

Kk,A MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF MONTEBELLO WAS HELD ON THURSDAY MAY 15, 2025, AT THE DR. JEFFREY OPPENHEIM COMMUNITY CENTER, 350 HAVERSTRAW ROAD, MONTEBELLO, NY. THE MEETING WAS CALLED TO ORDER AT 7:00 P.M. FOLLOWED BY THE PLEDGE OF ALLEGIANCE.

Present: Ezra Bryan, Vice Chair  
Elizabeth Dugandzic, Member  
Janet Gigante, Member  
Rosana Millos, Member  
Kevin Stevens, Ad Hoc

Others Present: Alyse Terhune, Assistant Village Attorney  
Regina Rivera, Planning & Zoning Clerk

Absent: Rodney Gittens, Chairman

#### **Meeting Minutes Approval**

Member Millos made a motion to approve the minutes of the March 2025 ZBA meeting, seconded by Member Dugandzic and upon vote, all were in favor.

#### **Mayer Tauber—18 Senator Levy Drive, Montebello, NY 10901 PUBLIC HEARING continued**

Application of Meyer Tauber, 18 Senator Levy Drive, Montebello, NY which was submitted to the Village of Montebello Zoning Board of Appeals for a variance for: Floor Area Ratio [max .15, proposed .175] as per Section 195-13 use group m5 of the zoning code of the Village of Montebello. The Parcel is located on the southeast side of Senator Levy Drive approximately 146 feet from the intersection of Golf Course Drive, and is shown on the Ramapo Tax Map as Section 48.20 Block 1 Lot 73 in the RR-50 Zone.

Present was the Applicant, Mayer Tauber, his attorney Amy Mele and his engineer, Paul Gdanski. After Vice Chairman Bryan read the application and submittals into the record, Ms. Mele, stated that the FAR variance they are requesting to construct a cabana is very minor, and noted that they submitted the signed architectural plans and a copy of the plans that were submitted for the building permit for the pool, per this Board's request. She explained that, although the Board asked for an "as-built" survey of the pool, one does not yet exist because the building permit for the pool is still open. The shed is marked "To Be Removed" she added.

Ms. Mele said she brought the architect to speak on any details that the Board wishes to discuss, adding that if there was any way to design the cabana without needing a variance, they would have. However, she continued, the allowable FAR in the Pines is .15, and this house is at .16 FAR because it is within a cluster subdivision in which many lots are non-compliant and undersized. As a result, there is a separate bulk regulation for the whole subdivision, but the downside is that almost everything requires a variance, she said.

Vice Chairman Bryan asked if a variance was previously required for the .16 FAR. Ms. Mele explained that the cluster subdivision allows the standard layout and yield for the size, but various lots

are compressed in exchange for open space, and added that most of the houses are on undersized lots and do not conform to setbacks, FAR and development coverage.

Ms. Terhune explained to the Board that developers are able to do this under state and local laws in order to preserve open space and to protect sensitive environmental areas. As a result, any addition to an existing home will need a variance. Member Dugandzic asked if the builders of the Pines needed to come to the ZBA for variances. Ms. Terhune said none of the homes needed variances, and that there is a footnote in the bulk table that applies specifically to that subdivision.

Ms. Mele said that they are only looking for a slight FAR increase and nothing else. The cabana will be tucked in the rear of the property not visible from the street, and the neighbors thus far have no objections, she said.

The Board had no further questions. Member Millos made a motion to open the public hearing, seconded by member Dugandzic and upon vote, all were in favor.

Howard Lipstein, 16 Sterling Forest Lane, Montebello asked the definition of FAR. Vice Chairman Bryan answered that it is the allowable ratio of square footage of livable space to lot size, and a variance would be needed for anything surpassing that maximum. Mr. Lipstein understood, but questioned why exceeding the maximum FAR would ever be allowed. For example, he said, if a motorist exceeds the speed limit, they will get a ticket. Vice Chairman Bryan explained that the Zoning Board determines whether the variance is acceptable or egregious, and it is up to the Applicant to make the best case possible.

Ms. Terhune said that the ZBA allows *permissive* relief from the zoning code when it's either necessary due to some unique feature of the land, or for some other reason. This Board is charged with the authority of reviewing the request and cycling through a series of inquiries to see how and if it will affect the neighborhood, environment and community. One of those criteria is substantiality, and you will likely never see large requests granted, she said. Mr. Lipstein was duly satisfied and edified and had no further comments.

Mr. Gdanski said the only difference between the pool house site plan and the plot plan for the pool is just the presence of the pool house. Vice Chairman Bryan understood, but wanted more time to review and compare both since he only just received the latter that morning.

Member Millos asked about the small shed shown on the site plan. Mr. Gdanski said that it is just a playhouse for the homeowners' children. Ms. Terhune noted for the Board that this applicant is not here for anything but a FAR variance for the cabana, that there are no violations for the shed and that it was not mentioned in the Building Inspector's denial letter.

Mr. Tauber said he just wanted the cabana for the convenience of his friends and family using the pool, and providing a place to change and take a shower. He offered permission to all the Board members to visit his property so they can get a better perspective.

Ms. Mele said that past members of this ZBA granted FAR variances to nearby properties. Ms. Terhune suggested that the ZBA clerk share those resolutions, for 2 Golf Course Drive and 4 Caddy Lane, with the Board.

After a brief discussion, the Board decided that they need time to deliberate further and to review the latest submission, especially since the Chairman was absent.

Member Millos made a motion to adjourn the public hearing and the application to the June 26<sup>th</sup> ZBA meeting. Member Dugandzic seconded the motion and upon vote, all were in favor.

**Abe Kohn--17 Sterling Forest Drive, Montebello, NY**

Application of Abe Kohn, 17 Sterling Forest Lane, Montebello, NY which was submitted to the Village of Montebello Zoning Board of Appeals for variances for the construction of an addition to an existing house and an in-ground pool: Front Setback (for addition) [req. 50', proposed 30']; Front Yard (for addition) [req. 50', proposed 30']; Side Yard (pool) [req. 30', proposed 24']; Floor Area Ratio [max .15, proposed .265]; Dev. Coverage [max. 20%, proposed 22.2%] per Section 195-13 Use groups q and h of the zoning code of the Village of Montebello. The Parcel is located on the west side of Sterling Forest Lane at the intersection of High Gate Court, and is shown on the Ramapo Tax Map as Section 48.11 Block 1 Lot 3 in the RR-50 Zone.

The Applicant's attorney Paul Baum and his Engineer Paul Gdanski were present. Mr. Baum explained that the property lies at the intersection of Highgate Court and Sterling Forest Lane and thus has two front yards. The front setback requirement is 50 feet, but the deck and addition will bring that to 25 feet on Highgate Court. The front setback is compliant on Sterling Forest Lane. The property is located entirely within the Wetlands – Environmental Protection Overlay District (W-EPOD) not far from the Mahwah River. Mr. Baum stated that these environmental constrictions make it difficult to find appropriate locations for the addition and pool and briefly described the alternate locations that were previously explored. But, he continued, the location proposed here is by far better than any alternative because it encroaches the least into the wetlands buffer.

Mr. Baum said that the DEC issued a permit to place the pool within the 100-foot buffer to the wetlands specifically because they were not disturbing the wetlands, adding that they found this location to be the best over any other. And, he continued, this plan was presented to the Planning Board this past Tuesday for the wetlands permit and they, too, agreed that the proposed location is the best option even though it requires a minor side yard variance.

Regarding the proposed addition to the existing house, Mr. Baum explained that, because the property is already non-conforming, any change would increase the non-conformity and require variances. The property is an existing undersized lot that allows compliance with the use group for the R-35 Zone, but only for setbacks and required yards while FAR and Development coverage must comply with RR-50 zoning requirements. Additionally, the Building Inspector misapplied the definition of how to calculate the development coverage, which requires the deduction of the wetlands in area calculations. In this case FAR based on net lot area is .256. However, after this application was filed, the Building Inspector made a second determination that FAR should be based on gross lot area, which brings the variances down to .20, he said.

Member Millos asked the square footage of the home without and with the addition. Mr. Baum said the existing house is 4,237, and the addition, which is just under 3,000 square feet, will bring it up to 7,154 square feet.

Mr. Baum said that this application, in addition to requesting variances, is asking the ZBA to render a determination on whether FAR calculations should be based on gross or net area, and added that once this clarification is made, they will amend the application accordingly for proper review.

Member Dugandzic asked to see the Building Inspector's correspondence, and the Zoning Board clerk was instructed to distribute it to the Board.

This is a unique property and nothing lies beyond the house but wetlands, Mr. Baum continued. The property owner, who has five children, wishes to have a pool, a common accessory is this village, as well as a home that is large enough to accommodate extended family stays over weekends and holidays. He added that the property owner will appear before this Board at the next meeting to answer any questions.

Vice Chairman Bryan asked about the bump-out section of the pool. Mr. Gdanski explained that it is an area of the pool in which Mr. Kohn can swim laps while his children play in the rest of the pool. Vice Chairman Bryan asked if there were other iterations of the addition design that fell within the FAR threshold. Mr. Gdanski said that they tried to reduce the room sizes but it resulted in an awkward layout, and added that the architect will also attend the next meeting.

After some discussion, it was determined that the applicant will make a new submission and return when ready.

#### **Pomona Enterprises--158 Spook Rock Road, Montebello, NY**

Application of Pomona Enterprises, PO Box 515, Pomona, NY 10970 on behalf of the property owner, YSMD Holdings LLC for a variance for: Front Yard Fence Height: [max. 4', proposed 6'] per Section 195-19C of the code of the Village of Montebello. The Parcel is located on the east side of Spook Rock Road, 500 feet north of Viola Road, and is shown on the Ramapo Tax Map as Section 49.05 Block 1 Lot 13 in the RR-50 Zone.

Present on behalf of the property owner were his contractors Jack Spaeth and Steve Saffer of Pomona Enterprises. Vice Chairman Bryan read the application and submittals into the record. Ms. Terhune explained that because the property is in the Historic and Scenic Roads Overlay District, any changes made within 250 feet of the median of the road requires a Certificate of Appropriateness (COA) from the Historic Preservation and Parks Commission (HPPC). The Applicant did go to that Commission for a COA prior to building the house and received approval. However, she continued, they did not show the fence in any of their submittals, so the Applicant is compelled to return to the HPPC for another COA regardless.

Mr. Spaeth explained that even though the fence is higher than four feet, the maximum allowable height in the front yard, it was installed in a natural ditch along the property so it looks shorter than it is.

Member Stevens asked if the fence was on the plans that were submitted for the building permit for the house. Mr. Spaeth said it was not, and said that he was not aware that one needed a fence permit in the Village of Montebello, adding that other municipalities do not require such. He then explained that his clients are elderly people moving here from the city and wished to add a fence because they are frightened of the animals living in the woods nearby. Subsequent to the fence installation, trees

were planted in front, he explained, and offered to move the fence further beyond the trees so it is not visible from the road. He then encouraged the Board to visit the house to see the fence in person.

Member Millos asked the distance of the fence from the road, and Mr. Spaeth said it was well beyond the property line, about fifteen to twenty feet from the road.

Ms. Terhune asked that measurements from the fence to the property line be added to the survey.

The issue of whether this is a corner house due to the flag lot arose and was briefly discussed. Ms. Terhune said the Building Inspector will make that determination.

No one having further comments, Member Dugandzic made a motion to adjourn the application to the next meeting. The motion was seconded by Member Millos and upon vote, all were in favor.

Member Millos made a motion to adjourn the meeting at 8:43 p.m. seconded by Member Dugandzic and upon vote, the motion passed unanimously.