §1610.
3. To the extent that any of the tax bills for all of the tax lots now are combined with the other tax lots, the applicant shall be required to apply to the Nassau County Assessor's Office to provide for 2 building lots separated as provided in the subdivision map submitted with the application. Such application shall be made within 60 days of the filing of this determination with the Village Clerk.
4. The requirement of a park fee payment or dedication of park land to the Village is waived because the proposal only provides for the undoing of a merged property where the tax lots previously were recognized as separate properties and a subdivision of these lots in the identical configuration was granted previously.

5. Except as otherwise provided herein, the Board hereby waives the requirements of Village Code §A145-10;
6. The Board hereby waives the requirement of the filing of a bond by the applicant;
7. The Board hereby waives the plat filing requirements in accordance with Real Property Law §334-a and Nassau County Charter §1610, and consents to the subdivision as depicted in the plans filed by the applicant in support of this application.
8. Within 90 days after the adoption of this approval and the filing thereof with the Village Clerk, the applicant shall file deeds for the newly created parcels, as created by this application, with the Nassau County Clerk's office, and provide a copy of the deeds and proof of recording to the Village within 15 days thereafter (no later than 105 days after the adoption and filing with the Village Clerk of this approval).
9. This approval does not include an approval of the proposed development of any structure on the newly created parcel. Any such proposal first must seek and obtain site plan approval in accordance with the site plan requirements in the Village Code.
10. Should the applicant fail to comply with the timeframes provided for herein, the applicant may make written application to the Board to permit an extension of the time period in which to complete the aforesaid actions. Such determination shall not be subject to a new public hearing, and may be made at any meeting of the Board.

The Board discussed the environmental impacts of the SCO application. On motion duly made by the Chair, seconded by Mr. Driscoll, and adopted unanimously, the Board adopted the following resolution:

RESOLVED, that the Board hereby finds and concludes:

- a. the proposed action is an Unlisted action under the State Environmental Quality Review Act and its regulations;
- b. the Board is the lead agency with respect to environmental review of this proposed action;
- 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, or any substantial increase in solid waste production, or 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 officially 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 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 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 would not have a significant adverse environmental impact; and no further environmental review is required with respect to the proposed action.

The Board discussed the SCO application. On motion duly made by the Chair, seconded by Mr. Driscoll, and adopted unanimously, the Board determined to grant the site plan and special permit application, subject to the following conditions: (a) the fencing and gates shall be installed in the locations depicted in the plans submitted with the application, such plans indicating that none of the fencing or gates will be installed in the area depicted in the plans as Park Avenue; (b) the amended site plan shall not be deemed fully approved until such time as the westerly half of Park Avenue is incorporated into the SCO premises and the easterly half of Park Avenue is incorporated into the adjoining neighbor's property, with both portions being reflected as private property on the Village Official Map and the records of the Nassau County Clerk and County Assessor such that the respective portions of Park Avenue are officially portions of the tax lots of the respective property owners; (c) no certificate of completion may issue for any of the fencing or gates until such time as the portions of Park Avenue are transferred to the respective property owners and incorporated into the respective property owners lots as portions of their tax lots or as separate tax lots owned by the respective landowners; (d) the approved fencing and gates shall be in the same style, material and location as depicted on the plans in support of the application; (e) no portion of the fence shall extend into any neighboring property or the public right-of-way, (f) a final survey depicting the location of the fence shall be filed with the Village building department for review in accordance with this approval, unless such survey is determined by the

building department to be unnecessary; (g) the applicant shall comply with all requirements of the Superintendent of Buildings and the Village Code, except as modified by this approval; and (h) within the timeframe provided in Village Code §138-1304(A) and subject to the conditions contained herein, applicant shall complete the work and obtain all certificates necessary for the work.

The Board discussed additional training options, including online course offerings.

The Board discussed the potential impacts created where fences are located along property lines where there are adjoining driveways. The Board determined to recommend that the Board of Trustees adopt legislation that would prohibit the placement of any fencing or walls in such locations.

The Board discussed a letter request from Jeffrey Forchelli, Esq. regarding the Map of Sea Isle Marina. The Board noted that it previously had granted an extension of time for the applicant to file the Map and obtain the signature of the Planning Board Chair on the Map. It also was noted that an entity that the Chair is associated with recently issued a bond that was filed in the City of Glen Cove in relation to the subdivision. On motion duly made by Dr. Virgilio, seconded by Mr. Driscoll, and adopted four votes in favor and the Chair abstaining, the Board authorized Ms. Martone to sign the Map if such Map is timely presented for signature.

There being no further business, the Chair closed the meeting at 10:20pm.

## **PARKER DETERMINATION**

At a meeting of the Planning Board of the Village of Sea Cliff, New York, on April 11, 2012, on motion of Ms. Martone, seconded by Dr. Virgilio, 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 determination:

1. Vincent Parker, 3 Harriet Court, Sea Cliff, New York made application to install a six foot high fence along a portion of a side property line and along the rear property line, which installation requires a special permit pursuant to Village Code §64-3. Premises are designated as Section 21, Block 89, Lot 6 on the Nassau County Land and Tax Map.
2. The applicant is the record owner of the subject premises.
3. The premises are located on a narrow lot that is only 46 feet wide. The applicant's paved driveway adjoins the driveway of the property to the north. The paved driveways are separated only by mountable block curbing which shows on the survey to be located entirely on the neighbor's property. The respective paved areas veer off to the respective interior portions of the properties east of the rear building line of the respective dwellings. The fence is proposed to be located along the portion of the driveway where the neighboring houses and driveways are side by side.
4. The applicant explained that the 6 foot high fence was needed for privacy reasons, as well as the need to make the most efficient use of his premises. The neighbor objected to the application due to safety reasons and the potential for an adverse impact on his premises.
5. For the reasons expressed herein, the Board grants the application as it relates to the rear property line fence, and denies the application as it relates to the side property line fence.
6. Chapter 64 of the Village Code requires that all fences, except open wire fences, not exceed four feet in height. To exceed the permitted height, a special permit is required to be obtained from the Planning Board. As set forth in Village Code §64-3.1, the Village finds that it is generally in the best interests of the Village to require that fences comply with the height requirements, but that there are situations that warrant exceptions to the height requirements. As further provided by said section, in determining whether to grant an exception, the Planning Board is to give "reasonable consideration of the needs, objectives and purposes of the applicant as balanced against the physical and visual environment of the Village and the safety, health and welfare of the adjoining property owners and the

Village and its residents”. The factors to be considered are set forth in Village Code §64-3.1(B), as follows: type of fence to be used, including the design and component materials; location; setback from property lines, streets, and corners; height; purpose, including necessity for privacy, safety or shielding from other noise, traffic or other potentially annoying factors; the consent or objection of adjacent property owners; whether the fence will accomplish the proposed purpose; practicality of alternatives to accomplish the same purpose with less adverse effect; effects on the adjacent properties; obstructions to light, air and visibility of adjacent properties which will result; appropriateness of design to the character of the neighborhood; effect on clear and safe passage of pedestrians and vehicles; whether an obstruction to view will be created which creates a danger to pedestrians or traffic disproportionate to the benefit derived; means of fastening and support; likelihood of accident or danger due to location; and whether the structure will be permanent or temporary.

7. The proposed location of the rear fence has no impact on any neighboring property, is out of view of the public, and will accomplish the purpose proposed by the applicant.
8. As to the side yard fence, the applicant has not demonstrated that he is entitled to a six foot high fence when the expressed purposes are balanced against the physical and visual environment and the safety, health and welfare of the neighbors and the Village. The fence is proposed at a location where the neighboring driveways connect and the dwellings each are 10 feet or less away from the property line and the proposed location of a six foot high fence. Placing a six foot high fence at this location will have a substantial negative visual impact due to the location in relation to the properties and the proximity of the residences. Given the nature of the driveways adjoining, it will create a potential safety hazard at the points where the fence ends as pedestrians, both adults and children, would not be able to see beyond the fence in a location where vehicles access the respective properties. The impact on the neighboring property is potentially devastating due to this safety issue. Placement of a six foot high fence at the proposed location is not consistent or appropriate with the neighborhood. For all of these reasons, the potential negative consequences and dangerous situation created by a six foot high obstruction is substantially disproportionate to the purported benefit that would derive from the installation of a six foot high fence on the side property line.
9. For the reasons set forth herein, the Board finds and concludes that the special permit should be granted for the rear yard property fence, subject to the conditions contained herein, and that it is denied for the side property line portion of the fencing.

10. The approval for the rear property line fence is subject to the following conditions to assure that the proposed fence is consistent with the rationale for the granting of a special permit for a fence to exceed four feet in height: (a) the approved fence shall be in the same style, material and location as depicted on the plans in support of the application; (b) no portion of the fence shall extend into any neighboring property or the public right-of-way, (c) a final survey depicting the location of the fence shall be filed with the Village building department for review in accordance with this approval, unless such survey is determined by the building department to be unnecessary; (d) the applicant shall comply with all requirements of the Superintendent of Buildings and the Village Code, except as modified by this approval; and (e) within the timeframe provided in Village Code §138-1304(A), applicant shall complete the work and obtain all certificates necessary for the work.

