

**VILLAGE OF MONTEBELLO
ZONING BOARD OF APPEALS**

IN RE: APPLICATION OF LAWRENCE M. COHEN
CALENDAR CASE NO.1127

Before the Board of Appeals of the Village of Montebello, at a public hearing held at Village Hall, Montebello, New York, on August 16, 2007, for variances from the provisions of Section 195-13, Use Group q, Column(s) 5, of the Zoning Local Law of the Village of Montebello to permit the construction, maintenance, and use of a single family dwelling with a reduced front setback of 39.46 feet.

The premises which are the subject of this application are located at 17 Bayard Lane South, which is on the south side of Bayard Lane South, and 260 feet south of the intersection of Bayard Lane North in the Village of Montebello, and which is known and designated on the Ramapo Tax Map as Section 48.10, Block 1, Lot 74, in a R-35 Zoning District.

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

WHEREAS, the applicant was represented by Thomas Skrable, PE, and the following documents were placed into the record and duly considered:

Application; Narrative; Short Environmental Assessment Form; Building Inspector's Denial Letter dated July 11, 2007; drawing showing the location of the requested variance; Rockland County Planning Board memorandum dated July 31, 2007, which recommended modifications to the proposed variance; 4 photos of site; Notice of Report of Rockland County Stream Permit dated July 30, 2007; Village Engineer's letter dated August 6, 2007 and May 5, 2007; Building Inspector's letter dated July 18, 2007 and July 11, 2007; Rockland County Drainage Agency letter dated October 26, 2006; letter from Sheila N. Ramsey (neighbor) dated August 15, 2007.

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 August 16, 2007, and the testimony of the following persons was duly considered: applicant; Thomas Skrable, PE;

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, which is currently improved with a single family dwelling. The applicant wishes to demolish the existing dwelling, and build a new one on the lot. The existing house appears to be one of the original Bayard Lane homes. It is constructed of stone. The applicant has testified that the house is infested with mold, and that it is beyond remediation. This is the reason he wishes to build a new house. The new dwelling would encroach into the required front setback, reducing it from 50 feet to 30.46 feet, as measured to the proposed front porch. If measured to the corner of the proposed house (beyond the front porch), the front setback would be reduced to 48.27 feet.

The existing house conforms to the bulk requirements of the Zoning Code, but encroaches into the

flood plain of the Mahwah River. In order to protect the flood plain, and to allow for the construction of a basement , the new house location was moved forward, to a higher grade elevation. The floodplain line appears to align with the rear of the proposed house.

The front setback is measured from the designated street line of Bayard Lane South, whose right of way terminates in a cul-de-sac at the northeasterly corner of the subject lot. A physical inspection reveals that the cul-de-sac was never built, and Bayard Lane South simply ends at the applicant's driveway. Measured to the paved surface of Bayard Lane South, the front corner of the porch is approximately 80 feet distant.

This application was referred to the Rockland County Planning Department because of the adjacent Mahwah River, a county stream, and U.S. Route 202, which is within 500 feet of the property. The Department, in a July 31, 2007, memorandum, recommended only that the project be reviewed by the Rockland County Drainage Agency and that all permits be obtained. The Department issued no comments on the proposed variance, itself. Barry J. Judelman, 4 Zeck Court (across the River) concerned with change in property, tree loss, aesthetics, noise from construction, but not opposed to variance. Stacy Artale, 12 Bayard, questions about the possible historic nature of the house. Lester Bernstein, 19 Bayard - discussed loss of historic quality of the area prior to this application. Supports 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":

While Bayard Lane is of historic nature, and the existing home appears to be one of the original homes, not all the homes on Bayard Lane are original. Immediately adjacent to the east is a bi-level home. It is not within the jurisdiction of this Board to opine as to the impact on the historic nature, to the extent it may still exist, of constructing a new home on this location. Claudia Judelman, 4 Zeck Court concerned with the length of time of construction; increased flooding of River.

As to the variance itself, the purpose of a front setback requirement is to prevent buildings from crowding the street. Although the setback is to be measured from the designated street line, or the property line, in this case it appears clear that the actual street is much further from the proposed house than is the property line. It also appears very unlikely that the cul-de-sac would ever be built, as it would serve only the subject property and the easterly adjoiner.

(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 applicant could comply with the front setback requirement by eliminating the proposed front porch and reducing the depth of the house by less than 2 feet. This does not appear to be necessary here.

(3) "whether the requested area variance is substantial":

The request is for a reduction of the required front setback from 50 feet to 39.46 feet, a reduction of 10.54 feet. While this is a reduction of approximately 20%, the effect will not be nearly as severe as that proportion would indicate. First, the measurement is to a front porch, as opposed to the house itself. Second, the measurement is from the front lot line. If measured from the paved surface, there is a distance of approximately 80 feet. The gap between the front lot line and the paved surface has been incorporated into the front lawn area of the subject property. As noted above, it does not appear that the cul-de-sac of Bayard Lane South will

ever be built. Also, the house appears to be angled to the street, to reduce the visual impact on the street. Under these circumstances, the variance does not appear substantial.

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

The proposed variance appears to have been requested in order to protect the flood plain of the Mahwah River.

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

The proposed house is located so that its rear aligns with the floodplain line of the Mahwah River. The floodplain line forms a small "pocket" into which the proposed house is set. There is little room between the floodplain line and the required front setback line. It appears that the applicant has no other place to locate the new house.

NOW, THEREFORE, BE IT RESOLVED, that the application of Lawrence M. Cohen for variances from the provisions of Section 195-13, Use Group q, Column(s) 5, of the Zoning Local Law of the Village of Montebello to permit the construction, maintenance, and use of a single family dwelling with a reduced front setback of 39.46 feet, 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, and with the requirements of the Rockland County Planning Department and subject to the approval of the Rockland County Drainage Agency.

MEMBERS PRESENT:	YEA or NAY
John Urcioli, Chairman	Yea
Timothy Cronin, Vice Chairman	Yea
Rodney Gittens	Yea
Fran Osei	Yea
Maria Conti-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: August 20, 2007
Montebello, New York