

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

January 23, 2024

**Present: Chair
Members**

**Tim O'Donnell
Frank D'Errico, Jim Mozer
and Beth Rechner
Brian S. Stolar, Esq.**

Village Attorney

The meeting was called to order at 7:04pm.

The Board informed DM Acquisitions, LLC, as owner, and SSS Foods LLC, as tenant, 1A Sea Cliff Avenue, Sea Cliff, New York, that the Board has reviewed whether the proposed use solely as an off-premises catering business qualifies as a restaurant and thus could be considered as a conditional use and informed applicants that they should discuss the use with the Building Department as the Code defines a restaurant as requiring on-premises consumption and the applicant proposed no on-premises consumption.

The Board opened the public hearing on the application of Nicholas and Kacy Baehr, 11 Cedar Place, Sea Cliff, New York, to construct first and second story additions, which require variances of the following Village Code sections: (a) 138-408, to permit a front yard setback of 14.5 feet, where a minimum of 20 feet is required, (b) 138-412, to permit a rear yard setback of 10 feet, where a minimum of 20 feet is required, (c) 138-413.1, to permit an encroachment into the height-setback ratio, and (d) 138-414.1, to permit a floor area of 1,968 square feet, where a maximum of 1,789 square feet is permitted. Premises are designated as Section 21, Block 180, Lot 348 on the Nassau County Land and Tax Map.

The minutes of the hearing were stenographically transcribed. After hearing testimony from all interested persons, the Board closed the public hearing and reserved decision.

The Board opened the public hearing on the application of Daniel Marra and Sasha Coblenz, 8 Ransom Avenue, Sea Cliff, New York, to install an in-ground swimming pool, which construction requires a variance of Village Code §115-12, to permit a pool in a front yard, where no such pool is permitted. Premises are designated as Section 21, Block 194, Lot 9 on the Nassau County Land and Tax Map.

The minutes of the hearing were stenographically transcribed. After hearing testimony from all interested persons, the Board closed the public hearing and reserved decision.

The Board opened the public hearing on the application of Vincent and Kerry Piazza, 3 Glenlawn Court, Sea Cliff, New York, to construct a one story addition and entry foyer, which requires variances of the following Village Code sections: (a) 138-508, to permit a front yard setback of 15.53 feet, where a minimum of 25 feet is required, and (b) 138-511, to permit a side yard setback of 10.56 feet, where a minimum of 15 feet is required. Premises are designated as Section 21, Block 30-1, Lot 102 on the Nassau County Land and Tax Map.

The minutes of the hearing were stenographically transcribed. The Board noted that the plans reflected the need for a floor area variance, but the notice of disapproval did not identify a floor area variance. The applicant's representative advised that he would discuss with the Building Department. The Board continued the public hearing to February 27, 2024, at 7:00pm.

The Board opened the public hearing on the application of 310 Sea Cliff Avenue, LLC, as owner, and Tanya Potter, as tenant, 304-310 Sea Cliff Avenue, Sea Cliff, New York, for a special permit pursuant to Village Code §138-802 to operate a restaurant. Premises are designated as Section 21, Block 127, Lot 4 on the Nassau County Land and Tax Map.

The minutes of the hearing were stenographically transcribed. The applicant advised that it sought to operate the restaurant in the same manner as the previous special permit approval, except that the proposed hours would be from 11am to 10pm on Sundays through Thursdays, 11am through 11pm on Fridays and Saturdays and the outdoor area would be used from May through October concluding no later than 10pm with the chairs and tables to be removed by 10:15pm. After hearing testimony from all interested persons, the Board closed the public hearing and reserved decision.

The Board opened the public hearing on the application of 68 Glenlawn LLC, 68 Glenlawn Avenue, Sea Cliff, New York, to obtain a certificate of occupancy for two (2) existing dwelling units and construct a second story dormer on the eastern dwelling structure, which requires variances of the following Village of Sea Cliff Village Code sections: (a) 138-506, to permit a street frontage of 84.83 feet, where a minimum of 100 feet is required, (b) 138-511, to permit side yard setbacks of 11.6 and 2.5 feet, where a minimum of 15 feet is required, (c) 138-512, to permit a rear yard setback of 6.8 feet, where a minimum of 30 feet is required, (d) 138-513.1, to permit both dwelling structures to encroach into the height setback ratio, where no such encroachment is permitted, (e) 138-514, to permit a dwelling unit with a 400 square foot first floor and total floor area of 800 square feet, where the required

minimum first floor is 650 square feet and the required minimum total floor area is 1,000 square feet, (f) 138-1102, to permit the alteration of a non-conforming building, where such alteration is not permitted, and (g) 138-1103, to permit a structural alteration of more than 25% of an existing non-conforming building, where no such structural alteration is permitted. Premises are designated as Section 21, Block 188, Lot 22 on the Nassau County Land and Tax Map.

The minutes of the hearing were stenographically transcribed. The Board noted that there may be some inconsistencies with the floor area. After hearing testimony from all interested persons, the Board continued the public hearing to February 27, 2024, at 7:00pm.

The Board discussed a written request submitted by Terrence and Jamie Cave, to reopen the public hearing on the application for 230-232 Sea Cliff Avenue to operate a restaurant so that the Board can consider their request for outdoor seating. On motion made by Ms. Rechner, seconded by Mr. Mozer, and adopted unanimously, the Board determined to reopen the public hearing.

The Board discussed the 11 Cedar Place application. After such discussion, on motion duly made by Mr. D'Errico, seconded by Ms. Rechner, 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 approved the 11 Cedar Place application for relief, in accordance with the short form decision annexed hereto.

The Board discussed the 8 Ransom Avenue application. After such discussion, on motion duly made by Mr. Mozer, seconded by Mr. D'Errico, 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 approved the 8 Ransom Avenue request for relief, in accordance with the decision annexed hereto.

The Board discussed the 310 Sea Cliff Avenue application. After such discussion, on motion duly made by the Chair, seconded by Mr. D'Errico, 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 approved the 310 Sea Cliff Avenue application for relief, in accordance with the short form decision annexed hereto.

The Board determined to hold its next meeting on February 27, 2024, at 7:00pm.

There being no further business, the meeting was adjourned at 8:40 pm.


TIM O'DONNELL


Filed in the Office of the Village Clerk

on February 5, 2024

VILLAGE OF SEA CLIFF, NY

FEB 05 2024

VILLAGE CLERK


Sarah Beaudin, Village Clerk

**BAEHR 11 CEDAR PLACE SHORT FORM DECISION
(as authorized by Village Code §1302.1)**

At a meeting of the Board of Appeals of the Village of Sea Cliff, New York, on January 23, 2024, on motion duly made by Mr. D'Errico, seconded by Mr. Rechner, 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 short-form determination:

1. Nicholas and Kacy Baehr, 11 Cedar Place, Sea Cliff, New York, applied to construct first and second story additions, which require variances of the following Village Code sections: (a) 138-408, to permit a front yard setback of 14.5 feet, where a minimum of 20 feet is required, (b) 138-412, to permit a rear yard setback of 10 feet, where a minimum of 20 feet is required, (c) 138-413.1, to permit an encroachment into the height-setback ratio, and (d) 138-414.1, to permit a floor area of 1,968 square feet, where a maximum of 1,789 square feet is permitted. Premises are designated as Section 21, Block 180, Lot 348 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.
5. The relief requested in the application is granted provided that (a) applicants shall comply with all requirements of the Village Code and the Building Department, (b) the work shall conform to the plans submitted with the application and (c) all work is performed, and all approvals obtained, within the timeframe provided in Village Code §138-1304.

MARRA/COBLENZ – 8 RANSOM AVENUE - SHORT FORM DECISION
(as authorized by Village Code §1302.1)

At a meeting of the Board of Appeals of the Village of Sea Cliff, New York, on January 23, 2024, on motion duly made by Mr. Mozer, seconded by Mr. D'Errico, 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 short-form determination:

1. Daniel Marra and Sasha Coblenz, 8 Ransom Avenue, Sea Cliff, New York, applied to install an in-ground swimming pool, which construction requires a variance of Village Code §115-12, to permit a pool in a front yard, where no such pool is permitted. Premises are designated as Section 21, Block 194, Lot 9 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.
5. The relief requested in the application is granted provided that (a) applicants shall comply with all requirements of the Village Code and the Building Department, (b) the work shall conform to the plans submitted with the application and (c) all work is performed, and all approvals obtained, within the timeframe provided in Village Code §138-1304.

310 SEA CLIFF AVENUE, LLC DECISION
(as authorized by Village Code §1302.1)

At a meeting of the Board of Appeals of the Village of Sea Cliff, New York, on January 23, 2024, on motion duly made by the Chair, seconded by Mr. D'Errico, 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 short-form determination:

1. 310 Sea Cliff Avenue, LLC, as owner, and Tanya Potter, as tenant, 304-310 Sea Cliff Avenue, Sea Cliff, New York, for a special permit pursuant to Village Code §138-802 to operate a restaurant. Premises are designated as Section 21, Block 127, Lot 4 on the Nassau County Land and Tax Map.
2. The applicants seeks approval to reestablish the use of the premises in the same manner as the previous occupant.
3. In 2011, the Board granted a special permit and variances to permit the operation of a restaurant at the premises. That approval expired in 2013 and was reinstated in 2016. In September 2019, the Board again granted a special permit to a new operator, which permit was valid for a 1 year period. Again, in 2021, the Board granted a special use permit for another new operator. A restaurant has operated at the premises for many years. The applicant seeks to continue the same operations as were approved in 2019, and subject to the same conditions, except for modified hours of operation.
4. The premises will be used as a sushi restaurant, with indoor and seasonal (May through October) outdoor seating under an unenclosed awning.
5. The Board has determined that the proposed continued use is a Type II application that requires no environmental review.
6. In connection with the granting of a special permit, the Board has the power to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property and which are not inconsistent with the provisions of the zoning regulations.
7. To balance the potential adverse effect the proposed use of the applicant's business may have on nearby properties in the area against 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 hereby grants applicant's application for a special permit modification, subject to the following conditions:

- (a) the special permit is granted to the applicant and restaurant operator only or to any business or entity in which the applicant and the restaurant operator has a controlling interest;
- (b) 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 the adjoining streets;
- (c) there shall be no outside storage of supplies, equipment, materials or any other items used in connection with the restaurant, except in the walk-in refrigerator;
- (d) exterior lighting of the premises shall be designed so as to minimize any impact on the adjoining properties through shielding, directional lighting and reduction of glare and reflection. 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. There shall be no additional lighting for outdoor usage, except for table candlelight;
- (e) Seating shall be limited to the proposed seating, including not more than 20 seats at inside tables, 7 seats at the sushi bar, and no more than 10 outdoor seats to be used for seasonal dining (May through October), which seating is subject to any required approvals from any other agencies or departments with jurisdiction. If additional seating is necessary, applicant must reapply to the Board for appropriate relief as then identified by the Superintendent of Buildings;
- (f) cooking equipment shall be limited to the equipment as shown in the plans approved by the Board in 2011;
- (g) 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;
- (h) 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 and any required modifications to the septic or water systems;
- (i) 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;
- (j) 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;
- (k) no noise, fumes, or similar sources of nuisance are to emanate in a manner as to be unreasonably annoying to surrounding property owners;

- (l) except as provided elsewhere in this decision, there shall not be any outside seating on the Subject Premises without additional application to this Board;
- (m) the business shall be open no earlier than 11:00am, and shall close no later than 10:00pm on Sundays through Thursdays and 11:00pm on Fridays and Saturdays, as proposed by the applicant. Any extension of hours beyond the hours proposed by the applicant, and conditioned herein, requires a reapplication to this Board;
- (n) interior music shall be limited to prerecorded background type music and shall not include any live music. No music shall be permitted outside, and the doors and/or windows shall not be left open in a manner that would circumvent this restriction;
- (o) outdoor seating and use of the outside area shall be limited to no later than 10:00 pm. All tables and chairs shall be removed from the outside area by 10:15pm and shall not be placed outside prior to opening of the restaurant on the next business day;
- (p) applicant may seek a beer and wine license, but shall not seek any type of alcohol license that is deemed to permit additional drinks at the site (i.e., a full bar license) without making an application to the Board for a modification and/or intensification of the restaurant use proposed at the Subject Premises;
- (q) no heating or cooking apparatus related to food preparation and no bar shall be located outside, including any bar for the service or storage of alcoholic or non-alcoholic beverages;
- (r) all plantings and planted areas shall be maintained in good and neat condition to accomplish the purposes intended, and shall be replaced as necessary to maintain the screening and planted areas in a manner that serves as a buffer area for the residential properties on Summit Avenue;
- (s) the Subject Premises shall not be used for any use that intensifies or increases the usage or the parking requirements or the potential impacts of the premises without further application to the Board;
- (t) loitering outside of the restaurant is prohibited;
- (u) no mechanical means of ventilation, heating or cooling shall be utilized for the outdoor seating area;
- (v) no trash or debris from the restaurant shall be stored outside unless placed in fully enclosed and sealed garbage disposal receptacles. Such receptacles shall be sanitized in a manner so as not to permit odors to emanate outside such receptacles. No such receptacles shall be visible from Summit, Central or Sea Cliff Avenues;
- (w) employees or customers shall not be permitted to smoke in the outside seating area of the premises, and as otherwise permitted under any applicable law related to smoking;
- (x) applicant shall conduct employee training sessions on an ongoing basis, including as part of any employee orientation, to discuss all special use permit conditions and requirements contained herein; and

(y) 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 two (2) 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 two (2) 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 two (2) year time period. The provisions of this paragraph shall constitute a condition of this decision.

8. If one or more of the aforesaid conditions of this decision are violated, the Village shall have the right to suspend or revoke the special permit in accordance with the procedures set forth in the Village Code.