

VILLAGE OF MONTEBELLO
ZONING BOARD OF APPEALS

IN RE: APPLICATION OF PATRICIA LEFKOWITZ
CALENDAR CASE NO. 1122

Before the Board of Appeals of the Village of Montebello, at a public hearing held at Village Hall, Montebello, New York, on January 18, 2007, for variances from the provisions of Section 195-13, Use Group q, Column(s) 8, of the Zoning Local Law of the Village of Montebello to permit the construction, maintenance, and use of an existing storage shed with an area of 147.8 square feet and a reduced side yard of 2 feet, 1 inch.

The premises which are the subject of this application are located at 6 East Place, which is on the north side of East Place, and 900 feet from the intersection of Mayer Drive in the Village of Montebello, and which is known and designated on the Ramapo Tax Map as Section 48.14, Block 1, Lot 82, in a R-35 Zoning District.

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

WHEREAS, the applicant was represented by her husband, Louis Lefkowitz, and the following documents were placed into the record and duly considered:

Application; Narrative; Short Environmental Assessment Form; Building Inspector's Denial Letter dated November 13, 2006; drawing showing the location of the requested variance; Rockland County Building Inspector's memorandum dated December 15, 2006, recommending approval of the proposed variance; letters from Thomas Demont, Rosemarie and Richard Scandura, and Bruce and Randy Egenhauser, abutting property owners, stating no objection to the proposed variance

WHEREAS, the proposed action is a Type II action under the regulations promulgated pursuant to the New York State Environmental Quality Review Act; and

WHEREAS, a public hearing was held on January 18, 2007, and the testimony of the following persons was duly considered: Louis Lefkowitz;

The applicant is the owner of the subject premises, which is improved with a single family dwelling in an established neighborhood. The home was purchased by the applicant in 1980. In Spring 1981, the applicant installed a shed 2 feet, 1 inch from the westerly lot line. (The lot is a corner lot, as defined in the Zoning Code, and the westerly lot line is designated as the side lot line.)

Section 195-19.D of the Code provides: "Accessory buildings constructed on adjacent lots with the written consent of all abutting owners may be located along the common side lot line or rear lot line, provided that the accessory building has a floor area of less than 144 square feet and an exterior height of no more than eight feet."

Since, at 147.8 square feet, the shed is slightly larger than the 144 square foot maximum for consensual placement of a shed within a required yard, the applicant has requested a variance.

Although not dispositive in a case such as this, the applicant has provided letters of consent from all three of her abutting neighbors.

The Building Inspector has recommended that the variance be granted.

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 shed is slightly larger than would be permitted under the Zoning Code with the consent of the affected neighbors. It has been in place since 1981, over 25 years. All three of the affected neighbors have consented to its retention.

(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 only methods available for complying with the Code are to either replace the shed with one which is 3.8 square feet smaller, or to relocate the shed outside the required yard. Neither is feasible when compared to the minor variance sought.

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

Although the required side yard in this district is 20 feet, and the requested variance is for a reduction to 2 feet 1 inch, the actual variance is one of 3.8 square feet, as that is the difference between a complying shed and the existing noncomplying shed. Had the shed complied in terms of its size, it could be located exactly where it is now placed. The variance is thus de minimus.

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

The shed is existing and its continued presence will have no discernable impact.

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

The circumstances surrounding the original placement of the shed are difficult to determine. However, because of the minor nature of the requested variance, and the unanimous consent of the affected neighbors (a factor brought into play by Section 195-19.D of the Zoning Code), any degree of self-created difficulty is not sufficient to require denial of the requested variance.

NOW, THEREFORE, BE IT RESOLVED, that the application of Patricia Lefkowitz for variances from the provisions of Section 195-13, Use Group q, Column(s) 8, of the Zoning Local Law of the Village of Montebello to permit the construction, maintenance, and use of an existing storage shed with an area of 147.8 square feet and a reduced side yard of 2 feet, 1 inch, 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:
John Urcioli, Chairman

YEA or NAY
YEA

Timothy Cronin, Vice Chairman	YEA
Rodney Gittens	YEA
Fran Osei	YEA
Maria Conte-Benedict (alternate)	YEA

MEMBERS ABSENT:

Edward Bracken

The Chairman declared the resolution approved and the application approved.

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

Dated: January 23, 2007

Montebello, New York