

A MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF MONTEBELLO WAS HELD ON THURSDAY AUGUST 21, 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 Chairman, Member
Elizabeth Dugandzic, Member
Rosana Millos, Member
Kevin Stevens, Member

Others Present: Alyse Terhune, Assistant Village Attorney
Adam Gordon, Building Inspector
Regina Rivera, Planning & Zoning Clerk

Absent: Rodney Gittens, Chairman

Meeting Minutes Approval

Member Stevens made a motion to approve the minutes of the July 17, 2025 ZBA meeting, seconded by Member Dugandzic 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

The Applicant requested an adjournment to the next meeting. Member Millos made a motion to adjourn the application and the public hearing to the August 21, 2025 ZBA meeting. Member Dugandzic seconded the motions 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 .203]; Dev. Coverage [max. 20%, proposed 22.4%] 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 Highgate Court, and is shown on the Ramapo Tax Map as Section 48.11 Block 1 Lot 3 in the RR-50 Zone.

The Applicants and their attorney, Paul Baum, were present. After Vice Chairman Bryan read the application into the record, Mr. Baum stated that he submitted a supplemental narrative responding to the objections made at the last public hearing, mostly because some of the comments were irrelevant. He added that the letter from Mr. Lipstein at 16 Sterling Forest Lane was conjecture and that the Board

cannot really rely on these “feelings.” None of these public objections spoke to the variances themselves, only to hypothetical situations, he added.

Mr. Baum said that, although the size of the addition may seem substantial, there is only 12.6% FAR in the structure above ground, the rest is underground. If there was no basement, the FAR variance would not be necessary. The house will not be out of character or too big for the neighborhood, and it is in line with what is allowed to be built, he said. Mr. Baum noted that he submitted four letters from neighbors approving the project, and read a fifth letter into the record from the homeowner at 12 Sterling Forest Lane, also in favor of the proposal.

Mr. Baum acknowledged that they are asking for several variances, but reasoned that they are not building anything closer to the road and that the lot is non-conforming undersized. Mr. Gordon made his interpretation that development coverage should be calculated using net lot area, but if this Board decides that using gross lot area is the correct means of calculating development coverage, then we won’t need that variance, he said. He then presented a spreadsheet of other variance applications for development coverage, noting that they vacillated between net and gross calculations for development coverage. There has been no consistency in how the Village calculates it, he said, and insisted that, when the code is vague, the Board should find in favor of the applicant.

Vice Chairman Bryan asked Mr. Gordon to explain his reasoning on favoring net over gross lot area calculations. Mr. Gordon shared his thought process, explaining that the code gives a specific formula to calculate FAR, for example, deducting open stairs and mechanical rooms, because it is a complicated concept that measures density on a property. Development Coverage on the other hand is concerned with environmental conservation. The whole reason for Section 195-14A, he continued, is to protect the environment by deducting wetlands and sloped areas and other areas that act as impervious areas. These areas are deducted for protection against extra runoff. The code does not specify how to calculate Development Coverage as it does for FAR, because there simply is no other way but to use net lot area to calculate it, he said.

Ms. Terhune stated that to the extent that gross or net has been used, this Board will now decide on how development coverage will be calculated moving forward. Vice Chairman Bryan said that he was swayed by Mr. Gordon’s argument and asked each Board member what they thought of the matter. Member Dugandzic said she was leaning toward agreeing with the Building Inspector’s determination, and Member Stevens agreed. Member Millos said she thought that Mr. Gordon made some good points even though the code is ambiguous, but that the code is explicit in that it takes away certain land obstacles from development coverage calculations.

Mr. Baum said that if the code feels ambiguous, as Member Millos stated, and if the Village failed to write the law clearly, there is ambiguity, and the law states that the Board must decide in the favor of the property owner. Member Millos countered that it is ambiguous in that it’s not explicit, *until* one looks at Section 195-14A. Member Stevens added that it requires interpretation, but it’s not necessarily ambiguous. Ms. Terhune said that Mr. Baum’s assertion is correct, but that the Board has the authority to determine whether they think the code is ambiguous. She then noted for the record that Mr. Baum provided five instances where the Village vacillated, but of the five, only one actually needed a variance for development coverage—8 Henry Court—which used net lot area to calculate development coverage.

Member Stevens said that he was having trouble envisioning how the property will look after the addition is built and asked if the property could be staked out to show the footprint of the addition. Mr. Baum said that the requested should have been made two months ago. This is our fourth appearance, and we are requesting that the Board close the public hearing this evening to deliberate. If the Board upholds the

Building Inspector's determination, then we will pivot to the alternate variance on that restriction and move on with the other variance requests, he said.

Ms. Terhune said that even if the Applicant may not want to stake the area, it is not an unusual request if the Board feels that they need to get a sense of how the bulk will affect the property. She noted that if the public hearing is closed, the Board still has sixty-two days to make a decision. Mr. Baum maintained that the request at this juncture was unfair to the Applicants, who do not want this dragged out any further, and added that the house already exists, the addition will be to the rear of the property and will not render the home out of character with the neighborhood.

Vice Chairman Bryan said that the variances are significant when combined and that the Board is trying to do it's due diligence. If the Applicants refuse to stake it, then that may be a mistake, he said. Ms. Terhune added that the house will be substantial in size. Mr. Baum said that the screening and buffering will minimize the size of the house. The variances cannot be denied just because the house might seem too big, you have to see what exists and what the totality of the circumstances are, he said.

Ms. Terhune clarified that the Vice Chairman said that the totality of the substantiality must be considered. Referring to a former application that received a FAR variance, 2 Golf Course Drive, Ms. Terhune said that they were only asking for one variance, and this one is asking for four. She then asked if Mr. Baum's client was willing to stake the property for a site visit. Mr. Baum conferred briefly with the Applicants, after which he explained that they wished to cooperate but feel that this has been delayed for far too long and may potentially drag on for months.

Member Stevens said that this is a significant application and that the Board will not apologize for asking for more information. It's frustrating on both sides, he added. Mr. Baum offered to reduce the FAR request, but Ms. Terhune said that the Board cannot approve something that isn't in front of them. Mr. Baum reiterated that the code says that the Board must issue the minimum variances necessary to afford relief, and asked if they felt that .203 FAR was too substantial. Ms. Terhune said the Board wouldn't be willing to approve that because that plan was not submitted. The ZBA determination is based on what the Board is reviewing, not a hypothetical, she explained. Mr. Baum argued that no matter what, the house would be smaller than what they are showing now, and Ms. Terhune said that if they want to reduce the variances, they will have to re-submit. Or, she offered, the Applicants can stake the property and the Board can make a decision on what the Applicants asked for in the first place.

After another brief conference with his clients, Mr. Baum said they agreed to stake the property and to return next month. Member Millos asked that both the pool and the addition be staked, and Vice Chairman Bryan agreed, adding that everything that is part of development coverage should be staked. He then asked if anyone from the public wished to comment. No one wishing to speak, Member Stevens made a motion to close the public hearing. Member Dugandzic seconded the motion and upon vote, all were in favor.

Member Millos made a motion to adjourn the application to the September 18, 2025 ZBA meeting, seconded by Member Stevens and upon vote all were in favor.

Member Millos made a motion to adjourn the meeting at 7:53 p.m. The motion was seconded by Member Dugandzic and upon vote, the motion passed unanimously.