

**VILLAGE OF MONTEBELLO
ZONING BOARD OF APPEALS**

**IN RE: APPLICATION OF INFO USA, INC.
CALENDAR CASE NO. 1133**

VILLAGE OF MONTEBELLO
ZONING BOARD OF APPEALS

IN RE: APPLICATION OF INFO USA, INC.
CALENDAR CASE NO. 1133

Before the Board of Appeals of the Village of Montebello, at a public hearing held at Village Hall, Montebello, New York, on December 20, 2007, for variances from the provisions of Section 195-13, Use Group L, Column(s) 12, 13, and 14, and of Section 195-17, of the Zoning Local Law of the Village of Montebello to permit the construction, maintenance, and use of an office building with excessive development coverage of 55%, excessive floor area ratio of 0.23, excessive building height of 40 feet for the stair bulkhead, excessive building height of 40 feet for the stair bulkhead, excessive average height of 34 feet in the rear (south) of the building (with a maximum height of 42 feet from the base of the driveway ramp), and parking in a required front setback.

The premises which are the subject of this application are located at Rella Boulevard, which is on the south side of Rella Boulevard, and 0 feet southeast of the intersection of North Airmont Road in the Village of Montebello, and which is known and designated on the Ramapo Tax Map as Section 55.08, Block 1, Lot 9, in a LO-C Zoning District.

The Board, upon motion duly made by Dr. Urcioli, and seconded by Mr. Cronin, resolved:

WHEREAS, the applicant was represented by Michael Klein, Esq., and the following documents were placed into the record and duly considered:

Application; Narrative; Short Environmental Assessment Form; site plan drawings showing the location of the requested variance; Rockland County Planning Board memorandum dated December 19, 2007, which remanded the proposed variance for local determination; Rockland County Highway Department letter dated December 11, 2007, expressing no objection to the project; letter from applicant's attorney requesting adjournment of the December 20, 2007, session of this Board to its January 2008 meeting; Building Inspector's memorandum dated December 4, 2007; renderings of the proposed building; and

WHEREAS, the proposed action is an unlisted action under the regulations promulgated pursuant to the New York State Environmental Quality Review Act, and a negative declaration was granted by the Planning Board as Lead Agency; and

WHEREAS, a public hearing was scheduled to be opened on December 20, 2007, but adjourned to January 23, 2008, at the request of applicant because only three Board members could attend the originally scheduled session, and the testimony of the following persons was duly considered: Edward Mallin, President of Info USA Services Group, Joseph Caruso, P.E, Anthony Genovese, R.A., all for the applicant; Ron Van Dunk, an adjoining landowner; and

WHEREAS, all the evidence and testimony was carefully considered and the Zoning Board of Appeals has made the following findings of fact:

The applicant is the owner of the subject premises. It is seeking site plan approval for an office building of approximately 60,400 square feet from the Planning Board. The Planning Board is in the process of reviewing that application, and has issued a negative declaration under SEQRA, allowing this application for variances to move forward.

The proposal before this Board shows the office building on one of three lots owned by the applicant. The other two lots are directly across Rella Boulevard from the subject. Rella Boulevard is the main thoroughfare for a long-planned laboratory-office campus, whose first and only building was erected in the late 1980s by a third party. The applicant purchased the remainder of the campus, and had intended to erect a larger building on one of the other parcels in the late 1990s. That plan was never completed.

The applicant now seeks this smaller building on its southernmost parcel. According to the narrative submitted by the applicant, the building will be the applicant's regional headquarters, and will be staffed mostly by sales, technical, and accounting personnel. A large portion of the staff, presumably the sales staff, will be out of the office during most business days.

The building will have two interior stories and also a taller stair bulkhead at the northeasterly corner which doubles as an architectural feature. The stair bulkhead will be about 40 feet high, whereas the maximum permitted building height is 30 feet. In addition, because of the topography of the site, a portion of the building at the rear, allowing underground parking, will have an average height of 34 feet, with the greatest height being 42 feet at the base of the driveway ramp.

The applicant, at the request of the Planning Board, is showing 52 reserved parking spaces. The applicant asserts that it has no present or expected need for the additional parking spaces, but the Planning Board is concerned that a successor occupant may need them. In order to provide for the reserve spaces, only, a variance from the development coverage requirements is needed, from 50% to 55%. The drainage system has been designed for a full build-out scenario, and meets the requirements for zero-net increase in surface water runoff.

The applicant is also requesting a variance from the Floor Area Ratio (FAR) limits. The building has been reduced from its original size, but at 0.23, its FAR still exceeds the maximum permitted FAR of 0.20. The difference on a square footage basis is 4,974 s.f. (60,400 proposed vs. 55,426 permitted).¹

Last the applicant is asking for a variance to allow parking in a required front setback. There is, to applicant, uncertainty as to whether parking is allowed in a front setback because the drawing contained in the Zoning Code is unclear. The applicant reports that it has been told by the Building Inspector that parking is allowed in a required front setback, but not in a required front yard in a non-residential district. The Assistant Village Attorney gave the same opinion to this Board. Nevertheless, the applicant asked for clarification in the form of a variance.

WHEREAS, this Board has examined the written documentation and reviewed the testimony of the witnesses with respect to the applicant's request for a variance, and, pursuant to the requirements of section 7-712-b(3) of the Village Law, has made the following determinations:

(1) "whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance":

The neighborhood is a planned office campus area. One purpose of the zoning in this area is to encourage offices for larger users, such as applicant. The applicant plans to be the only tenant in the building, which is specifically designed for its needs. While it is possible that, in the future, the building will have multiple ten-

ants, the designs presented appear to take such a possibility into account.

The site plan, as so far developed with the Planning Board, takes great pains to insulate Airmont Road from any visual impact of the building or its parking lot. The building itself, which is subject to further review by the Architectural Review Board, is striking. The requested height variances are needed to avoid the construction of another “glass box”. Because of its placement and the proposed screening, the additional height will have no impact on the surrounding area.

The variance for development coverage is necessitated by the applicant’s, and the Planning Board’s, desire to plan for future expansion of the applicant’s workforce, or the future transformation of the building into a multiple tenant building. This variance applies solely to the additional reserve parking. Again, the design of the site plan mitigates against adverse impacts on the surrounding area. This Board agrees that planning for future needs at this time is an appropriate action.

The Board further agrees with the reported opinion of the Building Inspector and with the opinion of the Assistant Village Attorney that parking is permitted in the required front setback in a non-residential district.

(2) “whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance”:

The height variances could be avoided by design changes, but doing so would eliminate the architectural character and quality of the building. The development coverage variance could be eliminated by eliminating the reserve parking. Doing so, however, may merely defer having to deal with this issue.

(3) “whether the requested area variance is substantial”:

Neither the height variances nor the development coverage variances are substantial in this context. Reducing the height would adversely affect the architectural character of the building for no reason other than to comply with the Zoning Code. The development coverage variance is an appropriate attempt to deal with potential future needs. This Board notes that the capacity of the drainage system has been calculated based upon a full build-out of the parking area, and the adverse impact of the additional impervious surface has thus been mitigated.

(4) “whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district”:

As noted above, the height variance will allow for a more interesting building. The drainage system has been designed to accommodate the additional runoff which will be created if the reserve parking is built. There is no adverse impact.

(5) “whether the alleged difficulty was self-created”:

The difficulty relates to the applicant’s desire to build an architecturally interesting building and to plan for the future. Both desires are consistent with the Village’s goals for this area.

NOW, THEREFORE, BE IT RESOLVED, that the application of Info USA, Inc. for variances from the provisions of Section 195-13, Use Group L, Column(s) 12, 13, and 14; and Section 195-17, of the Zoning Local Law of the Village of Montebello to permit the construction, maintenance, and use of an office building with excessive development coverage of 55%, excessive floor area ratio of 0.23, excessive building height of 40 feet for the stair bulkhead, excessive average height of 34 feet in the rear (south) of the building (with a

maximum height of 42 feet from the base of the driveway ramp), and parking in a required front setback, as set forth in the application submitted herein, is hereby approved and the Building Inspector is hereby directed to issue a Building Permit and Certificate of Occupancy to the applicant upon compliance with the terms and conditions of this resolution and with all other applicable laws, rules and regulations.

MEMBERS PRESENT:	YEA or NAY
John Urcioli, Chairman	Yea
Timothy Cronin, Vice Chairman	Yea
Rodney Gittens	Yea
Fran Osei	Yea
Maria Conte-Benedict, by designation	Yea

MEMBERS ABSENT:
Edward Bracken

The Chairman declared the resolution approved and the application approved.

John Urcioli, Chairman

The Clerk is hereby directed to file this resolution and to notify the applicant accordingly.

Dated: January 28, 2008
Montebello, New York