VILLAGE OF MONTEBELLO
ZONING BOARD OF APPEALS MEETING
JANUARY 18, 2007

The Village of Montebello Zoning Board of Appeals meeting was called to order by the Chairman, John Urcioli at 7:49 p.m. on Thursday, January 18, 2007. 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
Fran Osei
Maria Conte-Benedict - sitting by designation

OTHERS
Ira Emanuel, Assistant Village Attorney
Carol Adduce, Clerk

ABSENT
Ed Bracken

Motion to approve the November 16, 2006 minutes.

MOTION: Rodney Gittens

SECOND: Tim Cronin

VOTE: Unanimously accepted.

Patricia Lefkowitz
Public Hearing

Application of Patricia S. Lefkowitz, 6 East Place, Suffern, NY 10901 for variance from the provisions of Article IV, Section 195-13, Use Group q, Col. 8 side yard (required 20 ft. - proposed 2 ft. 1 inch) of the Zoning Local Law of the Village of Montebello to permit maintenance and use of an existing storage shed. The premises which are the subject of this application are located on the north side of East Place approximately 900 feet from the intersection of Mayer Drive in the Village of Montebello, which is known and designated on the Ramapo Tax Map as Section 48.14, Block 1 and Lot 82 in a R-35 Zone.

Present: Patricia Lefkowitz, Applicant
Louis Lefkowitz, Applicant

All application and legal requirements were met.

Dr. Lefkowitz stated the violation came about because they refinanced their house and an inspection was done and at that time it was discovered that the shed was over 144 square feet. It is actually 147.8 square feet. He said the house was built in 1965 and the shed was built in 1983 which predates the Village,

The Public Hearing was opened to the public.

No one spoke.

Motion to close the Public Hearing.

MOTION: Tim Cronin

SECOND: Rodney Gittens

VOTE: Unanimously accepted.

The consensus of the Board was that they had no problem granting the 2'1" variance especially since it predated the Village.
Motion to accept the proposed resolution for Patricia Lefkowitz granting variances from the provisions of Section 195-13, Use Group p, Columns 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.

MOTION: John Urcioli

SECOND: Tim Cronin

VOTE: Unanimously accepted.

Resolution annexed hereto and made a part hereof.

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, 1inch 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 feet1inch, 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 con-

ditions 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:	YEA or NAY
John Urcioli, Chairman	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 YorkRio Vista of Montebello
Public Hearing

Application of Rio Vista of Montebello LLC, 212 Orange Avenue, Suffern, NY 10901 for variance from the provisions of Article 7, Section 7-736 of the Village Law of the State of New York to allow access by private road for a 20 unit restricted (55 and older) town home community and for the existing mansion. 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: Tom LiPuma, Applicant
Jay Hood, Esq.

All application and legal requirements were met.

Mr. Emanuel explained why the applicant is appearing before the Zoning Board of Appeals. He said during Planning Board discussions it was remembered that the proposed road would be servicing all of the units and it was contemplated as a private road. It was contemplated by the Comprehensive Plan, the Zoning Code, applicant and the Planning Board. Under Section 7-736 of the Village Law of the State of New York if you do not have a direct access to a public highway from a building, you need to get a variance so that the Zoning Board of Appeals can consider whether or not it is appropriate for that access to be by private road. He said that is the only issue before the Board. He said currently it is a driveway for the mansion, but because they are adding 20 units and because there will be a subdivision line which will separate the mansion property from the units and Montebello Road; a variance is needed before building permits can be granted.

Mr. Hood stated that the driveway will be improved and made wider and if it is a private road, the Village does not have to maintain it.

Motion to open the public hearing to the public.

MOTION: Tim Cronin

SECOND: Maria Conte-Benedict

VOTE: Unanimously accepted.

Jill Gold, 17 Fortune Way asked if egress/ingress will be the same.

Tom Campbell, 21 River Road stated that his concern is the placement of the road and detention pond and the hill being denuded. He said this will take away the screening of his property.

Motion to close the Public Hearing.

MOTION: Tim Cronin

SECOND: Rodney Gittens

VOTE: Unanimously accepted.

Discussion:

It was the consensus of the Board that the road be private.

Motion to accept the proposed resolution for the application of Rio Vista of Montebello, LLC for variances from the provision of Section 7-736 of the Village Law to permit the construction, maintenance and use of a private road to provide access to 20 new housing units and an existing office building.

MOTION: John Urcioli

SECOND: Tim Cronin

VOTE: Unanimously accepted.

Resolution annexed hereto and made a part hereof.

IN RE: APPLICATION OF RIO VISTA OF MONTEBELLO, LLC
CALENDAR CASE NO.1123

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 7-736 of the Village Law to permit the construction, maintenance, and use of a private road to provide access to 20 new housing units and an existing office building.

The premises which are the subject of this application are located at 75 Montebello Road, which is on the north side of Montebello Road, and 0 feet from the intersection of Hemion Road in the Village of Montebello, and which is known and designated on the Ramapo Tax Map as Section 48.18, Block 2, Lot 1, in a EP Zoning District.

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

WHEREAS, the applicant was represented by Jay Hood, Esq., 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 7, 2006; drawing showing the location of the requested variance; Rockland County Planning Board memorandum dated January 9, 2007, which approved the proposed variance;

WHEREAS, a negative declaration under SEQRA has been granted by the Planning Board as lead agency ; and

WHEREAS, a public hearing was held on January 18, 2007, and the testimony of the following persons was duly considered: Thomas LiPuma ; Jill Gold, 17 Fortune Way; Tom Campbell, 22 River Road;

The applicant has previously appeared before this Board in connection with its site plan and subdivision application for the subject property. At that time, this Board granted several variances to permit the construction of not more than 20 “carriage homes” in the EP district. A number of conditions were attached to the grant of variances, which the applicant appears to have accepted. The Planning Board granted preliminary site plan and subdivision approval on October 10, 2006.

During subsequent review by the Planning Board, it was noted that the road which is to serve the proposed homes, as well as the Montebello Park Mansion beyond the homes, would continue to remain a private road. While the use of a private road to serve just the Mansion required no approval from this Board, the introduction of the new homes and the subdivision of the property brings the project into the ambit of Village Law § 7-736.

The project complies with the variances previously granted and with the conditions previously imposed. The applicant only seeks approval from this Board to allow private road access to the homes and the Mansion, as contemplated by the Comprehensive Plan, the Zoning Code, and the Planning Board.

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 requested variance is to allow the continued use of a private road to provide access to the existing Montebello Park Mansion and to the proposed new homes. The private road is contemplated in the Comprehensive Plan, the Zoning Code, and the Planning Board's considerations. It is entirely consistent with the character of the neighborhood. A public road would be wider, and would destroy the interior character of Montebello Park.

(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 method for avoiding the variance would be to build a public road. A public road is not compatible with the area.

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

The requested variance allows for conformity with the Village's plans for the area.

(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 private road will be narrower than would be a public road, and therefore will have less impervious surface.

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

The difficulty results from the desire of the Village Board and the Planning Board to have a private road service the area.

NOW, THEREFORE, BE IT RESOLVED, that the application of Rio Vista of Montebello, LLC for variances from the provisions of Section 7-736 of the Village Law to permit the construction, maintenance, and use of a private road to provide access to 20 new housing units and an existing office building, 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 terms of the prior grant of variances by this Board to this property and project, and further subject to the approval of a final subdivision plat by the Planning Board for this property and project.

MEMBERS PRESENT:	YEA or NAY
John Urcioli, Chairman	YEA
Timothy Cronin, Vice Chairman	YEA
Rodney Gittens	YEA
Fran Osei	YEA
Maria Conte-Benedict (alternate)	

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

Julie Celentano and Gerry Hill
Public Hearing

Application of Julie Celantano and Gerry Hill, 18 Senator Levy Drive, Suffern, NY 10901 for variance from the provisions of Article IV, Section 145-13; Use Group h, Columns 8 and 10 (side yard - required 25 feet, proposed 12 feet and rear yard - required 25 feet , proposed 10.5 feet) of the Zoning Local Law of the Village of Montebello to permit construction, maintenance and use of a 10 foot X 20 foot existing storage shed. The premises which are the subject of the application are located on the south side of Senator Levy Drive approximately 250 feet from the intersection of Golf Course Road in the Village of Montebello, which is known and designated on the Ramapo Tax Map as Section 48.20, Block 1 and Lot 73 in a RR-50 Zone.

Present: Julie Celentano, Applicant
Gerry Hill, Applicant

All application and legal requirements were met.

Ms. Celentano made a presentation based on the appended narrative. She said that they chose this location so her children would have an area to play in because the backyard is small. She said that the shed is used for storing pool supplies, a lawn mower and gardening tools and supplies. Ms. Celentano stated that she was not aware of the laws regarding sheds.

Ms. Celentano presented two pictures of the 10 by 20 shed and a copy of the bill of sale.

Ms. Osei stated that this is a very nice looking shed and it is beautifully landscaped, but if it is not maintained it can be very undesirable to the neighbors when these sheds are placed right next to the property line.

Mr. Gittens stated that he agrees with Ms. Osei. He said this shed is very nice, but there could be a new owner in the future and they may not maintain it or may paint it a strange color which does not match the house or blend in and it could become an issue especially in the winter. He asked if there is landscaping in the back of the shed?

Ms. Celentano said there is a lot of screening between the neighbors yards. There is a double row of Pine trees and quite a few trees.

Mr. Gittens asked who leveled off the site, was he a local person?

Ms. Celentano stated that it was her landscaper from New City. He brought some dirt in and leveled it off and then he put layers of gravel and stone underneath.

Mr. Cronin stated that he walked the property and the shed is tucked up into that corner. Ms. Celentano said the shed was placed there because it was pretty level, but a retaining wall was built and fill was brought in; this could have been made almost anywhere.

Ms. Celentano stated that she did get an estimate of the cost to move the shed and it was upwards of $5,000.

Dr. Urcioli stated that he is concerned with setting a precedent. If the Board approves this, what will stop anyone else from putting up a shed and then saying it is very expensive to move it?

Mr. Emanuel stated in reviewing the application, he thinks maybe the wrong use group was used because average density was used in the development of the property and even though this lot is in a RR-50 zone; this lot is 40,000 square feet. Mr. Emanuel said that he would like to discuss this with the Building Inspector and come back with an answer for the next meeting because it may lessen the variances that are needed.

Ms. Osei asked for an estimate to relocate the shed for the next meeting.

Motion to continue the Public Hearing at the next meeting of February 15, 2007.

MOTION: Maria Conte-Benedict

SECOND: Rodney Gittens

VOTE: Unanimously accepted.

Motion to adjourn the meeting at 9:40 p.m.

Motion to reopen the meeting to discuss moving the February 15, 2007 meeting to Monday, February 12, 2007 in order to have a full Board.

MOTION: John Urcioli

SECOND: Rodney Gittens

VOTE: Unanimously accepted.

Motion to adjourn the meeting at 9:46 p.m.

MOTION: Tim Cronin

SECOND: Rodney Gittens

VOTE: Unanimously accepted.