

MINUTES

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

May 21, 2014

Present: Chair Bruce Treiber
 Members Nicholas Virgilio
 Tim Driscoll
Village Attorney Brian S. Stolar, Esq.

The meeting was called to order at 8:00 pm. The meeting was held outside of the front of Village Hall.

The Board discussed the minutes of the April 9, 2014 meeting and the draft resolution regarding the Barnaby decision.

On motion duly made by Dr. Virgilio, seconded by the Chair, and adopted unanimously, the Board approved the minutes of the April 9, 2014 meeting for filing.

On motion duly made by Dr. Virgilio, seconded by the Chair, and adopted unanimously, the Board adopted the attached resolution providing for the granting of the application of Douglas and Karin Barnaby for preliminary and final subdivision subject to the conditions and terms set forth in the attached resolution.

The Board noted that the applicants on the Mendelsohn application did not appear for the hearing, and that information was provided to the Board that the contract vendee, who had presented the application, was no longer planning on

moving forward. The Board decided to mark the Mendelsohn matter off calendar and took no further action with respect to the Mendelsohn application.

There being no further business, the Chair closed the meeting at 8:12pm.

PLANNING BOARD
VILLAGE OF SEA CLIFF

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In the Matter of the Application of

DOUGLAS and KARIN BARNABY

for preliminary and final subdivision approval to permit the division of premises located at 404 Littleworth Lane and designated as Section 21, Block L-1, Lot 306 on the Nassau County Land and Tax Map from one lot containing a two family residence to four lots, identified on the subdivision map as Parcel A (containing the existing two family residence), Parcel B (proposed new single family residential lot fronting on Willow Shore Avenue and Finch Way), Parcel C (proposed new residential lot fronting on Finch Way), and Finch Way (proposed new roadway to be offered for dedication to the Village) Land and Tax Map

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RESOLUTION

WHEREAS, Douglas and Karin Barnaby applied to the Planning Board of the Village of Sea Cliff for final approval of a subdivision of a lot containing a two family residence to four lots, including three residential parcels and a roadway, based on the plans entitled "Alternate Partitioning Map", prepared by Joseph E. Dioguardi, Jr., dated 2-5-14 and last revised 3-28-14 (the "Subdivision Map") and for waivers of certain provisions of the Village Code related to subdivisions; and

WHEREAS, the applicants obtained approvals from the Village Zoning Board of Appeals for variances and an appeal of a determination by the Village Superintendent of Buildings (the "Superintendent"), as provided in a resolution adopted by the Zoning Board; and

WHEREAS, the subject parcel is located on the north side of Littleworth Lane, east side of Willow Shore Avenue, and along portions of Preston Avenue and Bryant Avenue, each portion a private road, and is known as 404 Littleworth Lane and designated as Section 21, Block L-1, Lot 306 on the Nassau County Land and Tax Map (the "Premises"); and

WHEREAS, the Premises are located in a Residence B Zoning District in the Village of Sea Cliff, which district requires a minimum lot size of 10,000 square feet and a minimum front property line of 100 feet; and

WHEREAS, the three proposed residential lots comply with the Residence B Zoning District lot size requirements, and the variations in the front property line lengths and widths have been approved by the Zoning Board; and

WHEREAS, the development will be served by on-site sanitary sewage facilities and public water; and

WHEREAS, the term "applicants" herein refers to the applicant and his and/or her successors and/or assigns; and

WHEREAS, the Planning Board held public hearings on February 12, 2014, March 12, 2014, March 26, 2014 and April 9, 2014, and

WHEREAS, the applicants filed with the Village plans for a subdivision of the Premises into three (3) residential lots and a private roadway in or around December 2012, and by decision in October 2013 the Zoning Board of Appeals denied some of the required variances and the applicants' appeal of the Superintendent of Building's determination; and

WHEREAS, subsequent to the October 2013 Zoning Board determination, the applicants submitted revised plans providing for access to parcel C via Littleworth Lane and those plans were presented to the Planning Board at the February 2014 hearing; and

WHEREAS, the applicants now have revised the plans to eliminate the Littleworth Lane access, and the Board's decision herein is based on the revised plans depicted in the Subdivision Map and as further amended in accordance with the applicants' presentation and this decision; and

WHEREAS, the subdivision is classified as an Unlisted Action under SEQRA, and in connection with the December 2012 submission, the Board declared itself lead agency under SEQRA and issued a conditioned negative declaration for the purpose of SEQRA review, and that the Board finds that the resolution providing for such determination remains applicable to the amended subdivision map; and

WHEREAS, the application for subdivision was referred to the Nassau County Planning Commission in accordance with the General Municipal Law, the Planning Commission advised the Board to take such action as it deems appropriate, and the Board finds that the referral and recommendation remain applicable to the amended subdivision application; and

WHEREAS, the Board has fully considered all of the evidence at the public hearings, and all of the proceedings had herein.

NOW, THEREFORE, BE IT RESOLVED, that the application of Douglas and Karin Barnaby for preliminary and final approval of the Subdivision Map

submitted with the application is hereby approved, subject to the following conditions and requirements:

1. Within six (6) months of the filing of this final approval with the Village Clerk, applicants must file a final subdivision map, which map shall contain the information contained in the Subdivision Map together with the items, notes, certifications, and endorsements identified herein and in the Village Code. If a final subdivision map is not timely filed with the County Clerk despite diligent efforts to do so by the applicants, applicants may submit a written request for an extension of time to file the map, which request shall be considered by the Board without a public hearing.

2. Applicants shall submit to the Village, a subdivision map for signature by the Chair, and such map shall contain the information included in the Subdivision Map, together with the following required information and statements, notes, endorsements and certifications:

- a. Endorsements and certifications as required by the Village Code A145-10;
- b. Note indicating that Finch Way is proposed to be dedicated irrevocably to the Village as a public street;
- c. Note that there will be no further subdivision of any portion of the subdivided property;
- d. Note that the dwelling located on Parcel B shall be located at least 30 feet from Willow Shore Avenue and shall be configured

so that the narrower side of the residence shall face east and west and the front of the dwelling shall face north;

- e. Note that the driveway access to Parcel B will be via Finch Way, and there shall be no curb cut on Willow Shore Avenue providing access to Parcel B;
- f. Note that all new utilities (not those presently existing, and used by, Parcel A) shall be installed underground and in accordance with the Village building department and Department of Public Work requirements;
- g. Note that no additional access shall be provided to any of the parcels from Littleworth Lane, except as currently existing, and that any modification to the existing Littleworth Lane access shall be subject to site plan review;
- h. Note confirming that Parcel B contains a lot area of not less than 10,000 square feet;
- i. Note that the width of the right-of-way of Finch Way shall be no less than 34 feet, and the width of the paved portion of Finch Way shall be no less than 24 feet;
- j. Note that Finch Way shall be designed and configured in a manner approved by the Village Director of Public Works and, if required, by the Village building department, and that erosion protection features shall be provided as part of the design of Finch Way, which may include curbs or other elements only if

determined to be required by the Director of Public Works after consultation with the applicants' designated design professional. This note shall further provide that such design requirements shall be based on the accommodation of emergency, fire and sanitation vehicles potentially utilizing a roadway of this size and anticipated level of service;

- k. Note that drainage facilities sufficient to accommodate all stormwater runoff created by Finch Way shall be installed by applicants pursuant to the design approved by the Village. This note shall further provide that unless the Nassau County Department of Public Works requires otherwise in relation to this roadway, the stormwater runoff system shall be required to accommodate a 3 inch storm and shall otherwise comply with the requirements of the Village Director of Public Works;
- l. Note that the stormwater management and drainage plans for each parcel must be approved by the Superintendent, and subject to review by the Director of Public Works;
- m. Note that, except for the trees depicted on the subdivision map to be removed to accommodate the proposed roadway, the removal of any trees in connection with the subdivision or the construction of homes on the subdivided lots shall be the subject of site plan review;

- n. Note that no building permit shall issue for construction of a dwelling on parcel B and/or Parcel C until site plan approval is granted for such dwelling and all appurtenances thereon including the location of all structures, driveways, utilities and trees;
- o. Note that applicants shall adhere to the conditions of the Conditioned Negative Declaration adopted by the Planning Board at its April 10, 2013 meeting, and that the conditions apply to the entire proposed development;
- p. Finch Way shall be extended eastward to a point that renders the front property line length of Parcel A on Finch Way no less than 100 feet and also shall remain 34 feet wide, while not extending to the easterly property line.
- q. Certification by Joseph E. Dioguardi, Jr., the preparer of the Subdivision Map that parcels A, B and C are in accordance with the minimum requirements of the Residence B district or that any variations from the Village Code have been approved by the Zoning Board of Appeals;
- r. Note that no structure, including fences, gates or walls shall be placed or installed in the right-of-way;
- s. Note that no hedges or shrubbery shall be planted or maintained in the right-of-way unless approved by the Planning Board as part of site plan review; and

t. The location of existing water mains and easements, if any, and of proposed or existing utilities and easements shall be identified as the final map.

3. Each of the notes required to be placed on the map, and compliance with the obligations and requirements set forth therein, is a condition of this approval.

4. Upon the submission of a final map complying with the conditions and requirements herein and the Village Code, and provided that such submission is accomplished within 180 days following the date of the filing of this resolution with the Village Clerk or any time extension granted by the Planning Board, the Chair shall sign and date the final map indicating approval of the Planning Board. The endorsement on the final map providing for the signature of the Planning Board Chair shall include the following text: "This approval shall not be deemed to constitute or imply acceptance by the Village of Sea Cliff of the roadway shown on this map, and until acceptance by the Village of Sea Cliff, the Village of Sea Cliff shall not be responsible for the maintenance, repair, snow removal, or surface treatment of the roadway."

5. Prior to site plan approval for the respective lots, applicant shall obtain and submit to the Superintendent of Buildings and the Department of Public Works written and unconditional approval of the driveways for each parcel as to its sufficiency for access for emergency response and firefighting purposes from the fire and emergency services officials having jurisdiction over the respective parcels.

6. As set forth in Village Code A145-9(D)(2), all new telephone, electric, cable, television and other utilities shall be installed underground and subject to the approval of the Village's building department and Department of Public Works. All electric meters shall be installed on the residences, not on the street or right-of-way and not elsewhere on the Premises.

7. Applicants shall install the drainage facilities as approved by the Board during the site plan review process for each parcel, and all such facilities shall be constructed and completed prior to the installation of any other site improvements.

8. As a condition of site plan approval for each lot, applicants shall obtain the following additional approvals, endorsements and/or certifications:

- a. Approval of plans for sewage disposal shall be secured from the Village building department in accordance with Nassau County Department of Health regulations; and
- b. Approval of the building department and/or Department of Public Works, as applicable, as to the grading, drainage, sewer, driveway and curbing.

9. As part of the site plan review process for each lot, applicants shall obtain written confirmation from the Village Fire Department that the closest existing (or some other) fire hydrant is satisfactory to the Fire Department for the purposes of protecting any structures on the either parcel. If there is no such fire hydrant, applicants shall install a fire hydrant and water connections as approved by the Village Fire Department and building department.

10. Applicants submitted a “letter of water availability” from the water company providing water service to the respective parcels.

11. Applicants shall file with the Village Clerk a declaration of restrictive covenants for each proposed lot, in a form approved by the Village Attorney, restricting any further subdivision of any of the Premises.

12. This resolution shall be included with any deed filed with the County Clerk.

13. Landscaping shall be installed and maintained in perpetuity in accordance with any landscaping plan approved as part of the site plan review process for each lot. Landscaping installed directly east of Finch Way shall be subject to site plan review for Parcel C.

14. The stormwater management and drainage plan for the parcels must be approved by the Superintendent.

15. As a condition of any site plan approval for each lot, the applicants shall implement an erosion and sediment control plan for approval by the Superintendent.

16. As part of the site plan review process for each lot, applicants shall provide a staging and construction plan locating construction equipment, materials and debris on site. Such plan shall also contain a schedule for all earthwork, land disturbance and construction.

17. As part of the site plan review process for each lot and prior to commencing any site work and throughout construction, the boundary of each lot must be staked out by a licensed land surveyor.

18. As a condition of any site plan approval for each lot, in accordance with the general policy of the New York State Department of Conservation, applicants shall ensure that water conserving fixtures and water conserving landscaping are used on both parcels.

19. As a condition of any site plan approval for each lot, during construction, applicants shall erect temporary fencing, erosion control and other measures to protect adjoining properties in accordance with the building department's requirements.

20. The Planning Board recognizes the need for additional parkland in the Village, but finds that this subdivision does not impact the use and enjoyment of the current recreational opportunities in the Village. Accordingly, it would not be appropriate to locate land for recreational purposes on the Premises, expand other recreational facilities, or pay to the Village a parkland/recreation fee.

21. As a condition of any site plan approval for each lot, all construction shall be in strict compliance with all the requirements of the Village Code, the New York State Building Code and all other applicable federal, state, county and local laws and regulations.

22. As a condition of any site plan approval for each lot, all on-site sanitary disposal systems shall be certified by a qualified licensed professional who shall submit to the Superintendent a certification that the facilities are in conformance with the requirements of the Nassau County Department of Health and the Village, as applicable.

23. As a condition of any site plan approval for each lot, applicants shall obtain all applicable local, county, state, regional and federal permits prior to obtaining a building permit. If any such permit requires a modification to the subdivision approved by this resolution, a determination shall be made by the Superintendent as to whether the modification is substantive and should be returned to the Planning Board.

24. As a condition of any site plan approval for each lot, all construction activities shall be performed during the days and times authorized by the Superintendent.

25. As a pre-condition of obtaining the signature of the Planning Board Chair on the final plot, all fees then due to the Village shall have been paid as required. The Planning Board finds that the per lot subdivision approval fee applies to the three (3) residential lots, and not to the roadway parcel. In addition, as a condition of any site plan approval for each lot, no building permit shall issue until the building department has received written confirmation from the Village Clerk that all fees are paid.

26. Unless modified in this resolution, the Board waives the following provisions set forth in Village Code A145-9 and A145-10: A145-9(B), A145-9(C), A145-10(A)(3)(i), (k), (p), (q), (s), (t), (u), (x), (y), (z), (aa), and (hh), A145-10(B). Further, applicants have submitted documentation demonstrating payment of taxes due on the Premises, and the Board therefore also waives the certifications required in Village Code A145-10(3)(dd), (ee) and (ff).

27. No certificate of occupancy shall issue for any new dwelling until the roadway and drainage appurtenances are completed in accordance with the requirements of the Village Director of Public Works.

28. All utilities and water mains under the roadway must be installed and completed prior to the placement of the final layer of asphalt pavement.

29. The development of the parcels shall be designed, laid out and constructed so that no stormwater runs off the respective parcels.

30. The portions of Bryant Avenue and Preston Avenue depicted on the Final Map as being part of the respective lots shall be incorporated into each of the respective lots. If necessary to accomplish this incorporation, applicants shall take action required by the County Clerk, which may include the abandonment of portions of Bryant Avenue and Preston Avenue.

31. In accordance with Village Code A145-10(B), applicants shall post a bond, either in the form of a certified check or a performance bond, issued by a bonding or surety company approved by the Village Board of Trustees, and Village Attorney as to form, sufficiency and manner of execution in a sum of \$82,500 to insure the faithful performance of the construction of the roadway and roadway drainage appurtenances in a manner and design as required by the Village Director of Public Works and fees in the event of a default, and to insure the proper maintenance and repair of all completed improvements until the security is released. Upon written request of the applicants submitted to the Planning Board and receipt by the Planning Board of confirmation from the Director of Public Works or the Superintendent of Buildings that the work

contemplated has been completed as required and works in the manner required, the Planning Board may reduce or release the bond. Upon any such release, the applicants shall be required to post a maintenance bond to insure the maintenance of the roadway and drainage appurtenances for a one year period. The improvements shall be completed within one (1) year of the date of the filing of this resolution, or as may be extended in the discretion of the Planning Board upon a written request by the applicants. Any costs directly incurred by the Village for site inspections of the roadway and drainage appurtenances shall be borne by the applicants.

32. Applicants shall submit to the Planning Board a certificate of title by a title company qualified to do business in New York approved by the Village Attorney certifying that applicants, or the declarant of any restrictive covenants referred to herein, is the owner thereof and the same are free and clean of any mortgages or other encumbrances (other than public utilities). If such title discloses an encumbrance on the property, other than public utility easements, applicants shall deliver to the Village the mortgagee's consent to the grant and its agreement to subordinate the mortgage lien thereto.

33. Applicants shall file with the Village Clerk letters from the post office and fire protection authority having jurisdiction over the Premises a letter approving, or not objecting to, the name Finch Way as the name of the proposed roadway.

34. All costs of recording any documents required herein shall be borne by the applicants. If the Village records any such documents, applicants shall

reimburse the Village for recording fees upon presentation of a written request therefor and proof of payment thereof.

35. The final map shall comply in all respects with Nassau County Charter §1610.

36. If required by the Nassau County Clerk that the final map be amended in a manner that does not change the substance of this approval, as determined by the Superintendent and the Village Attorney, the Superintendent may authorize any such modification without further application to the Planning Board.