

A MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF MONTEBELLO WAS HELD ON THURSDAY JANUARY 15, 2026 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
Rosana Millos, Member
Carrine Kaufer, Ad Hoc

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

Meeting Minutes Approval

Member Bryan made a motion to approve the minutes of the December 18, 2025 ZBA meeting, seconded by Member Dugandzic and upon vote, all were in favor.

Abe Kohn--17 Sterling Forest Drive, Montebello, NY – PUBLIC HEARING

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.

After Chairman Gittens read the application into the record, Member Dugandzic made a motion to open the public hearing, and Member Stevens seconded the motion.

Yehudis Kohn, the Applicant, and her Engineer Paul Gdanski were present. Mr. Gdanski presented the application and the changes that were made according to the Board's feedback at the last meeting, including a clearer survey and more defined architectural plans. Chairman Gittens, however, was not satisfied that the cellar details were properly identified and requested that the Village Engineer review the basement crawl space and foundation for compliance.

Mr. Gdanski advised the Applicant to have her architect add all the ceiling heights to the floor plans, including that of the cellar. Ms. Terhune pointed out that there was an earlier version of page A-107 that showed an attic ceiling height of over 7 feet that was not included in the FAR calculations. That page was subsequently revised to show the attic height of 5.5 feet and thus not considered habitable space. In any case, she continued, the lower ceiling height must be reflected in the actual architectural plans. Member Bryan requested that they also include details on the roof.

No one having further questions, the Chairman opened to the floor to the public.

Marissa Romoff of 8 Highgate Court, Montebello, NY was sworn in. She stated that even though the home has a long driveway that can accommodate up to eight cars, cars are often parked on the street, blocking part of that intersection and posing a danger to children especially. She then asked the difference between the FAR variance from the first application and this one, and was told that it was reduced to 6,103 square feet from 7,154 square feet.

Ms. Romoff said that there were no houses in the area of that size and that the Board should consider the negative impact it could have on the neighborhood and added that the property is undersized no matter the size of the house.

No one else from the public wished to speak, and Member Millos made a motion to adjourn the public hearing and the application to the next ZBA meeting. The motion was seconded by member Stevens and upon vote, all were in favor.

Zvi Sternberg--1 Sheilah Court, Montebello, NY--S/B/L 49.17-1-3

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.

No one was present for the Applicant. Member Dugandzic motioned to close the public hearing and Member Stevens seconded the motion.

Ms. Terhune explained that she reached out to the Applicant's attorney to let him know that the Board may make a decision at this meeting. She then requested that the Board go into an advice of counsel session before they deliberate and reminded them that they are to decide whether to uphold the Building Inspector's determination that this is a Use variance and not an area variance. If they do not uphold that decision, then they must deliberate on the area variance at hand.

Member Dugandzic motioned to go into an advice of counsel session, Member Millos seconded the motion and upon vote, all were in favor.

Member Stevens motioned to close the advice of counsel session, seconded by member Millos and upon vote, all were in favor.

After some discussion, Chairman Gittens asked the Board to opine on whether this is a use or an area variance.

Member Bryan said that since the requirements of Sec. 195-82 Home Occupations/home professional office were not met, then Section 195-10G supports the Building Inspector's determination that *Any use not identified in the Use Table shall be deemed prohibited. Any use indicated as a special permit use shall be deemed prohibited unless approved in a manner specified by this chapter.*

Ms. Terhune said that based on his testimony and through the Zoning Board process, it does not appear that the Applicant meets the criteria of Sec. 195-82. The use exceeds the maximum square footage allowed for his practice, his driveway is not on a state or county road, and he has upwards of three employees. His testimony changed several times and now the Board may not find it credible, she said, citing his assertion that the electromagnetic machine will no longer be used professionally, only for his personal use.

Member Bryan said that having reviewed the submissions and heard the Applicant, he feels that the petition conflicts with the Village Code regarding the definition of Home Occupation, and noted that the Applicant modified his testimony with each appearance but never the substance of the application or the use itself. Member Dugandzic said that she agreed with Member Bryan and Member Kaufer noted that the Applicant hardly meets any of the requirements for Home Occupation.

Member Stevens said he found the proceedings to be replete with omissions, and he inferred that, given Applicant's failure to meaningfully participate in the process, he was doing this only to delay his proceedings in the justice court, all while continuing to operate his practice. There is therefore no other choice but to uphold the Building Inspector's decision, he said.

Member Millos noted that there is no tangible way to prove the Applicant's claim that he is using less floor area than previously. This is a high-intense practice not permitted in a private home. Laws are laws, and this Board has a duty to uphold them, she said.

No one having further comments, Member Stevens made a motion to uphold the Building Inspector's determination. Member Bryan seconded the motion and upon vote, the motion carried unanimously.

In the Matter of the Application of
Zvi Sternberg

**INTERPRETATION OF § 195-82
AS APPLIED TO 1 SHEILA
COURT
Section 49.17, Block 1, Lot 3**

to reverse the Building Inspector’s determination that a
use variance is required to operate the proposed physical
therapy business as a home occupation.

**APPLICATION TO REVERSE THE BUILDING INSPECTOR’S DETERMINATION
THAT A USE VARIANCE IS REQUIRED TO OPERATE A PHYSICAL THERAPY
BUSINESS AS A HOME OCCUPATION PURSUENT TO SECTION 195-82 OF THE
VILLAGE OF MONTEBELLO ZONING LAW**

The property location, zoning district and applicable code. The subject property is located at 1 Sheila Court, Village of Montebello, County of Rockland, State of New York. It is identified on the Tax Map as Section 49.17, Block 1, Lot 3 (SBL 49.17-1-3 or the “Property”) and located in the Rural Residential-50 (“RR-50”) zoning district. RR-50 requires a minimum of 50,000 square feet, and is governed by § 195-13, “Table of General Bulk Requirements,” use group “h.” The Property contains 50,222 square feet which meets the minimum lot area standard, and is improved with a single-family home, which use is permitted in the RR-50 district.

Background. On June 5, 2024, the owner of the Property, Zvi Sternberg (the “Applicant”), through his attorney, applied to the Planning Board for a special permit to operate a home physical therapy practice already being conducted in the basement of 1 Sheila Court pursuant to §195-82, “Home occupations/home professional office.” Pursuant to § 195-61, applicants are requested to appear before the Village of Montebello Community Design Review Committee (CDRC) as a precursor to Planning Board application. The purpose of the appearance is to review the technical aspects of applications prior to the first appearance before the Planning Board, to ensure that the application is substantially complete for consideration.

During CDRC review, the Applicant was advised that the proposed use did not meet several of the criteria set forth in § 195-82, and that prior to any referral to the Zoning Board of Appeals the Building Inspector (“BI”) would determine whether a use variance or area variances are required.

The November 2024 application to the Zoning Board of Appeals. Notwithstanding the CDRC’s direction, on November 12, 2024, the Applicant applied to the Zoning Board seeking an area variance to exceed the 500 square-foot limitation on home occupations imposed by § 195-82D. On January 7, 2025, the BI issued a determination that a use variance was required based upon four (4) findings. The BI noted that, (1) the floor area exceeded the maximum permitted 500 sq. ft. floor area by 687 sq. ft., (2) the “traction and magnetic therapy” machine violated subsection C, which prohibits the use of any mechanical or electrical equipment that is not a customary household appliance or light office equipment, (3) the hours of operation exceed the maximum 35 hours per week, and (4) the proposed floor plan contained separate workspaces for

a receptionist and a billing office, and according to the Applicant's website,¹ three physical therapists were associated with the practice, which taken together exceeded the allowable number of employees as set forth in subsection E. On February 4, 2025, the BI issued a second letter suggesting that the Applicant's November 12, 2024, Zoning Board application be amended to include an appeal of his use variance determination.

The amended February 2025 application to the Zoning Board of Appeals. On or about February 6, 2025, the Applicant amended his application to include an appeal of the BI's determination that a use variance was required and, if reversed, to grant a 137.4% increase in permitted floor area from the required 500 sq. ft. limitation to 1,187 sq. ft. Included with the application was a basement floor plan showing a receptionist area, billing office, waiting room, ADA accessible bathroom, Men's Gym, Women's Gym, Men and Women's Gym, 6 Treatment Rooms (3 men, 3 women), 1 Traction & Magnet Therapy Room and Balance Therapy Room. Individual room dimensions were not provided, nor did the architectural drawings confirm the statement that 1,187 square feet of the basement would be used for the physical therapy business.²

The Applicant asserted that a use variance is not required because home occupation is a use permitted by special permit in the RR-50 district, and therefore, the placement of a physical therapy business, as proposed, is allowed. The Applicant disputed the BI's findings, asserting first that the only variance needed is an area variance for floor area. Second, the proposed traction and magnetic therapy machine did not violate § 195-82C because the machine is not harmful in any way. Third, the hours of operation will not exceed 35 per week. Fourth, although the practice has multiple employees, all are part-time and, taken together, do not exceed the maximum of one full-time employee required under the Code. Finally, the Applicant noted that because the employees are not there at the same time, parking will not be an issue.

The Applicant appeared before the Zoning Board in March, June and October 2025, and requested adjournment of the April, May, July and August meetings (the September meeting was cancelled). The Applicant disputed the need for a use variance and focused primarily on the floor area variance, asserting that the application complied with all other criteria. However, testimony was inconsistent. For example, the Applicant first stated that the average number of patients seen per day was 15 and sessions lasted approximately 45 minutes to one hour. That testimony was changed to 10 to 12 patients per day. The large space and female therapist were necessary because his Orthodox Jewish patients required separate treatment rooms and gender-matching therapists.

In October 2025, the Applicant submitted a floor plan allegedly reducing the physical therapy practice floor plan from 1,187 sq. ft. to 937 sq. ft. However, the floor plan showed the exact configuration of rooms as before, except that some of the rooms had been re-labeled for private use. The Applicant also stated that the magnetic therapy machine would only be used for personal use, even though it was shown in the same place on the floor plan. He also claimed that the female physical therapist no longer worked for him, even though she was still listed on his website. When asked who treated the female Orthodox Jewish women, he said his wife, which

¹ The website listed 1 Sheila Court as the practice's location.

² The Applicant stated that the physical therapy practice "requires an area of 1,187 square feet, approximately one-third of the pre-existing finished basement area."

is contrary to her testimony that she handled billing and scheduled appointments. Finally, he stated that the magnet would be removed from the magnetic traction machine.

Although the Applicant stated that he would revise his application again, he did not submit any additional materials or appear before the Board in November or December 2025, even though his attorney was advised that appearance at the December meeting was required so that the Board could conclude its deliberations and act. Nevertheless, the Applicant did not appear. By letter dated December 30, 2025, the Applicant was advised that the Board would act at the January 15, 2026, meeting. But, again, the Applicant failed to appear.

Procedural compliance.

General Municipal Law § 239. The application was duly referred to the Rockland County Department of Planning (“RCDP”) pursuant to GML § 239. By letter dated January 2, 2025, RCDP responded with seven (7) comments related solely to the requested area variance.

Agency referrals. In addition to the RCDP, the application was referred to all agencies with jurisdiction. Orange County Sewer District No. 1 responded by letter dated August 6, 2025, noting that the proposed use “is a non-residential project” and listing the conditions to be met by the Applicant should an area variance be granted. The Rockland County Highway Department responded by letter dated October 15, 2025, stating the proposed action “would not significantly affect the nearest County Road.”

State Environmental Quality Review Act (SEQRA). The Board determined that the application is a Type II action pursuant to 6 NYCRR 617.5(c)(37), “interpretation of an existing code, rule or regulation.” No further SEQRA action was required.

Public Hearing. A public hearing was duly noticed and was convened on July 17, 2025, although the Applicant failed to appear at that meeting. The public hearing was held open until January 13, 2026, when it was closed. The Board heard testimony from all those wishing to address the Board on the matter.

THE ZONING LAW APPLIED TO THE PROPOSED USE

The question before the Zoning Board of Appeals is whether the proposed use is a home occupation/home professional office for the purpose of § 195-82. The Board first turned to the Code to determine if any general guidance was offered. Section 195-10, “Utilization of Use Table,” subsection G provides such guidance.

Any use not identified in the Use Table shall be deemed prohibited. Any use indicated as a special permit use shall be deemed prohibited unless approved in a manner specified by this chapter. Where special permit uses are identified by generic work or description, the Planning Board shall determine whether a specific use shall be construed to be part of such generic class. In making such determination, the Planning Board shall consider to what extent the proposed use is alike, in land use impacts, the class of use indicated in the Use Table.

The application before the Zoning Board is not “generic work” but specifically a physical therapy practice. Therefore, the Board applied § 195-10G’s admonition that “[a]ny use indicated as a special permit use shall be deemed prohibited unless approved in a manner specified by this chapter” to its deliberations. In other words, no special permit could be issued by the Planning

Board unless the use conformed in sum and substance to the enumerated requirements contained in § 195-82. Therefore, the Zoning Board compared the prerequisites set forth in § 195-82 to the application and made the following findings and determinations:

§ 195-82. Home occupations/home professional office.

A. *There shall be no exterior evidence of such use except for a sign not exceeding six inches in vertical dimension and 30 inches in horizontal dimension, set back at least 10 feet from the designated street line, bearing the name of the person engaged in the home occupation, plus letters designating the license or degree relevant to the home occupation, if one exists (i.e., MD, Esq., or JD, DDS, DC, CPA, etc.), but not words descriptive of the occupation or the name of a business, and as further limited, but not expanded, by other regulations of signs as may appear in the Zoning Chapter. For safety reasons, the sign may be illuminated, but only during the hours of operation permitted by the special permit.*

The Board relied on the violations and an “information” issued to the Applicant by the Village of Montebello Code Enforcement Officer and Fire Inspector to determine that at one time a nonconforming sign had been posted on the property with a separate basement entrance and, upon inspection, “[t]he side door was opened and code officer observed an entire medical office facility converted from the original basement plan.”³ The Applicant stated that the sign had been removed.

B. *The use shall not involve, except as otherwise permitted in residence districts, the parking, storage or standing of any commercial vehicles or construction equipment or the outdoor storage of materials.*

There was no evidence of any violation of this provision, although there was evidence of numerous cars parked in the driveway, lawn and in the street as well as taxi traffic.

C. *The use of any chemical, mechanical or electrical equipment, which is not a customary household appliance, or light office equipment, or is not ordinary to a home shop or garage, is not permitted unless expressly granted in the special permit, but in no event shall same be permitted if same becomes integral to the structure of the dwelling, or if emitting potentially harmful fumes or radiation, or if emitting noxious odors, or noise offensive or disturbing to neighboring properties, or if not capable of being powered by electrical mains of ordinary household current capacity (i.e., two-phase, 200 ampere service), or as otherwise prohibited in Subsection G.*

The BI determined that the “traction and magnetic therapy” machine likely violates the provisions of subsection C. The Applicant asserted that the machine did not violate § 195-82C because it is not harmful in any way. However, the Board noted that the explanation focuses on the stricture against harmful effects and ignores the restriction on machines that are not customary household appliances, or light office equipment, or not ordinary to a home shop or garage. When so advised the Applicant stated that the machine is not used in his practice but only for his personal use, a contradiction of earlier testimony. The Applicant’s explanation was rejected by the Board as not credible, especially as the machine remained in the basement.

D. *The activity shall not occupy more than 1/2 of the ground floor area of the principal structure or its equivalent elsewhere on the lot, if so used, but in no case more than 500 square feet. When requested by the Planning Board, a single line floor plan shall be provided together with the application for special permit. The Planning Board may require that the drawing be certified by an appropriate professional.*

³ Complaint No. C086-24, and April 29, 2024, “Information Index #0630,” finding that the use violated §195-10, “Utilization of Use Table,” for allegedly using the property for a prohibited use.

The Applicant's submission to the CDRC for Planning Board review and the November 2024 and February 2025 application to the Zoning Board stated that 1,187 sq. ft. were needed for the physical therapy practice for "religious reasons."⁴ The Applicant further explained that his patients are male and female Orthodox Jews who strictly observe separation of the sexes and must be treated in separate rooms by gender-specific licensed therapists.

The Board rejected the "religious use" nomenclature applied to this commercial business. Subsequently the Applicant "reduced" the floor area by submitting a revised floor plan that, in the Board's estimation, merely re-labeled physical therapy rooms to personal use. The Board found this supposed reduction not credible.

E. *No persons other than the occupants of the household may engage in the home occupation/home professional office. However, a maximum of one full-time person not residing in the household, or the equivalent of one full-time person, but not more than one person at the same time, may be employed therein if that employment is secondary to, but in support of and necessary to the occupation, and the residence is located such that the driveway access thereto is from a state or county road. If the residence and driveway access thereto is not so located, a nonresident of the household may not be employed thereat unless the occupation is of a nature which does not require contact with visitors in the residence for the purposes of the occupation.*

The CDRC application stated that the Applicant employed four outside, part-time employees working approximately 20 hours per week each, which computed to 80 hours or two full-time equivalents. Subsequently, the Applicant testified before the Zoning Board that the four part-time workers would be equivalent to one full-time employee, which contradicted the CDRC application. Furthermore, the Applicant first testified to the Zoning Board that he had a licensed female therapist to treat female patients, but in October, when challenged again on the number of employees, he stated that the female therapist identified on his website as "Ekta Panchal," was no longer in his employ (although still listed on the website). When asked who treated the Orthodox Jewish female patients, he answered that his wife did. The Board found this testimony not credible since there was no evidence presented that his wife is a licensed physical therapist.

In addition, and more importantly, because the house driveway is accessed from Sheilah Court, which is not a State or County Road, subsection F prohibits any non-resident employees. "*A nonresident of the household may not be employed thereat unless the occupation is of a nature which does not require contact with visitors in the residence for the purposes of the occupation.*"

F. *The person engaging in the occupation must be the applicant and must use the subject dwelling as his or her primary residence. If that person is not the record owner of the dwelling, said person must submit in conjunction with the application for a special permit an affidavit from a record owner, in a form as prescribed by the Village, which among other things, grants permission to engage in said occupation at the premises, and to make application therefore.*

The application complies with this requirement.

G. *There shall be no visual, olfactory, or auditory evidence of the use at the property line other than permitted accessory parking and a sign. Such evidence includes, but is not limited to nuclear, radiological, or electromagnetic emanations, or vibration, noise, light or other elements potentially disruptive to a residential neighborhood.*

⁴ At his first appearance in March 2025 the Applicant testified that he moved his practice from a commercial space in Rockland County to the basement of his home because it was too expensive to have a large house and rent a commercial space.

The Applicant uses electromagnetic and magnetic machines as part of his physical therapy practice. It is unknown whether these produce emanations in contravention of this restriction, but the Board accepts the Applicant's testimony that the machines are not harmful.

- H. *Wholesale, retail or service businesses which sell, lease, service or rent goods, products or services on a walk-in or drive-up basis are prohibited.*

The application complies with this requirement.

- I. *The use may not operate more than 35 hours per week, and only between the hours of 8:00 a.m. to 9:00 p.m., weekdays and one day on the weekend. The hours of operation shall be disclosed to the Planning Board as a part of the application and shall be a condition of the special permit.*

The application complies with this restriction.

- J. *Parking requirements shall be as stated in Article III of this chapter, and the location of parking spaces may be required to be specified on a plan.*

The Property includes a two-car garage, which meets the requirement for off-street parking for a single-family home. When asked about parking at the October 2025 meeting, the Applicant stated that even though they treat 10 to 12 patients per day parking is not a concern because he has been operating the business for a year without incident. However, although the Applicant submitted proposed additional parking spaces and screening, recent information from the building department and code enforcement indicated that multiple cars are parked on the Village street, on the lawn and in the driveway. Therefore, the Zoning Board finds it likely that the intensity of the business will continue to require parking on Village streets.

DECISION

The Zoning Board of Appeals finds that the application to operate a physical therapy practice is not a "home occupation/professional office" contemplated by § 195-82, and, therefore, the Building Inspector's determination that a use variance is required is upheld. In reaching this conclusion, the Board found that the proposed use does not comply with subsections C, D, E and J of § 195-82, which equates to significant noncompliance. The Board also found that the limitations on area, employees, access and machinery, among others, signify an intent to allow low-impact home-office or home-occupation as an incidental, secondary residential use, not a full commercial enterprise operated out of a single-family home in a residential neighborhood. Indeed, the definition of home occupation/home professional office includes the requirement that the use be "consistent with the residential zoning district involved." Here, the proposed use is an intense commercial business transported from a leased commercial space to a large basement in a single-family home located in a residential neighborhood. Such use is inconsistent with and negatively impacts the residential character of the neighborhood. Finally, the Board found that the Applicant's conflicting testimony throughout the Board's deliberation was simply not credible. The proposed use cannot be approved in a manner specified by the express provisions of § 195-82. Therefore, pursuant to § 195-10, the Zoning Board of Appeals finds the physical therapy business proposed by the Applicant is prohibited and a use variance is required. The Applicant may apply for a use variance at his convenience. The request for an area variance is moot.

NOW, THEREFORE, BE IT RESOLVED, that for the reasons stated herein, the Zoning Board of Appeals upholds the Building Inspector's determination that a use variance is

required to operate the Applicant's physical therapy business out of the basement of his single-family home. The Decision was carried on a motion by Member Stevens, seconded by Member Bryan, on a roll call vote as follows:

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

Member Millos made a motion to adjourn the meeting at 7:55 p.m. seconded by Member Dugandzic and upon vote, all were in favor.