

A MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF MONTEBELLO WAS HELD ON THURSDAY OCTOBER 16, 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 Chairman, Member
Elizabeth Dugandzic, Member
Kevin Stevens, Member

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

Absent: Rosana Millos, Member

Meeting Minutes Approval

Member Bryan made a motion to approve the minutes of the August 21, 2025 ZBA meeting, seconded by Member Stevens 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.

Yehudis Kohn, the Applicant, and her attorney Paul Baum were present. After the Chairman read the application into the record, Mr. Baum recapped the application to date, noting that in August, he submitted a narrative responding to the negative comments that were made by the public at the July hearing, as well as written comments from surrounding neighbors in support of the project. He also noted that the Public Hearing was closed at the August meeting.

Chairman Gittens said that the Board visited the property on September 5th and asked the number of variances being requested. Mr. Baum answered five, and explained that the house will not be brought any closer to the road and that there was no other feasible location for the pool, as discussed at previous meetings. He explained further that, while the FAR variance is large, the majority of the additional FAR will be in the basement underground and that only 4,432 ft, or 12.6%, will be above ground and will therefore not impact the character of the neighborhood.

Even if the Board finds that these variances are significant, they don't need to be denied, because they are not detrimental to the safety and welfare of the neighborhood, and even if you look at the totality of the circumstances, these variances will not create any physical impacts on the community, he said.

Mrs. Kohn was sworn in. She thanked the Board for their thorough review of the application, and said that she hoped the site visit was helpful and that the members gained perspective. She said that the location is very private, that no trees will be removed and that the home will certainly blend in with the neighborhood, and added that she loves the community and fervently wishes to raise her children here.

Ms. Terhune asked if the total square footage, 7,514, includes the proposed addition. Mr. Baum said it did. Ms. Terhune asked how much of that would be below ground. Mr. Baum answers 2,712 square feet. Ms. Terhune explained that the Board took a straw poll at the last meeting regarding the building inspector's determination on development coverage calculation but that there was no formal vote. She advised the Board to vote on that before voting on the variances.

Member Bryan made a motion to uphold the Building Inspector's determination that development coverage shall be calculated using net lot area instead of gross. Member Dugandzic seconded the motion and upon vote, all were in favor.

Chairman Gittens noted that neither the Applicant nor the Architect made any attempt to comply with the required bulk of the property. Mr. Baum said that the Board is aware that the property is hindered

by the floodplain and wetlands, and there is no other location for the pool without causing greater variances. The Chairman suggested the pool could be smaller. Mr. Baum said that it would not meet the needs of the Applicant, and pointed out that the Village Code requires an extra 10 feet for the setback to the pool. Without that stipulation, we would need one less variance, he said, and added that they are not installing a patio around the pool. Chairman Gittens said the code is in place for safety reasons. Mr. Baum said the setback is only deficient by five feet, and that they are not infringing upon anyone else's open space or enjoyment of their homes.

Chairman Gittens stated that their FAR request is substantial and asked if it can be reduced. Mr. Baum said the proposal is designed to accommodate the Applicants' needs and to offer adequate space for their growing family. This is an undersized lot, and if the bulk for R-35 zoning district is applied, it would be a smaller variance. He reiterated that much of the addition will be underground so the house will not seem out of scale with the rest of the neighborhood. Chairman Gittens, noting that the area below grade will be habitable, countered that greater FAR means it will leave a greater carbon footprint, and asked the Applicant to reduce the variances.

Mr. Baum stood firm and said that, while he understands the purposes of the zoning laws, the ZBA is supposed to offer relief from the bulk where merited, especially in the face of a property that is already non-compliant, and especially if there is little to no impact. Mr. Baum cited letters from surrounding neighbors that support this proposal, and said that the home will look much nicer than it does now. Objectively, he continued, I advocate for my client, but personally, I don't see any impacts. He asked the Board to consider this, and to consider the needs of the family for now and for the future.

The Chairman agreed that the Board exists to offer relief, but that it cannot measure the Applicant's needs, per se. It can only go by what the zoning code says. Mr. Baum reminded him about the significant wetlands issues and that the net lot area is undersized. After some discussion, the Chairman asked why the family needs, for example, four family rooms, and whether the architect made any attempt to reduce the FAR. Mr. Baum said that he was sure reductions were considered, but that the space did not meet the family's needs.

After discussion regarding the number of egress doors, the size of the bedrooms and the rooms in the basement, Member Bryan asked about the labels of the rooms in the basement. Mrs. Kohn said that they were told to label the rooms on the plans so that their uses may be visualized. No solid decision on their uses have been made, she said, and that she wishes to have enough room for their frequent visitors and as their family expands.

Chairman Gittens asked Mrs. Kohn why she bought a house of this size in the first place, knowing they would need to build an addition. She responded that she and her husband knew nothing about wetlands and that they never envisioned having any issues expanding the home. Mr. Baum added that there was confusion early on during the CDRC process regarding bulk requirements, and there weren't as many issues as there are now.

Member Bryan asked the Applicant if they had a professional assessment of flood risks of the property. Mrs. Kohn said that the property is set above the grade of the wetlands, that there is no moisture in the basement and that the house and the property have never flooded since it was built. Member Bryan noted that these determinations are personal observations and not professional determinations. Mr. Baum reminded him that the NYS DEC issued a permit for this project.

Member Dugandzic thanked Mrs. Kohn for having the property staked for their site visit, and said that after seeing the footprint, she felt the addition could be scaled back a bit. Mr. Baum asked if she felt the FAR itself was too great, or if the idea of the percentage of FAR gave her pause. There is no evidence of flooding or potential flooding according to the engineers, the SWPP and the DEC. Nothing anywhere indicates that there will be a problem, especially since the 100-year floodplain is 60 feet away from the house, he said.

Ms. Terhune said that the members of the Board are concerned about setting a precedent should they grant a 30% FAR variances on an undersized lot. Mr. Baum countered that the Board must look at each application on an ad hoc basis, each with its own merits and context. Ms. Terhune acknowledged that he was correct that substantiality is not the only factor to review. However, she continued, if you weren't able to factor in substantiality on its own, then taken to the extreme, huge variances could be granted as long as they don't affect the neighborhood. Mr. Baum said there is case law to back that up to which Ms. Terhune replied, "there is case law to the contrary as well."

Ms. Terhune said that she would opine further on case law if the Board wishes, but that they will have to wait until the next meeting to vote on the variances. The Board responded that they were ready to vote.

Chairman Gittens reviewed the five criteria by which the ZBA judges applications and felt there would be some impacts to the environment and neighborhood and that the variance requests could have been smaller. Member Stevens said that he was not convinced that the development would not impact the safety of the resident and that in terms of square footage, the house will be out of character. Members Dugandzic agreed, as did Member Bryan, who added that an addition of this size would negatively affect the neighborhood as outlined by the Village Comp Plan.

Member Bryan made a motion to deny the requested variances. Member Dugandzic seconded the motion and upon vote, the motion passed unanimously.

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

X

In the Matter of the Application of
Abe Kohn

**VARIANCE DECISION FOR
PROPERTY IDENTIFIED ON
THE VILLAGE OF
MONTEBELLO TAX MAP AS
Section 48.11, Block 1, Lot 13**

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

X

**APPLICATION FOR RELIEF FROM THE VILLAGE OF MONTEBELLO ZONING LAW
TO CONSTRUCT AN ADDITION TO THE EXISTING SINGLE-FAMILY DWELLING
AND A SWIMMING POOL**

The property location, zoning district and applicable code. The subject property is located at 17 Sterling Forest Lane, Village of Montebello, County of Rockland, State of New York. It is identified on the Tax Map as Section 48.11, Block 1, Lot 13 (the “Property”). The Property is a lot containing 35,229 square feet (0.81 gross acres, .62 net acres); however, developable area is reduced to 26,995 square feet after the reduction of 8,234 square feet of New York State Department of Environmental Conservation (“DEC”) regulated wetlands. The Property is located in the Rural Residential-50 (“RR-50”) zoning district, which requires a minimum of 50,000 square feet, and is governed by § 195-13, “Table of General Bulk Requirements,” use group “h.” However, because the lot is preexisting nonconforming a different bulk standard is applied to required yard and yard setback calculations. Instead of use group “h” being applied to all bulk requirements, Low Density Residential-35 (“R-35”), use group “q” is applied to minimum required front yard and required front yard setback regulations pursuant to § 195-89.¹ Use group “h” is applied to all other bulk requirements (minimum lot area, lot width, street frontage, maximum height, development coverage and floor area ratio (“FAR”)). The Building Inspector also informed the Applicant that development coverage is

¹ Residential buildings or structures. Any existing one- or two-family residential building or structure, or building accessory thereto, made noncomplying as to bulk by this chapter or any amendment thereof shall be permitted to comply with the yard and setback requirements as specified for the highest residential district having the same or less lot width. In no event, however, shall the yard and setback requirements of any lot be less than the requirements for the R-15 District. No front setback may in any event be closer to the designated street line than the existing established setback. For any existing building or structure on a lot having less than a one-hundred-foot lot width, the minimum standards will be the same as those specified in Subsection D of this section.

calculated on NET, not GROSS lot area. The Zoning Board of Appeals (the “Zoning Board”) also notes that in addition to the nonconforming lot, the existing dwelling is noncompliant as to minimum required front yard and required front yard setback.

The application. The property owner, Abe Kohn (the “Applicant”), applied for a building permit to construct a 2,917 square foot addition to the rear of the existing single-family dwelling and an 18-foot by 36-foot swimming pool. The existing house is 4,237 square feet. The addition as proposed would bring the house to 7,154 square feet, a 69% increase in size. The Montebello Building Inspector denied the application citing the need for variances and referred the Applicant to the Zoning Board. On April 8, 2025, the Applicant applied to the Zoning Board for the following variances:

- (1) a 20-foot, 40% variance from the required 50-foot front yard 30 feet (for the addition); and
- (2) a 20-foot, 40% variance from the required 50-foot front yard *setback* to 30 feet (for the addition); and
- (3) a 17% variance from the 30-foot required side yard to 24.9 feet (for the pool); and
- (4), a 35% FAR from the required 15% to 20.3%; and
- (5) an 11% variance for development coverage from the required 20% to 22.2%.

The Applicant also asked the Zoning Board to reverse the Building Inspector’s interpretation of the zoning law finding that development coverage is calculated on NET, not GROSS lot area.

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

1. Denial notification, prepared by Adam Gordon, Building Inspector, dated October 17, 2024, follow-up letter prepared in June 2025 from BI Gordon stating, among other things, that development coverage should be calculated on “Net” area; and
2. Application, prepared by Abe Kohn, dated April 8, 2025; and
3. Plot Plan, prepared by Paul Gdanski, P.E., dated January 1, 2024, last revised, April 9, 2025; and
4. Floor plans and architectural plans, prepared by Rodger Bradley, Architects, dated July 15, 2024, last revised March 10, 2025, consisting of the Cover, and sheets A-101 (foundation footing), A-102 (basement floor plan), A-103 (first floor framing plan), A-104 (second floor framing plan), A-105 (elevations), A-106 (roof plan), A-107 (details), PL-01 (plumbing), E-101 (basement floor electric plan), E-102 (first floor electric plan), SP-01 (notes and specifications), and PLOT-01 (Plot Plan); and
5. Photographs of the existing house and lot; and
6. Wetlands analysis letter from Peter D. Torgersen to Paul Gdanski, dated January 17, 2025; and
7. NYS DEC Wetlands Permit ID 3-3926-00784/00001, effective July 9, 2024 to December 31, 2027;
8. Narratives prepared by Paul S. Baum, Esq., dated April 9, 2025, May 20, 2025, and August 7, 2025; and
9. Examples of applications where gross lot area was used by the Village to calculate development coverage, prepared by Paul S. Baum, Esq.; and

General Municipal Law § 239. The application was duly referred to the Rockland County Department of Planning (“RCDP”) pursuant to GML § 239. By letter dated August 8, 2025, RCDP responded with five (5) comments related solely to the requested variances. The Applicant agreed to comply with all comments if the variances were granted.

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 July 17, 2025, and continued August 21, 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 on August 21, 2025.

THE INTERPRETATION

The Building Inspector determined that development coverage is calculated on gross, not net, lot area pursuant to Village of Montebello Code § 195-14, “Special bulk requirements.”² The lot is preexisting nonconforming at 35,229 square feet and is further reduced to 26,995 after the deduction for flood plain. Maximum development coverage of 20%. The Applicant seeks 22.2% development coverage. If the Building Inspector’s determination is reversed and gross lot area is used, the Applicant will not need a variance.

The Applicant’s argument.

The Applicant maintains that the plain language contained in § 195-14A, “as part of any minimum lot area requirement,” limits the exclusion of constrained land to the calculation of minimum lot area and no other bulk requirement. Further, the Applicant notes that the definition of lot area specifically cites §195-14A as adjusting minimum lot area, not development coverage.³ The Applicant also argues that because the definition of development coverage is silent as to whether gross or net area should be used for the calculation of development coverage, gross area must be used. Moreover, the Applicant submitted evidence that the Village has applied both net and gross lot area to determine whether a proposed project met lot coverage requirements. Therefore, whether development coverage is calculated on gross or net is, at best, ambiguous and must be interpreted to the benefit of the property owner.

The Building Inspector was asked to address this issue before the Board. He explained that his interpretation is founded on the view that § 195-14A is intended to address environmental protection and prevent stormwater runoff. Section 195-14A further protects preexisting undersized lots from overdevelopment.

First, the Applicant is correct that there is no explicit direction to use gross area in the definition of development coverage, unlike the definition of FAR, which specifically states gross area is to be used for development coverage calculations.⁴ The purpose of FAR, however, is to regulate the size of

² As part of any minimum lot area requirement of this chapter, no land under water, subject to or within the one-hundred-year-frequency floodplain, freshwater wetlands, within easements or rights-of-way for any utilities, with slopes of over 25% or within a designated street line of any road shall be counted. Furthermore, only 75% of land area of land with a slope exceeding 15% but no more than a slope of 20% shall be credited, and only 50% of land area of land with a slope exceeding 20% but with no more than a slope of 25% shall be credited. The application of this section to any particular lot or site shall be the responsibility of the Village Planning Board at the time of subdivision or site development plan approval.

³ The total horizontal area included within the property lines of a lot, except that for any minimum lot area specified in this chapter, the area shall be adjusted as set forth in Article IV, § 195-14A.

⁴ [FLOOR AREA RATIO](#) The mathematical value of the gross floor area of all buildings on a lot divided by the gross area of the lot.

the primary structure in relation to the size of the lot. Development coverage serves a different purpose. Its intent is to limit the amount of impervious surface introduced onto the land, thus affecting stormwater runoff and a myriad of other environmental impacts. This distinction is furthered by the definition of “development coverage” which is “the percentage of the area of a lot covered by buildings, parking areas, accessory structures and any impervious materials, including natural impervious areas.”

Second, development coverage refers to “the percentage of the area of a lot” without differentiating between gross area and net area. It follows that coverage must be calculated on lot area as defined in the zoning law, which definition expressly excludes constrained lands: “The total horizontal area included within the property lines of a lot, except that for any minimum lot area specified in this chapter, the area shall be adjusted as set forth in Article IV, § 195-14A. The specific exclusion of constrained lands in the definition of lot area further supports the Building Inspector’s interpretation that net, not gross, lot area is to be applied when calculating maximum development coverage.

Finally, the Applicant submitted five (5) examples of applications to the Montebello building department showing that development coverage was calculated by the applicant’s engineer on gross lot area in 3 and net lot area in 2.⁵ These examples, according to the Applicant, stand for the proposition that the Code is ambiguous and, therefore, must be interpreted to the benefit of the property owner. The Board is unpersuaded.

“A statute is unconstitutionally vague if it fails to provide a person of ordinary intelligence with a reasonable opportunity to know what is prohibited, and it is written in a manner that permits or encourages arbitrary or discriminatory enforcement.” ([Town of Delaware v Leifer, 34 NY3d 234, 247-248 \[2019\]](#)). Merely because an applicant’s engineer interprets the zoning law in a way that is beneficial to his or her client, does not translate to vagueness or ambiguity. Instead, the structure and the definitions of the zoning code, when read together, supports a consistent and logical interpretation that that net lot area should be used to determine development coverage, as explained *supra*. Moreover, of the five examples, only one would have required a development coverage variance from 50% to 53% if development coverage had been calculated on net lot area instead of gross. The Board does not find that one error effecting one application does not translate to ambiguous Code.

⁵ 1. The Stein application to build an in-ground pool at 5 Golden Road used **gross** lot area to determine development coverage (Paul Gdanski, P.E., 20% permitted, 10.5% proposed).
2. 84 Viola, application for a community place of worship, used **net** lot area (345,329 net, 441,130 gross) to determine development coverage (Atzl, Nasher & Zigler Engineers, 40% permitted, 30% proposed).
3. 34 N. Airmont Road, an application for commercial office building, calculated development coverage on **gross**, (Brooker Engineering, 50% permitted, 46% proposed).
4. 8 Henry Court also calculated using **net** lot area. A variance application was granted for FAR, not development coverage (Kevin P. Maher, P.E., 40% required, 28.15% proposed).
5. MSC of Montebello was already fully developed as a synagogue and wanted to add a school for religious instruction (2 principal uses on a lot). The lot was developed and generally flat, however, minimum lot area was calculated after deducting the area within the designated street line 476,310 sq. ft. The applicant’s engineer applied the **gross** lot area (483,839) to determine development coverage (Brooker Engineering, 50% permitted, 17% proposed).

For these reasons, the Zoning Board of Appeals upholds the Building Inspector’s determination that development coverage is calculated on net lot area not gross lot area. The Decision was carried on a Motion by Member Bryan, seconded by Member Dugandzic, on a roll call vote as follows:

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

**THE REQUEST FOR VARIANCES
ZONING BOARD FINDINGS**

The Board’s Findings. When considering whether to grant area variances, the Board must evaluate, and did evaluate, (1) whether granting said variances 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 variances are substantial, (4) whether the proposed variances 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. Area variances so granted by the Board must be the minimum variance that it deems necessary and adequate.

After considering 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 variances are granted, the Board reached the following conclusions:

1. The Board considered whether the requested variances, if granted, will produce an undesirable change in the character of the neighborhood and determined that they will. The existing house is 4,237 sq. ft. The Applicant seeks to increase the house by 2,917 sq. ft., to 7,154 sq. ft. The variances, if granted, would result in an extremely large house that is out of character with the other houses in the neighborhood.

The zoning law, by its nature and intent, defines the proposed character of neighborhoods and of the community. The Board finds that any variance, especially a substantial variance of Floor Area Ratio (along with 4 other variances), disturbs the character of the neighborhood and should be granted only when environmental lot constraints factor prominently in the request and not merely the desire of the Applicant for a larger house. Especially where, as here, the Applicant purchased a pre-existing nonconforming lot with a preexisting nonconforming house on it.
2. The Board considered whether the benefit sought by the Applicant can be achieved by some other method and determined it can. The Applicant could reduce the size of the proposed addition and pool. Also, the Board noted that the Applicant represented the need for the variances to accommodate a growing family and visiting relatives. Yet, many of the areas of the house appear to be duplicative, oversized and not typically seen in a single-family-house. For example, the floor plans and architectural plans dated January 13, 2025, show a gym (238 sq. ft.), a boy’s den (201 sq. ft.), a girl’s den (165 sq. ft.), a family room (623 sq. ft.), a salon (201sq. ft.), an “entrance lobby” (305 sq. ft.), a meditation room (118 sq. ft.), a multipurpose hall (623 sq. ft.) study room (136 sq. ft.), an office (161 sq. ft.), and a playroom (166 sq. ft.). After questioning whether entrance lobbies, salons and multipurpose halls were typically found in single-family-homes, the plans were revised on March 10, 2025. The “entrance lobby” and the “salon” were combined and relabeling as a “TV room” (506 sq. ft.). The “multipurpose hall” was relabeled as a “family room.”

- 3. The Board considered whether the variances are substantial and determined that they are. The two setback variances are 40% greater than allowed. The side yard setback for the pool is 17% greater than allowed. The FAR variance is 35 % greater than allowed. The development coverage variance is 11% greater than allowed. Taken together and applied to a substandard lot, the Board determined that not only are most of the individual variance requests substantial, but substantiality also excessive when the variances are considered in total.
- 4. The Board considered whether the variances, if granted, will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district and determined that they will. The Board noted that there are wetlands on the lot and that variances will allow structures to be built closer to the wetlands and will increase flooding. Finally, the variances will likely result in an increase in the carbon footprint.
- 5. The Board determined that the alleged difficulty is self-created. The Board noted that the Applicant, like anyone, is charged with knowing the zoning law and that the lot was undersized and nonconforming prior to purchase. The Applicant, like anyone, is not entitled to multiple significant variances merely because they purchased an undersized house on an undersized lot that did not meet their needs. The Applicant could have, but did not, reduce the proposed construction to try and conform more closely to the zoning law.

Applicant’s burden. The Zoning Board of Appeals hereby finds and determines that the Applicant has not 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 variances. The Board further determines that the benefit to the Applicant if the variances are granted do not outweigh the detriment to the neighborhood or the community.

DECISION

NOW, THEREFORE, BE IT RESOLVED, for the reasons cited herein, the Zoning Board of Appeals denies each and every one of the five variances requested by the Applicant. The Decision was carried on a Motion by Bryan, seconded by Member Dugandzic, on a roll call vote as follows:

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

Zvi Sternberg—1 Sheilah Court, Montebello, NY (Public hearing continued)

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.

Mr. Sternberg and his attorney, Joseph Churgin, were present. The Chairman read the application into the record. Mr. Churgin summarized the application, noting that they were before the board several times, and that they have reduced the amount of square footage being used for his physical therapy practice at the Board’s request. The practice, which formerly took up 1197 square feet of the existing house, is now comprised of 937 square feet. Even though it remains above the 500 square foot

threshold, Mr. Churgin explained that the Applicant's clientele are orthodox and as such require separate examining rooms.

Chairman Gittens noted that the plans now show a private study/office where once stood a third examining room. Member Stevens asked the number of patients that are seen on average daily and where they park. Mr. Churgin answered that there is enough parking in the driveway, and that the practice sees about ten to twelve patients per day. He reminded the Board that they are now using less space to accommodate that number.

Member Bryan asked for details on the scheduling. Mr. Sternberg said that the practice is open from 9 a.m. to 5:00 p.m. for half hour sessions, Monday through Thursday. Chairman Gittens asked if there was a pool, and Mr. Churgin said there has always been a pool on the property but that it is not part of this application.

The Board embarked on a lengthy discussion regarding the existing shed, the number of doors providing access to the practice (just one), how the patients circulate within the space given the gender separation, and the potential effects of the magnetic and traction machines.

Member Stevens stated that the Village code places limitations on home office space in order to maintain residential areas. There are commercial zones for this type of use, and while it may make intuitive sense to you to run your business out of your home, this use changes the character of the neighborhood, he said. Mr. Sternberg said that his is simply asking for permission to continue, and that if this Board doesn't like it, he will scale the practice back further.

Ms. Terhune reminded everyone that the idea that this is a use variance is still on the table, explaining that when Mr. Sternberg applied to the CDRC for a special permit, the practice comprised the entire basement. The Building Inspector determined that this is a use variance based on the size of the practice and because it does not fit the criteria of a Home Occupation. Additionally, where only one principal is permitted, here there is another Physical Therapist in the practice who treats the female patients. Finally, the driveway is required to be on a state or county road, the use can only occupy 500 square feet of space or less, and parking cannot be visible from Sheilah Court. Hence, the inspector determined that this is a use variance.

Ms. Terhune expressed her concern that the latest submission merely re-labels the existing space. Mr. Churgin said that the Building Inspector can come in and inspect the area. Member Stevens said that there are two physical therapists, one of whom does not reside in the house, where only one principal is allowed. Mr. Churgin maintained that there needs to be a female therapist because of their religious beliefs. Ms. Terhune said they are reviewing a Home Occupation in a residential district, not a religious use. Mr. Churgin stated that they are trying to accommodate the Board's wishes and the code. Chairman Gittens said there are a lot of criteria for Home Occupation that are not being met here.

Member Stevens asked how Mr. Sternberg will address the impact of clientele traffic on the people who live in the neighborhood. Mr. Sternberg said that he has been operating the practice for over a year and that there will be no increase in activity. Ms. Terhune noted that Mr. Sternberg is in justice court for multiple violations, all of which have been stayed during this ZBA review. Mr. Churgin said he understood that the use is not legal, but explained that there are no health or safety concerns by traffic standards.

No one having further questions, Chairman Gittens open the public hearing. No one from the public wished to speak.

After a short discussion regarding Section 195-82E on Home Occupation, Mr. Churgin said they wished to return to the ZBA.

Member Stevens made a motion to adjourn the public hearing and the application to the November 16, 2025 ZBA meeting. Member Dugandzic seconded the motion and upon vote, all were in favor.

Member Dugandzic made a motion to adjourn the meeting at 8:51 p.m., seconded by Member Stevens and upon vote, all were in favor.