VILLAGE OF MONTEBELLO
ZONING BOARD OF APPEALS MEETING
MARCH 16, 2006

The meeting of the Village of Montebello Zoning Board of Appeals was called to order by the Chairman, John Urcioli at 7:50 p.m. The meeting was held at Village Hall, One Montebello Road in the Village of Montebello, New York 10910 on Thursday, March 16, 2006.

PRESENT
John Urcioli, Chairman
Richard Fried, Vice Chairman
Fran Osei
Rodney Gittens, sitting by designation

OTHERS
Carol Adduce, Clerk

ABSENT
Tim Cronin
Edward Bracken
Ira Emanuel, Esq.

Motion to approve the minutes of December 15, 2005.

MOTION: Richard Fried

SECOND: Rodney Gittens

VOTE: Unanimously accepted.

Eric L. Schwartz
Public Hearing

Application of Eric L. Schwartz, 206 Haverstraw Road, Montebello, NY 10901 for variance from the provisions of Chapter 195 - Article IV, Section 195-13, Use Group h, Columns 5 & 8, front yard (required 50 ft. - proposed 31 ft.), side yard (required 25 ft. - proposed 5 ft.) of the Zoning Local Law of the Village of Montebello to permit construction, maintenance and use of an 8 x 10 garden shed. The premises which are the subject of this application are located on the north west side of New York State Route 202 approximately 500 feet from the intersection of Orchard Street in the Village of Montebello, which is known and designated on the Ramapo Tax Map as Section 48.13, Block 1 and Lot 10 in a RR-50 Zone.

Present: Eric L.Schwartz, Applicant

It was established that all application and legal requirements were met.

Dr. Urcioli read a letter dated March 14, 2006 (appended), from Ira M. Emanuel, Assistant Village Attorney, into the record and a memo dated March 15, 2006 (appended), from Harry P. Lewis, Building Inspector , into the record and his revised denial letter which states that the applicant needs variances from Article XIII Section 195-89 Subsection D, Paragraph 1, Use Group X.1 and X.2; Columns 5 and 8 (front yard and side yard). Required front yard is 35 feet - proposed is 31 feet; required side yard is 10 feet - propose is 5 feet.

Mr. Schwartz made a presentation based on appended narrative dated February 20, 2006.

Mr. Schwartz stated that the shed could not be placed anywhere else on the property. He said his backyard backs up to a rock wall and steep terrain and the shed cannot be easily moved because it was built in place and is made of solid cedar and weighs 1,200 pounds.

Ms. Osei stated that she understands that the applicant tried to comply with the rules and this is a non-conforming lot. Although the shed is very nice looking, it does not look like part of the house. It does look like a shed. The impact of the front yard is there even though eventually the plantings will probably cover it. Ms. Osei stated that she wanted to state this for the record and does understand the applicants difficulty.

Mr. Fried asked the applicant if the Board granted the requested variances, would he be willing to take down the shed if he contemplated selling the house?

Mr. Schwartz said, yes.

Dr. Urcioli asked the applicant if the shed starts to deteriorate, would he be willing to take it down and not replace it?

Mr. Schwartz said, yes.

Dr. Urcioli stated that he has driven past this property many times and you really cannot see the shed unless you are really looking for it.

Public Hearing opened to the public.

Patricia Carew, 31 Hemlock Hill Road stated that she is the neighbor to the left and she feels that the shed is very nice and is a work of art. She said that she has no objections to the shed.

The public hearing was adjourned until the next meeting.

Motion that the public hearing would be adjourned until the next Zoning Board of Appeals meeting in April and that the Board will reserve decision until then.

MOTION: Fran Osei

SECOND: Richard Fried

VOTE: Unanimously accepted.

Rio Vista Montebello
Public Hearing

Application of Rio Vista of Montebello LLC, 212 Orange Avenue, Suffern, NY 10901 for variance from the provisions of Section 195-62.C (3), (6), (8), and (8a) and Section 195-14.A of the Zoning Local Law of the Village of Montebello to permit construction, maintenance and use of a 24 unit age restricted (55 and older)

town home community. The premises which are the subject of this application are located on the northerly side of Montebello Road approximately 50 feet north of Hemion Road in the Village of Montebello, which is known and designated on the Ramapo Tax Map as Section 48.18, Block 2, Lot 1 in an EP Zone.

Present: Lawrence Turco, Applicant
Thomas LiPuma, Tali Equities, Inc., Applicant
Jay Hood, Esq.
Leonard Jackson, Associates, P.E.
Ted Atzl, P.L.S.

It was established that all application and legal requirements were met.

Mr. LiPuma gave a history of how the current layout of the project came about working with the Planning Board and how it differs from the requirements of the Estate Overlay District and the impact from the revised Slope Law on the project which takes away an additional two acres from the development. Mr. LiPuma then explained why they needed the requested variances, see appended narrative dated February 23, 2006.

Mr. Hood stated that in order to understand the context of the variances requested, we will have to go back to what was in the thought process of the Board when it created the Estate Overlay District and how to develop this property. The property is zoned for an office development and the Board probably recognized that this would not be the best way to develop the property because of the traffic that would be generated and that is why they came up with the Estate Overlay District. This district unlike normal zoning was in fact very precise in many ways. The Board did not have the benefit of a site plan to refine and revise but they had a good idea of what they wanted. Then they picked a 1.3 FAR, the most restrictive FAR. I would like to think that the Board knew that there would be an elimination of land area because of the sloping that would further restrict the effectiveness of the 1.3 to even a smaller amount. Mr. Hood said that he would like to put the new Slope Law aside for the present time because it is his position, that this restrictive Overlay District that was precisely planned, did not anticipate a further restriction that would eliminate 2 acres from the FAR criteria that would further make it smaller. In doing and trying to achieve a design that is both economically feasible, saleable, complimentary and all the things that were designed in here, he truly believes that his clients have accomplished that with the three exceptions. Mr. Hood reviewed the three exceptions as stated in his letter of March 16, 2006.

Mr. Hood stated regarding the 75 ft. interior buffer, there are only three choke points where the 75 ft. buffer is under and they are also removing the hump in the entrance road. Mr. Hood stated that he believes that this would not be an impact or effect the view of the mansion.

Regarding the number of units per building, Mr. Hood stated that he thought varying the number of units per building was a better plan instead of all the buildings having four units each and he did not think it harmed the concept of the Overlay District.

As far as coming up with the FAR, Mr. Hood said that there was no real way to figure out when the FAR was actually applied, how large or small these units would be. Mr. Hood stated that they did the planning and where the conflict comes in is, we could put 24, 2,000 sq. ft. units there but they would not look good and probably would not sell well and would probably not compliment the mansion and would probably not produce enough money to make the project worthwhile from the developers point of view, nor the Village=s point of view. Mr. Hood stated that most of the people who came to the Planning Board meetings were concerned with drainage and in the process there has been a commitment, that not only are we going to do zero net runoff but since there are problems with drainage once it gets out into the road, they are going to make sure off-

site drainage works properly. In order to do that, we cannot have 2,000 sq. ft. cookie cutter houses that do not match the concept and do not produce enough of a return to do all of the very expensive work on and off site. Mr. Hood stated that the Board wanted a grand statement making project, but came up with an FAR not knowing how it would affect it, but knowing they wanted a small FAR. Then putting in the 25% that was lost because of the Slope Law, it got to a point where we are here because if we do not get some relief, it will be very hard to do this project. He said when they started off the units were 2,947 sq. ft. When the 25% Slope Law was injected into the situation, the size came down to 2,400 sq. ft. per unit. However, in August 2005 the Slope Law was amended and another two acres was lost off the FAR calculations and that brought the units down to 2,000 sq. ft. Mr. Hood stated that there are two ways to go and any way the Board can give them relief, they will take it. The mansion requires a FAR of .20 because of a lot of the slopes (25% areas and lesser) is being lost in that area, they are not sure if the mansion with 7,000 sq. ft of unused porch area that does go against the FAR, is really needing the entire .20 that it has and to mix and match them between the two would be difficult. Mr. Hood said they gave the mansion the .20 but now they need relief in the 1.3 when it comes to the residential development.

Mr. Hood stated that he believes the three variances do no offense to the concept and design of the Overlay District. He stated that if the variances were granted he believes they would not do a disservice to the community of neighbors and they really believe that they will in fact enhance and provide for a better development.

Mr. Atzl showed the Board a slope map that shows the majority of the 25% slope is in the mansion area, that they are not touching. Therefore, when they put in the mansion at 25% and the other at 13%, it impacts the entire site. He said a good 80% of the area of the 25% slope is around the existing mansion, the back of the mansion and against the road in the back. That is the reason that the FAR of 13%, then taking out for the old Slope Law and the taking out for the new Slope Law; it impacts the site that much more.

Mr. Fried asked specifically how did it impact you? How much did it reduce it by?

Mr. LiPuma stated that it reduced it from 459,000 square feet to 386,000 square feet.

Ms. Osei asked the applicant if this proposal needed a FAR variance before the new slope law?

Mr. LiPuma stated that they needed a FAR variance of 15%.

Ms. Osei questioned how much of a variance is needed after the new slope law?

Mr. LiPuma stated approximately .18.

Ms. Osei questioned, in terms of the 75 ft. buffer along the interior road, what percentage meets the requirement and what does not meet the percentage?

Mr. Atzl stated that 10% meets the 75 ft. buffer.

Ms. Osei stated that she would like to know about the off-site drainage proposal and the projected costs and what the applicant hopes to accomplish. She said the narrative states that the applicant will be undertaking a lot of off-site expenses.

Mr. Jackson stated that they have met the required zero net increase on site. However, the Village Engineer pointed out that they were discharging out to Mayer Drive, which already had a problem. Mr. Jackson stated that they are not increasing the problem, but if they maintain the same rate of discharge from the site the

Village Engineer will not be happy. There are alternatives such as increasing the size of the detention basin, that could reduce the problem on Mayer Drive; the Mayer Drive system could be improved or both can be done; or all of the run-off from this particular portion of the site can be taken down Montebello Road in a separate drainage system and a separate pipe, which does not exist now, and bring it into the creek. The Planning Board was given an analysis so they can decide which method to go with. Mr. Jackson stated that until the Planning Board decides they will not know the exact cost but it will be a few thousand dollars.

Mr. Atzl stated 5.3% - 0.13% to 0.1833%.

Dr. Urcioli questioned, percentage wise, what is the increase?

Mr. Atzl stated, 40%.

Dr. Urcioli stated, so technically it is not actually going to be the 13-18 percent, you are really asking for a 40% increase of what you are supposed to have.

Mr. Jackson stated that with this particular site they have worked closely with the Planning Board and came up with a nice looking project. Somewhere along the way the Village Board adopted a code which required a deduction. The deduction is really a calculation deduction. It did not change the area of the lot; the building area did not change, but what the code said, was when you calculate the lot area and calculate the FAR, instead of counting the whole area of the lot, you deduct a certain portion of the lot to make the calculation of the area. In reality nothing changed other than the way you make the calculation and that is why the number is larger.

Mr. Fried stated that he was the Chairman of the Comprehensive Plan Committee and the reason they decided on the 0.13 was so the buildings would not be gigantic, so they would not overflow the area that was there, because they were trying to create a place where there would be magnificent homes but not so many as to look unsightly and that was the purpose.

Ms. Osei stated that she wanted to be clear regarding the drainage system. She asked, so you have agreed to do something, but you are not sure of what it is?

Mr. Jackson stated that they had no problem doing whatever the Village Engineer requires.

Mr. Turco stated that he has been working with the Village on this project for the last two years trying to develop this property and that he has been very involved with the vision of this project. He stated that he was involved with the original layout with the 75 ft. buffer, which destroyed the entire property. Mr. Turco stated that he marked every tree on the property to make sure he knew how the land was going to be affected. Mr. Turco stated that they made a recommendation that the way it is now proposed in the Overlay District, was destroying all the land. He stated that he was very involved in designing the buildings and trying to make sure the view shed worked. He stated that he met with the Historical Committee and they came to look at some of the buildings that he has built and to see the designs and materials used. Mr. Turco stated that the grade of the road was changed and they are proposing three unit buildings at the entrance so the affect would not be grand. He said the buildings are tight to the road, even though this affects 90% of the 75 ft. buffer, because it is beneficial to this project, so it does not affect the outskirts of the view. He said, this was all done to save as many trees as possible. They had to add $480,000.00 for elevators, because this is a 55 and older development and, to accommodate the Planning Board=s request to bring the garages to the back of the units; and an additional $600,000.00 for drainage. Mr. Turco stated originally they were permitted 2,587 sq. ft. units and then the Village changed it, which he feels is unfair, because he has worked with everybody through this entire process. Mr. Turco stated that he did not think they were treated fairly three quarters of the way through. He said all he

is asking for is a firm decision of what they are able to do and how they are going to be able to do it, so they will be able to move forward.

Mr. Gittens stated that the FAR went from 1.3 to 1.8. He said the applicant can still have the square footage he wanted, but the number of units would have to be reduced.

Mr. Fried asked without the new Slope Law of 2005, percentage wise and unit size, how does this impact you?

Mr. Turco stated before the slope law change, they could build 24 units at 2,487 sq. ft. which is 15%. Now they can build 24 units at 2,080 ft.

Mr. Fried stated that you are asking for more than what the 2005 law took away. So, you would still have to come to the Zoning Board of Appeals to get a variance. The idea was conceived on the basis that you would need variances.

Mr. Turco said right.

Mr. Hood stated but the variance would have been smaller.

Ms. Osei asked how much of a difference would it make going from 2,900 sq. ft. to 2,500 sq. ft.

Mr. Turco stated that he wanted to have two options. The plan now is to have the master bedroom on the first floor and then having a loft on the second floor with an elevator and possibly a second bedroom, and possibly a bathroom. He said he wanted to make the units special. If this is taken away it eliminates the whole roof design, the hip of the roof, the whole building will have to be lowered and the entire design of the building would change; it would basically make it one floor. Mr. Turco stated with the off-site drainage, the Historical Committee involvement, these materials are going to be expensive to keep the buildings consistent with the mansion.

Mr. Fried stated that the master bedroom is on the ground floor.

Mr. Turco stated or the second option would be a suite on the second floor which the elevator would go right up to it and it would be a 900 sq. ft. suite. This would make the units special.

Dr. Urcioli questioned, if units #10 and #13 were eliminated and vary the units to 3-4-4 would that open up the vista?

Mr. Gittens stated that it would and probably would adhere to the 75 ft. buffer requirement.

Fern Lowenfels, 97 Montebello Road stated there seems to be a lot of concern with the impact of this project, especially with the drainage and off-site improvements. She said drainage is a big concern to her, there have been problems stemming from the previous project. Ms. Lowenfels stated that she does not think it acceptable for any project that goes on to negatively impact other members of the community. She said that Montebello Road is damaged because of what goes on on top of this hill and does not think it appropriate for the Village to allow something that damages other peoples property and the road system. Ms. Lowenfels submitted pictures showing the erosion from drainage down Montebello Road.

Amy Rapoport, 5 Kings Gate Road stated that the Zoning Board of Appeals and Planning Board are here to protect the community at large to make sure that everything is done to protect the people who already live here

and to protect the rights of the developer so they can build here. We have to remember there are drainage problems and this is an elevated area. Ms. Rapoport stated that she sat on the Master Plan Committee and there were discussions regarding the slope laws and not only was Route 202 discussed but Route 59 (by CVS), the Minetto Farm and this mansion property. All were considered at the meeting. When this property was discussed, cluster housing was brought up so there would be different movement within it, so there would not be long houses. This is not the concept that was discussed. Ms. Rapoport stated at the Planning Board, Mr. Jackson stated that he was brought in to correct the problems on the development behind the mansion, but people are still complaining about water. When you come out of River Road after a rain there is always gravel across the road and the impact from the water from the detention pond pipes that comes out of there is a mess. Ms. Rapoport stated that the number of units should be reduced to 22 units; 24 is too many. It says they can have up to 24 units. The arrangement of the houses 3-5-4 could possibly be 3-4-4. Also, she said the mansion can be seen from Hemion Road when you are at the corner of Montebello Road and Hemion Road. The vista does exist today and should not be changed. Ms. Rapoport stated a reduction of two units for a total of 22 units would make it closer to the FAR.

Rosemary Scandura, 11 Mayer Drive stated that she is concerned for safety and the traffic impact and the possibility of another 48 cars from this development on the existing roads.

Mr. Jackson stated regarding the drainage to the west, they are piping most of that drainage then bringing across the other side of Montebello Road, where we are opening a stone lined swale all the way down to the river. Mr. Jackson stated that this plan will take care of the existing problem.

Mr. Jackson stated originally the variance they were working on before the code was changed, was .15 which is 15%. When the code was changed the new variance became .183 divided by .13 and now we need a 41% variance. The variance requirements changed from 15% now to a 41% which means by the stroke of a pen, the variance has increased by 274% which is an unreasonable burden to place on the client because now he has to ask for a variance of 41%.

Tony Caridi, 11 Rocklyn Drive stated that he likes the design, but by bringing the buildings closer to the center will this preserve the buffers so it cannot be developed further and does this drainage proposal take the water directly off the site into this funnel system so there is no residuals flowing off into the buffer zone?

Mr. Caridi was told that there would be no more development and all drainage will first be detained through reducing the amount of discharge and taking it to improved drainage systems in both directions. The drainage will not just shoot off the property.

Discussion regarding changing the meeting date for the April meeting because of a conflict with a religious observance.

The new meeting will be decided and the applicants will be notified and there will be a notice in the paper.

Dr. Urcioli stated that the Board cannot render a decision until the Planning Board approves a Negative Declaration, therefore, the Public Hearing will be continued at the next meeting in April.

Ms. Osei asked to meet the FAR requirements, how many units will the applicant lose?

Mr. LiPuma stated they could build 17 units at 2,900 sq. ft.; 20 units at 2,500 sq. ft. or 24 units at 2,095 sq. ft.

Ms. Osei requested that the applicant come back next month with the exact number.

Motion to adjourn the meeting at 10:15 p.m.

MOTION: Rodney Gittens

SECOND: Fran Osei

VOTE: Unanimously accepted.

Respectfully submitted:
Carol Adduce, Planning & Zoning Clerk