

**VILLAGE OF MONTEBELLO
ZONING BOARD OF APPEALS MINUTES
JUNE 15, 2006**

The Zoning Board of Appeals meeting was called to order by the Chairman, John Urcioli at 7:52 p.m on Thursday, June 15, 2006. The meeting was held at Village Hall, One Montebello Road, in the Village of Montebello, New York 10901.

PRESENT

John Urcioli, Chairman

Tim Cronin

Rodney Gittens

Edward Bracken

Fran Osei (arrived at 8:00 p.m.)

Maria Conti-Benedict, Alternate

OTHERS

Warren E. Berbit, Village Attorney (left at 8:25 p.m.)

Ira Emanuel, Assistant Village Attorney (arrived at 8:30 p.m.)

Carol Adduce, Clerk

Motion to approve the May 18, 2006 minutes.

MOTION: Edward Bracken

SECOND: Rodney Gittens

VOTE: Unanimously accepted.

**VILLAGE OF MONTEBELLO
ZONING BOARD OF APPEALS MINUTES
JUNE 15, 2006**

**Emerald Pines
Public Hearing**

Application of JMK Building Corporation, 301 Main Street, New City, NY 10956 for variance from the provisions of Article IV, Sec. 195-13 (Bulk Table) Col. A (RR50 District); Col. B Uses by Right; Col. B-1 Use Group h; Col. C Uses by Special Permit Nos. 1 & 2 of the Zoning Local Law of the Village of Montebello to permit construction, maintenance and use of a temporary contractor's storage yard that is not permitted in a residential zone. The premises which are the subject of this application are located on the northerly side of Viola Road approximately 10 feet west of Lety Lane in the Village of Montebello, which is known and designated on the Ramapo Tax Map as Section 49.05, Block 1, Lot 17 in a RR-50 Zone.

Present: William J. Stein, Consulting Engineer, representing the Applicant

Public Hearing opened at 7:55 p.m.

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

Edward Bracken made a disclosure that his wife sits on the Historic Preservation Commission, which has made a proposal to designate the house on this particular property as historic, but it will not effect his decision.

Mr. Stein stated that the reason they are before the Zoning Board of Appeals is to seek relief in order to allow them to store equipment on this property, which they own, that is needed to complete pond work at Montebello Pines. Mr. Stein stated that they would like to store the equipment on the level portion of lot 3, west by north-west of the proposed dwelling, which is approximately 300 feet from Viola Road, because it would be out of sight instead of in the open at the Pines. Mr. Stein said they will need to store the equipment for a short time, approximately 8 to 10 months.

Dr. Urcioli asked if they had a DEC permit and if the dredging of the ponds was included in the permit?

Mr. Stein said he was not sure.

Dr. Urcioli stated if the dredging of the ponds is not included in the permit, it will take longer than 8 to 10 months to obtain one. Dr. Urcioli stated that if there is no permit, he personally cannot act on this.

Dr. Urcioli asked what the surface is on this lot where they want to store the equipment?

Emerald Pines
Public Hearing

Mr. Stein stated that it is dirt and grass.

Dr. Urcioli asked what kind of equipment will you store there?

Mr. Stein stated now there is a truck and a dozer eventually there might be a front end loader and one or two other pieces of equipment.

Dr. Urcioli asked what will they do if there is leaking from the equipment into the river?

Mr. Stein stated that he did not think there would be leaks into the river, but he could put a dike around it.

Dr. Urcioli stated that would not stop it from leeching into the dirt.

Mr. Stein stated that is correct, it would not stop it from leeching into the dirt.

Dr. Urcioli stated that he thought it was too close to the river because even though it is supposed to be for storage, there will probably be gasoline and oil from the equipment.

Mr. Bracken asked why the equipment could not be stored in New City where the company is located?

Mr. Stein stated because there is no storage there. The equipment is purchased for a project and is usually stored on the project property.

Mr. Cronin asked if the equipment will be used for the intended subdivision of this property?

Mr. Stein said, yes.

Mr. Cronin asked how long will the subdivision take?

Mr. Berbit stated that he could answer the question in part. He explained, that this property is before the Planning Board for subdivision plat and the first substantial meeting on the subdivision of this property took place on Tuesday of this week. There was a good deal of information necessary to be added, designs associated with the stream, the proximity of the stream and things to be shifted around just to get the map in a fashion where you can actually substantively start looking at it in order to make some decisions, so the applicant asked not to be on the next agenda, but asked to be on for the August Planning Board meeting. Mr. Berbit said that his guess is that it will take several meetings at the Planning Board level. He said, that this is a complex project because of the stream law and proximity to the Army Corps of Engineers wetlands, to heavy slopes, high aquifer and streams.

Emerald Pines
Public Hearing

Mr. Cronin stated, so this equipment could theoretically be there longer than the 8 to 10 months?

Mr. Berbit stated that the applicant should really find out if any of the permits include the dredging of the ponds. Mr. Berbit stated that it was Mr. Stein's belief and that of the Village Engineer expressed at a meeting a week ago that dredging was not in the permit, and that the permit process could take approximately a year and a half.

Dr. Urcioli stated that he would like the applicant to research this for the next meeting and he would like the exact location and measurement of the road.

Ms. Osei stated before she can make a determination, she would like to know the exact length of time that the equipment will be stored on this property.

Mr. Bracken stated that he is opposed and thinks it is quite an imposition to store equipment in a beautiful residential area like this.

Mr. Gittens stated that he needs more information. He needs to know if there is a DEC permit that covers the dredging of the ponds; the type and quantity of the vehicles that will be stored in the area; the foot print that you are going to take up; how will you maintain any spillage and contaminates and how will you prepare the ground for that?

Mr. Cronin agreed with Mr. Gittens and he said that they should take into consideration the type of equipment that is there and if it is necessary for the completion of the dredging of the ponds in Montebello Pines and there is not extra equipment that is just going to sit there.

Dr. Urcioli stated that he wants to know specifically how much equipment is going to be stored there, for how long; the exact location of the storage; and the Board will have to look into possible leakage from the equipment into the ground.

No one from the public spoke.

Motion to adjourn the public hearing to the July 20, 2006 meeting.

MOTION: John Urcioli

SECOND: Rodney Gittens

VOTE: Unanimously accepted.

VILLAGE OF MONTEBELLO
ZONING BOARD OF APPEALS MINUTES
JUNE 15, 2006

Rio Vista Montebello
Public Hearing Continued

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
Jay Hood, Engineer
Ted Atzl, P.C.

Public hearing continued at 8:31 p.m.

Mr. Bracken made a disclosure that his wife is on the Historic Preservation Commission that has designated the mansion on this property historic.

Dr. Urcioli read a letter dated June 6, 2006 from the Historic Preservation Commission into the record (appended). Mr. Hood made a presentation based on the appended letter from Rio Vista of Montebello, LLC, dated May 25, 2006.

Mr. Emanuel asked Mr. Hood, if this constitutes an amendment to the application?

Mr. Hood said yes, that is what they intended the letter of May 25, 2006 to be. He said that instead of the original request, they are asking for smaller variances.

Mr. Emanuel said, so the amended application now is for a residential FAR of 0.16 and the internal buffers has been increased to 60 feet by the two three unit buildings at the entrance and to 50 feet near unit #19 near the mansion, which reduces the internal buffer variance and the variance to allow five units per building has been eliminated.

Dr. Urcioli stated that .16 is still a 23% increase over the required FAR and that is significant.

Mr. Hood stated that the FAR of .13 is the most restrictive FAR in the village and the new Slope Law puts a further restriction on this property.

Rio Vista Montebello
Public Hearing Continued

Discussion regarding the net area, deductions for slopes, the FAR for the mansion and housing and what would be needed to meet the code requirement.

Dr. Urcioli asked what would happen if you took off two more units and kept them at the same size?

Mr. Emanuel stated that if you compare the impact of the old Slope Law versus the new Slope Law, you need the square footage. He said under the old Slope Law with the required FAR of 0.13 the square footage is 59,700 feet and under the new Slope Law it would be 50,300 ft.

Dr. Urcioli stated that if the number of units were reduced to 20 units at 2,500 square feet each, it would meet the FAR of .13.

Mr. Gittens said the applicant is requesting 62,000 square feet which equals an FAR of .16; 50,300 square feet equals a .13 FAR. We are trying to come up with something between these two FAR numbers. He said maybe an FAR of .145.

Mr. Atzl stated that if you went to an FAR of 0.145 you would have 56,093 square feet divided by 22 units equals 2,550 square feet per unit.

Mr. Turco stated that he needed a 40 ft. footprint.

Dr. Urcioli stated that the unit sizes could be mixed up.

Mr. Gittens said that he was okay with the size and mix of units as long as the FAR was no more than .145.

Dr. Urcioli stated that he would like units number 9 and 12 removed because by doing this it would reduce the interior buffer variance.

Ms. Osei stated that if the numbers of units were reduced to 20 units, she would consider an increase in the FAR.

Mr. Bracken stated that Mr. Turco knew when he bought this property that it has a difficult topography. He would like the units reduced to 20.

Mr. Cronin stated that by granting a larger FAR it could set a precedent in the future.

Mr. Hood stated that it would not create a precedent because this is a very unique property. It is the only property in the Village with a .13 FAR.

Rio Vista Montebello
Public Hearing Continued

Dr. Urcioli stated what you are asking for is 22% and he thinks that is too much. This Board has to defend what it does.

Mr. Cronin stated that we are trying to find a balance of what works for you and what works for the Board.

Mr. Emanuel stated that previously, Mr. Atzl was asked what a 0.13 FAR would yield in square footage under the old Slope Law and that comes out to 59,688 square feet and if you apply that under the new Slope Law, it would yield on FAR of 0.155.

Dr. Urcioli stated and we are proposing .145.

Mr. Hood stated that he thinks a .145 would be acceptable, if there was no stipulation concerning the number of units.

Josephine Bracken, 3 East Place stated that when Mr. Turco bought this piece of property, he knew it was going to be difficult to build on. She said many of the residents are upset because they feel there is a lot of over building. Ms. Bracken said that many of the residents cannot understand why the Zoning Laws are not adhered to, especially since a lot of money was spent on the Comprehensive Plan. Ms. Bracken said if laws are not adhered to, why have them. She feels the builders should respect and stick to the laws.

Motion to close the Public Hearing at 9:45 p.m.

MOTION: Tim Cronin

SECOND: Edward Bracken

VOTE: Unanimously accepted.

Dr. Urcioli stated that the number of variances have been reduced to just the internal buffer and the FAR.

Dr. Urcioli stated that he would like to make a proposal to grant a FAR variance of .145 with the elimination of units 9 and 12 making the total number of units reduced to 20 units for the following reasons.

By changing the position of the front units it will cut down on the interior buffer variance by bringing it closer to the required 75 ft. (now proposing 60 ft). The elimination of units 9 and 12 as shown on the site plan will also help to improve the buffer and the separation between the mansion and the housing from 62 ft. to 105 ft. greatly improves the original site plan.

Rio Vista Montebello
Public Hearing Continued

Dr. Urcioli offered the following findings for the Board's consideration:

1. A variance of .145 is not substantial, where as the area variance requested of .16 is substantial, and will more satisfy the ideals of the Village of Montebello and the interior buffer variance will be closer to the 75 ft. required.
2. After four meetings he did not think there was any other way they could have achieved what they are doing other than to grant an area variance.
3. The requested variance was substantial because the FAR was really 22%, which is too high and the Board did not want to set a precedent which is out of bounds of the Village laws. The applicant needed a variance under the old Slope Law and the variance was exacerbated by the change in the Slope Law in that we went from 50% credit for slopes to zero percent credit for slopes and that had an impact and the amount of the impact is 9,400 square feet. The Board gave some consideration for the change in the Slope Law.
4. The proposed variance would have had an impact especially on the visual and on the front yard variances and number of units. Now the units have been reduced from 24 to 20 and by decreasing units, it will decrease traffic, it will increase the view of the mansion, and will open the vista.

5. It was self-created by the builder and the planner trying to utilize as much as they could of the lot, but it did fall inside the variances necessary for the Village.

Mr. Emanuel asked what is the Board going to do with respect to the variance request for the internal buffer? I heard what was said with respect to unit 19, but how do you want to phrase the variance? How do you want this worded with respect to the other points.

Dr. Urcioli stated that the minimum front yard variance would be 65 feet with 50 feet for unit #19 and no more than 20 units, units #9 and #10 are to be removed.

The Board was polled and the consensus of the Board was that they agreed with the proposal and Mr. Emanuel was directed to draft a resolution for the next meeting.

VILLAGE OF MONTEBELLO
ZONING BOARD OF APPEALS MINUTES
JUNE 15, 2006

Motion to adjourn the meeting at 10:05 p.m.

MOTION: Tim Cronin

SECOND: Edward Bracken

VOTE: Unanimously accepted.