

**VILLAGE OF MONTEBELLO
ZONING BOARD OF APPEALS MEETING
AUGUST 17, 2006**

The meeting of the Zoning Board of Appeals was called to order by the Chairman, John Urcioli at 7:50 p.m. on Thursday, August 17, 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

Edward Bracken

Fran Osei (arrived at 8:03 p.m.)

Maria Conte-Benedict , Alternate sitting by designation

OTHERS

Ira Emanuel, Assistant Village Attorney

Carol Adduce, Clerk

ABSENT

Rodney Gittens

Motion to approve the July 27, 2006 minutes.

MOTION: Edward Bracken

SECOND: Tim Cronin

VOTE: Unanimously accepted.

Rick J. Weiss

Public Hearing

Application of Rick J. Weiss, 3 Brooklands, Montebello, New York 10901 for variance from the provisions of Article IV, Section 195-Sub Sect 13A; Use Group q Col.14 (FAR required 0.20; proposed 0.271)) and Article XIII, Section 195- Sub Sect. 89(1) C & D; Use group q, front setback non-conforming lot (required 30 ft.; proposed 23.2 ft.) and lot width non-conforming lot (required 75 ft.; proposed 73.32 ft.) of the Zoning Local Law of the Village of Montebello to permit construction, maintenance and use of a second story addition (190 square feet) and a 6 ft. by 43 ft. front porch. The premises which are the subject of this application are located on the north side of Brooklands approximately 200 feet southwest of Montebello Road in the Village of Montebello, which is known and designated on the Ramapo Tax Map as Section 48.17, Block 1, and Lot 6 in a R-35 Zone.

Present: Rick J. Weiss, Applicant

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

Variances needed are as follows:

Article IV Section 105 Sub Section 13A Floor Area Ratio; Use Group q, Column 14; (required maximum 0.20 ft.; proposed 0.271 ft.) and Article XIII Section 195 Sub Section 89 (i) C & D front setback non-conforming lot Use Group q; (required 30 ft.; proposed 23.2 ft.), lot width non-conforming lot (required 75 ft. proposed 73.32 ft.) The extra square footage is 538 feet which makes the FAR .033.

Mr. Weiss explained that his house is non-conforming and is poorly laid out. Mr. Weiss said he has two children and needs to expand the house. The expansion will add closet space and bedrooms for the children. He would also like to add a front porch which will give him a proper; entrance and will enhance the look of the house and give it some charm.

The public hearing was opened at 8:15 p.m.

No one from the public spoke.

Motion to close the public hearing at 8:17 p.m.

MOTION: Tim Cronin

SECOND: Edward Bracken

VOTE: Unanimously accepted.

Motion to grant a Negative Declaration based on the addition of adding only 538 square feet of gross floor area most of which is within the existing footprint of the building therefore, it will not add to the impervious surface, the only addition to impervious surface will be no significant impact on traffic.

MOTION: John Urcioli

SECOND: Tim Cronin

VOTE: Unanimously accepted.

Motion to accept the proposed resolution for Rick J. Weiss for variances from the provisions of Section 195-89.D (1) (c) and (d) and 195-13A, Use Group q, Column(s)14, of the Zoning Local Law of the Village of Montebello Zoning Local Law of the Village of Montebello to permit the construction, maintenance, and use of an addition to a single family dwelling on a non-complying lot with a reduced front setback of 12.2 feet, a reduced lot width of 73.32; and an excess F.A.R. of 0.271 subject to the Rockland County Drainage Agency permit or release.

MOTION: Tim Cronin

SECOND: Edward Bracken

VOTE: Unanimously accepted.

Resolution annexed hereto and made a part hereof.

IN RE: APPLICATION OF RICK J. WEISS
CALENDAR CASE NO. 1120

Before the Board of Appeals of the Village of Montebello, at a public hearing held at Village Hall,

Montebello, New York, on August 17, 2006, for variances from the provisions of Section 195-89.D(1)(c) and (d) and 195-13A, Use Group q, Column(s) 14, of the Zoning Local Law of the Village of Montebello to permit the construction, maintenance, and use of an addition to a single family dwelling on a non-complying lot with a reduced front setback of 23.2 feet, a reduced lot width of 73.32 feet; and an excess F.A.R. of 0.271.

The premises which are the subject of this application are located at 3 Brooklands, which is on the north side of Brooklands, and 200 feet west of the intersection of Montebello Road in the Village of Montebello, and which is known and designated on the Ramapo Tax Map as Section 48.17, Block 1, Lot 6, in a R-35 Zoning District.

The Board, upon motion duly made by Tim Cronin, and seconded by Edward Bracken, resolved:

WHEREAS, the applicant was represented by himself, 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 12, 2006; drawing showing the location of the requested variance; copy of part of survey prepared for Oliver Peterson dated December 21, 1976; Rockland County Planning Board memorandum dated August 17, 2006, which recommended modifications to the proposed variance; letter dated August 4, 2006 from Caren and Jonathan Mintz; letter from Eileen Byrnes; letter dated August 11, 2006 from Rockland County Drainage Agency, memo dated August 7, 2006 from Brooker Engineering; memo dated August 15, 2006 from the Building Department;

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

WHEREAS, a public hearing was held on August 17, 2006, and the testimony of the following persons was duly considered: applicant;

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 already improved with a single family dwelling. The applicant wishes to expand the second floor of the structure by adding additional closet space and a bathroom. This expansion would take the form of enlarging the existing central dormer to be the full width of the house. It would add, according to the applicant, 194 square feet of floor area.

The applicant also wishes to enclose an existing front porch, incorporating that space into the living area (86 square feet). A new front porch is proposed, which will be 6 feet deep and be equal to the length of the existing house (43 feet). Covered porches are included in Gross Floor Area. Thus, 258 square feet are to be added to the Gross Floor Area for the porch.

Based on the information provided, the existing house and garage contain 3,855 square feet of Gross Floor Area. The proposal would increase the Gross Floor Area by a total of 538 square feet to 4,393.

The subject lot was created prior to the incorporation of the Village. It has 73.32 feet of lot width and has a lot area of 16,196 square feet, about half the lot area normally required in the R-35 district. The lot has been rendered non-complying as a result of the adoption of the Village's Zoning Code. Therefore, the provisions of section 195-89 apply, particularly subsections D(1)(c) [required minimum front setback 30 feet; 23.2 feet provided] and D(1)(d) [required minimum lot width 75 feet; 73.32 feet provided]. In addition, the proposed Floor Area Ratio (F.A.R.) of 0.271 exceeds the maximum F.A.R. permitted of 0.200.

The proposed additions here would yield a house of 4,393 square feet (16,196 x 0.271). Without the proposed additions, the existing F.A.R. is 0.240 (3,885 ÷ 16,196). The increase in F.A.R. is therefore 13% above the existing condition and 35.5% over the permitted F.A.R. in the district.

The applicant noted that the addition was small in size (538 square feet), but that it was magnified because of the small lot size. According to the Board's calculations, a house on a conforming R-35 lot could have a gross floor area of 7,000 square feet (35,000 x 0.20).

The Board also noted that Brooklands is a dead end street which is rarely traveled by anyone other than its residents and their guests.

The Rockland County Planning Department, in a memorandum dated August 17, 2006, recommended modifications to the proposed project, including a referral to the Rockland County Drainage Agency because of the proximity of the project to the Mahwah River, a county stream.

Because the applicant has requested a variance from the F.A.R. requirements, this application is an unlisted action under SEQRA.

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 consists of only a few homes, and the proposed addition is in keeping with the character of the neighborhood. The vast bulk of the F.A.R. addition will be an addition to an existing second floor dormer, which will not increase the footprint of the building. The addition of the porch will add architectural interest and add to the rural quality of the road.

(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 lot is severely undersized. The existing house already exceeds the maximum permitted F.A.R. The lot width condition is also pre-existing. Without a variance, the porch could not be added. A six foot wide porch is not excessive.

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

Substantiality decisions must be made in context. Considering the very small size of the lot, the method of adding space, and the neighborhood in which the property is located, these variances are not substantial.

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

Most of the construction is upward, without creating significant additional impervious surface. The proposed porch will add to impervious surface, but only 258 square feet. Since the Rockland County Drainage Agency must review this application for any adverse drainage impacts on the Mahwah River, this Board is comfortable with the physical and environmental impacts.

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

The difficulty stems from the applicant's desire to expand his house. While the house is not currently small, the additions proposed are not substantial. It is the Board's opinion that the self-created nature of this difficulty is not sufficient to deny this application.

NOW, THEREFORE, BE IT RESOLVED, that the application of Rick J. Weiss for variances from the provisions of Section 195-89.D(1)(c) and (d) and 195-13A, Use Group q, Column(s) 14, of the Zoning Local Law of the Village of Montebello to permit the construction, maintenance, and use of an addition to a single family dwelling on a non-complying lot with a reduced front setback of 23.2 feet, a reduced lot width of 73.32 feet; and an excess F.A.R. of 0.271, as set forth in the application submitted herein, is hereby approved, subject to the following condition:

No building permit shall be issued unless the applicant has first received the appropriate permit or release from the Rockland County Drainage Agency;

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.

MEMBERS PRESENT:	YEA or NAY
John Urcioli, Chairman	YEA
Timothy Cronin, Vice Chairman	YEA
Edward Bracken	YEA
Fran Osei	YEA
Maria Benedict-Conti (Alternate by designation)	YEA

MEMBERS ABSENT:
Rodney Gittens

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: August 21, 2006
Montebello, New York

VILLAGE OF MONTEBELLO
ZONING BOARD OF APPEALS MINUTES
AUGUST 17, 2006

Motion to adjourn the meeting at 8:23 p.m.

MOTION: Edward Bracken

SECOND: Tim Cronin

VOTE: Unanimously accepted.

Meeting reconvened for New Business at 8:25 p.m. to review an application for Richard Steinberg that is pro-

posed for the September Zoning Board of Appeals meeting.

Dr. Urcioli wanted to review this application with the Board and discuss it because it appeared to him that there are errors.

Mr. Emanuel stated at the request of the Chairman, he has reviewed the application that was received for Richard Steinberg that is proposed for the September meeting. He said the clerk has explained to him that the proposed site plan has a number of errors on it. Mr. Emanuel stated many of these errors are relevant to this Board's discussion, especially, with respect to the extent of the side yard and side setback into which there appears to be an encroachment or at least a proposed encroachment, in addition, there is a note from the Building Inspector with a marked up survey that was submitted and also indicates a different FAR calculation. This Board has a right to an accurate depiction of what is going on and the right not to have its time wasted. His advice to the Board is that they have a right to reject this application and to send it back to the applicant with instructions to have the survey corrected and that a new and accurate survey with an accurate bulk table be submitted.

Dr. Urcioli made a motion that this application be rejected because of an improper survey and that a correct and updated survey be submitted with this application.

Motion to adjourn the meeting at 8:41 p.m.

MOTION: Tim Cronin

SECOND: Edward Bracken

VOTE: Unanimously acceded.