

A MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF MONTEBELLO WAS HELD ON THURSDAY JUNE 26, 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: Rodney Gittens, Chairman
Ezra Bryan, Vice Chair
Elizabeth Dugandzic, Member
Janet Gigante, Member
Rosana Millos, Member

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

Absent: Kevin Stevens, Ad Hoc

Meeting Minutes Approval

Member Millos made a motion to approve the minutes of the May 15, 2025 ZBA meeting, seconded by Member Dugandzic and upon vote, all were in favor.
Rosana, Elizabeth.

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's attorney Amy Mele. After Chairman Gittens read the application into the record, Ms. Mele stated that this was the application's third appearance before the Board and that the public hearing was continued. This is a very minor variance request for FAR, and that the lot is undersized because it was developed under the cluster subdivision regulations. The current FAR is already over the maximum allowed, which is common in The Pines. She added that there were other applications in the immediate neighborhood for which FAR variances were granted, including 2 Golf Course Drive and 4 Caddy Lane. There will be no impact on the neighborhood, environment and the community, and even though the need for the variance was self-created, the positive effects far outweigh the negative, if any.

Member Dugandzic said she had no issues with the project and noted that the requested variance is very small, and Chairman Gittens agreed.

The Chairman opened the public hearing. No one present from the public wishing to speak, Member Dugandzic made a motion to close the public hearing. Member Millos seconded the motion and upon vote, all were in favor.

Chairman Gittens went through the criteria by which the ZBA judges variance requests and determined that there were no detrimental impacts and asked for a motion to grant the variance. On a motion made by Member Millos, seconded by Member Dugandzic, the variance was granted unanimously.

VILLAGE OF MONTEBELLO

ZONING BOARD OF APPEALS
COUNTY OF ROCKLAND, STATE OF NEW YORK

In the Matter of the Application of
Mayer Tauber

X

**VARIANCE DECISION FOR
PROPERTY IDENTIFIED ON
THE VILLAGE OF
MONTEBELLO TAX MAP AS
Section 48.20, Block 1, Lot 73**

for relief from Section 195-13, Table of General Bulk
Requirements, Use Group “m” of the
Village of Montebello Zoning Law.

X

**APPLICATION FOR RELIEF FROM THE VILLAGE OF MONTEBELLO ZONING LAW
TO EXCEED THE FLOOR AREA RATIO (“FAR”) TO CONSTRUCT A POOL HOUSE
AND CABANA**

The property location, zoning district and proposed improvements. The subject property is located at 18 Senator Levy Drive, Village of Montebello, County of Rockland, State of New York. It is identified on the Tax Map as Section 48.20, Block 1, Lot 73 (the “Property”). The Property contains 40,075 square feet (0.92 acre) and is located in the Rural Residential-50 (“RR-50”) zoning district. The lot is undersized because it was created as part of the Montebello Pines subdivision, which was approved as a cluster subdivision pursuant to Village Law § 7-738 and the Village of Montebello Zoning Law § 195-15, which allows for average density.¹ Thus, the size of the lots were reduced by the Planning Board in order to preserve open space. The result is that enlarging the existing home or adding an accessory structure is more likely to require one or more variances.

The property owner, Meyer Tauber (the “Applicant”), applied for a building permit to construct a 544 square-foot pool house and cabana on the Property. Accessory structures are permitted in the RR-50 zoning district as governed by § 195-13, Table of General Bulk Requirements, Use Group “m”. A total FAR of 15% is permitted. The current improvements on the Property exceed FAR by 1% (permitted 15% to 16%). The addition of the pool house and cabana as proposed would increase the

¹ Minimum lot size in RR-50 is 50,000 square feet.

current FAR from 16% to 17.5%, 1% over existing and 2.5% over permitted. Thus, the Building Inspector referred the Applicant to the Zoning Board of Appeals (the “Board”).

Application. The Applicant applied to the Zoning Board of Appeals seeking the following relief from § 195-13 of the zoning law in the form of a FAR variance from the required 15% to 17.5%, a 16.67% increase.

Submissions. The following materials were submitted to the Board, which are incorporated into and made a part of this Decision as set forth fully herein and upon which the Board relied during its deliberations:

1. Denial notification, prepared by Adam Gordon, Building Inspector, dated March 7, 2025; and
2. Application, prepared by Meyer Tauber, dated March 7, 2025; and
3. Narrative, prepared by Amy Mele, Esq., dated March 7, 2025; and
4. Short Environmental Assessment Form, prepared by Meyer Tauber, dated March 7, 2025; and
5. Proposed Pool House, drawing A-1, prepared by Eric Knute Osborn, R.A., dated December 5, 2024; and
6. Site Plan, prepared by Paul Gdanski, P.E., dated July 9, 2023.

General Municipal Law § 239. The application did not meet the GML § 239 criteria necessary to be referred to the Rockland County Department of Planning (“RCDP”).

State Environmental Quality Review Act (SEQRA). The Board determined that the application is a Type II action pursuant to 6 NYCRR 617.5(c)(16), granting individual setback and lot line variances and adjustments, and (c)(17), granting of an area variance for a single-family, two-family, or three-family residence. No further SEQRA action was required.

Public Hearing. A duly noticed public hearing was convened on May 15, 2025, and continued June 26, 2025. During the public hearing, the Board heard testimony from the Applicant and all those wishing to address the Board on the matter. After providing an opportunity to receive comments from the public, the hearing was closed.

FINDINGS

The Board’s Findings. When considering whether to grant an area variance, the Board must evaluate, and did evaluate, (1) whether granting said variance will produce an undesirable change in the character of the neighborhood, (2) whether the benefit sought by the Applicant can be achieved by some other method, (3) whether the requested variance is substantial, (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the

neighborhood or district, and (5) whether the alleged difficulty was self-created. Any area variance so granted by the Board must be the minimum variance that it deems necessary and adequate.

After taking into account the Applicant's testimony, the application and submissions, the zoning law, the proposed project, public comment or lack thereof, the five statutory factors, and weighing the detriment to the community if the variance was granted, the Board reached the following conclusions:

1. The Board considered whether the requested variance, if granted, will produce an undesirable change in the character of the neighborhood and determined that it would not. The pool house and cabana will be screened from neighboring residences. The Board determined that the proposed pool house and cabana will enhance the character of the neighborhood.
2. The Board considered whether the benefit sought by the Applicant could be achieved by some other method and determined that although the size of the pool house and cabana could be reduced, the Applicant asserted that the size of the pool house and cabana will better accommodate his family and extended family during visits.
3. The Board noted the existing 1% FAR overage but used the permitted 15% FAR for the purpose of substantiality, finding that a 16.67% variance from 15% to 17.5% is not substantial in this case.
4. The Board considered whether the variance, if granted, will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district and determined that it will not.
5. The Board determined that the alleged difficulty is only partially self-created. The Board noted that this lot and others in the Montebello Pines subdivision are undersized, likely creating a greater need for variances than other properties located in the RR-50 zoning district.

Applicant's burden. The Zoning Board of Appeals hereby finds and determines that the Applicant has sustained his burden of proof as required by New York State Village Law and Village of Montebello Zoning Law as to the need for the requested variance. The Board further determines that the benefit to the Applicant if the variance is granted outweighs any detriment to the neighborhood or the community.

DECISION

NOW, THEREFORE, BE IT RESOLVED on a Motion by Member Millos, Seconded by Member Dugandzic, pursuant to the rollcall vote forth below, the Village of Montebello Zoning Board of Appeals hereby grants relief from § 195-13 of the zoning law in the form of a 16.67% FAR variance from the required 15% to 17.5% as set forth in the materials submitted to the Board.

In granting this variance, the Zoning Board relies on the testimony and representations of the Applicant and the submissions identified herein and made a part of this Decision as if attached hereto. This variance is granted in reliance on its individual purpose as shown on the referenced plans and for no other purpose. Deviation from the variance granted by this Board shall invalidate this Decision and the variance granted thereby by operation of law.

	Yea	Nay	Abstain	Absent
Rodney Gittens, Chairman	[√]	[]	[]	[]
Elizabeth Dugandzic, Member	[√]	[]	[]	[]
Rosana Millos, Member	[√]	[]	[]	[]
Ezra Bryan, Member	[√]	[]	[]	[]
Kevin Stevens, Member	[]	[]	[]	[√]

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, who presented the application to the Board the previous month, explained that alternative locations were explored for the pool, but the present location is the only logical one due to the proximity to the wetlands and the fact that the property has two front yards with more severe setback requirements. Further, the side yard variance would not be necessary for the pool but for Section 195-57 D which requires an extra ten feet from the lot line to the water's edge. He added that the Hamptons style pool will have no pavers to keep the lot coverage down.

Mr. Baum said that the 2,917 square foot addition proposed for the rear of the house requires a setback variance because they are deficient by 20 feet, and the other two variances are for development coverage and FAR. However, he continued, we are asking for an interpretation as to how development coverage is calculated, whether by gross or net lot area. This is important because no development coverage variance would be needed if it were calculated using the gross area of 39,229 square feet. Once the floodplain is deducted, the net lot area is 26,995 and requiring a 22.4% variance.

Mr. Baum said that he FOILED some recent applications for FAR and development coverage to see how they were calculated, but found that it was done both ways: 5 Golden Road used gross lot area, while 84

Viola Road used net. 34 North Airmont (now 10 Executive Blvd) and 8 Henry Court both used net, while MSC of Montebello used gross.

Chairman Gittens asked if wetlands were involved in any of the applications cited. Mr. Baum said that there were no deductions for the wetlands at 5 Golden Road, an application for a wetlands permit for a pool. Using gross lot area makes more sense because the wetlands are still part of the lot area, and, again, no variance would be needed, he said.

Chairman Gittens said that these inconsistencies should be explored further. Ms. Terhune said she spent some time looking into the matter as well, searching for specificities in the code itself, and that this Board will be the entity to interpret the calculation which will be carried forward into the future. By the next meeting, she continued, we will have more information to set a public hearing. Mr. Baum noted that an ambiguous zoning code should be interpreted in favor of the property owner, a fact the Board should consider in its deliberations, especially since this is an existing undersized lot with hybrid bulk requirements. He added that the Planning Board agreed that the current proposed pool location is the best and only option.

Chairman Gittens said that he felt the FAR request of 30% is inconsistent with the surrounding homes in the neighborhood. Mr. Baum said that the ask is high because they are using the RR-50 bulk table, and that if they used the R-35 bulk, the variance would only be .003 over the maximum. From a practical standpoint, the maximum FAR for this undersized lot should be .20. He then asked the Board to set the public hearing for the subsequent meeting.

No one from the Board having further comments, Member Dugandzic made a motion to set the public hearing for the July 17, 2025 ZBA meeting. The motion was seconded by Member Millos and upon vote, all were in favor.

Zvi Sternberg—1 Sheilah Court, Montebello, NY

Application of Zvi Sternberg, 1 Sheilah Court, Montebello, NY which was submitted to the Village of Montebello Zoning Board of Appeals. The Application is appealing the Building Inspector's denial of a ZBA application for an area variance for relief from Sec.195-82 D of the code of the Village of Montebello. The Parcel is located on the north side of Sheilah Court, at the intersection of Spook Rock Road, and is shown on the Ramapo Tax Map as Section 49.17 Block 1 Lot 3 in the R-55 Zone

Present was the Applicant, Mr. Sternberg, his architect Matthew Oscar, and his attorney Joseph Churgin. Mr. Churgin stated that his client is seeking a variance to use more than 500 square feet of his existing home for his physical therapy practice, but must first appeal the Building Inspector's determination that this requires a Use variance. He explained further that Mr. Sternberg needs the extra space because most of his patients are religious Jewish people and are forbidden to mix with the opposite sex, hence there must be two of everything.

The Building Inspector determined that this is a use variance mainly due to his concerns about the magnetic machine, square footage used to run the practice, maximum number of employees present at one time and allowable hours of operation, he said. We have evidence to the contrary, he said, and added that he, his client, and the architect were happy to answer any technical questions.

Chairman Gittens asked how much of the house is used for the physical therapy practice and Mr. Churgin answered 1,187 square feet. The Chairman noted that that is 100 percent more than what is allowed for a home occupation in a residential district. Mr. Churgin countered that it is a very large house of which the practice takes up only a small portion. He added that there is no signage and that the entrance is tucked in the side of the house.

Ms. Terhune said that, at the last meeting, the Applicant said that roughly fifteen clients per day come to the house for 45-minute sessions with either of the two therapists on staff. She asked why Mr. Sternberg can't just alternate between male and female patients instead of designating two separate rooms. Mr. Sternberg explained that they work with their patients' busy schedules during regular workdays, making separation of the genders difficult.

Ms. Terhune asked where his practice was previously. Mr. Sternberg said 386 Route 59, in a commercial building, but noted that there were financial constraints, and that this arrangement is more feasible. Ms. Terhune asked if they maintained the number of clients. Mr. Sternberg said that his original intent was to grow his business, but that Covid stymied those plans, his practice suffered, and now he is doing the best he can. By moving to the house, he was able to eliminate paying rent while rebuilding his business, he said.

Ms. Terhune said that he could have found a less expensive commercial space and that this Board is not tasked with being concerned about the Applicant's financial position. She then explained that the first thing the Board must decide is whether this is a use variance for this business that uses twice the allowable amount of square footage in a residential neighborhood that is neither on a county nor state road. The Code is specific about numbers and intent and dissuades any high intense commercial use in a residential home, she said.

Mr. Churgin pointed out that there are criteria by which the ZBA must examine the application. Ms. Terhune said that any area variance granted by this Board will have to be the least amount possible. This variance is substantial and the idea that you moved your entire commercial business into your house with no evidence of attempting to find anything else does not bode well.

Mr. Churgin pointed out that if the business used 500 square feet of the home or less, then they would only need a special permit from the Planning Board per the Village code. Ms. Terhune countered that there are other requirements for a home occupation. Mr. Churgin maintained that the building inspector's January 7th determination is incorrect and suggested he should testify before the ZBA to back up his assertions. Chairman Gittens said that home occupations in this village typically apply to CPAs or engineers, not businesses that have people and cars coming and going throughout the day in a residential neighborhood, and the fact that there are no public parking spaces worsens the problem. This is more of a use variance, especially if Mr. Sternberg plans on growing his business, he opined. Members Bryan and Dugandzic agreed with the Chairman's assessment.

Chairman Gittens asked why they can't have just one therapy room since they have one unisex bathroom. The Applicant's architect, Mr. Oscar, said that it wasn't that simple and that there are different standards for use and privacy. He added that the code seems a bit prejudicial because it does not contemplate this type of use that serves the religious community. Ms. Terhune said that she understood his point but did not agree, and that what the applicant presented to the CDRC several months prior, and what is presented here, is inconsistent. Further, there are other

standards by which a special permit for a home occupation can be granted, mainly that the home must be on either a county or state road.

Mr. Churgin asked what this Board would find acceptable and Ms. Terhune said that the Board does not offer advice, and asked whether they wanted to set a public hearing. Mr. Churgin said that he wanted to re-evaluate and confer with his client.

Mr. Sternberg stood up and explained that this was his livelihood and that he cannot change his occupation. He thought he could legalize his home occupation, and that this Board does not fully understand how important and serious gender separation is. The bathroom issue brought up earlier is not analogous to the situation, he added.

Mr. Oscar said that if this practice did not serve the religious community, they could operate in 500 square feet or less and maintained that the code is prejudicial. Ms. Terhune reminded him about the other requirements of the home occupation code that this application does not meet, and said that this isn't about a religious use and that his clients could probably find another space, such as private rooms in other physical therapy practices. Mr. Sternberg again stressed how serious the religious requirements are and that more space is needed. Ms. Terhune said she appreciated his point, but advised that they examine the home occupation requirements further.

Mr. Churgin asked the Board to set the public hearing in any case. Member Dugandzic made a motion to set the public hearing for the July 17th ZBA meeting, which was seconded by Member Bryan and upon vote, all were in favor.

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.

Yakov Spaeth and Steve Saffer of Pomona Enterprises were present on behalf of the Applicant.

Mr. Spaeth explained that once he discovered that they needed a separate fence permit they ceased all work and applied for a permit, after which they received a denial letter because the fence in the front yard was two feet taller than allowed.

Mr. Spaeth said he provided an as-built survey showing six-foot high fence installed in the parameter of the property, a corner with two front yards on which nothing higher than a four-foot fence may be installed.

Member Dugandzic noted that the secondary road is actually a private driveway leading to 160 Spook Rock Road, a flag lot, and therefore it is not a corner lot bearing two front yards. Mr. Spaeth thanked her for clarifying, and added that it was confusing because the house is oriented towards the driveway. Chairman Gittens said that in any case, the fence along Spook Rock Road is not to code.

Mr. Spaeth explained that the house was built for a couple from Brooklyn who are well into their seventies and who want their entire property to be fenced in for security purposes and to keep animals

out. He noted that the fence along Spook Rock Road was installed in a ditch and looks shorter than six feet and that it is barely noticeable because it blends in with the trees. He offered that, if the ZBA agrees, he could relocate it behind the row of trees so that it would be invisible from the road.

Member Millos asked the definition of the “front yard” and was told the required front yard is fifty feet in from the property line. She surmised that if the fence were relocated beyond that point, a variance would not be needed. Mr. Spaeth said that if you can’t see the fence from the road, then it doesn’t matter really. However, Member Bryan was concerned about granting the variance and setting a precedent. Mr. Spaeth insisted that no one would even see it.

The Board deliberated over this a while, and decided to set the public hearing.

Member Millos made a motion to set the public hearing for the July 17th ZBA meeting, and to adjourn the meeting at 8:38 p.m. The motion was seconded by Member Bryan and upon vote, all were in favor.