VILLAGE OF MONTEBELLO
ZONING BOARD OF APPEALS MEETING
FEBRUARY 12, 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 Monday, February 12, 2007. The meeting was held in 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
Edward Bracken

Motion to approve the January 18, 2007 minutes.

MOTION: Tim Cronin

SECOND: Rodney Gittens

VOTE: Unanimously accepted.

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

Mr. Emanuel stated at the last meeting there was a question as to what the appropriate use group was and he and the Building Inspector had a meeting and both agreed that the use group should be “m” not “h”, which would be associated with the R40 district. The reason for this is because this is an average density development. He said as a result the side yard requirement is 20 feet and 12 feet are provided and the rear yard requirement is 20 feet and 10.5 feet are provided; so the requirement for use group m is somewhat smaller than use group h, which is 25 feet for both yards.

Ms. Celentano stated that she wanted to explain the shape of her property. She said that it was pie shaped. The house is setback approximately 10 feet and the backyard is shallow and not very deep.

Discussion regarding how the shed could be moved to make it in compliance with the code or to at least reduce the variances.

No one from the public spoke.

Motion to close the public hearing.

MOTION: Tim Cronin

SECOND: Rodney Gittens

VOTE: Unanimously accepted.

Ms. Osei stated that the shed is beautiful, but she is uncomfortable leaving it there and would like it relocated. She said the neighbors that are there now may not mind, but if the house is sold and new neighbors do not maintain the shed or it is painted a bright color, these same neighbors will complain.

Ms. Benedict and Mr. Gittens agreed with Ms. Osei.

Mr. Cronin proposed a middle of the road move that does not impact the site fully that it would not be disruptive to the topographical landscaping that they have on the plateau that was built. Maybe the shed could be moved a certain degree to minimize the amount of variance required.

Discussion regarding possible alternatives.

Mr. Emanuel suggested that the Board make a site visit.

Motion to reopen the public hearing.

MOTION: Fran Osei

SECOND: Rodney Gittens

VOTE: Unanimously accepted.

The Board decided to make a site visit on Saturday, March 3, 2007 at 8:00 a.m.

Motion to continue the public hearing at the March 15, 2007 meeting.

MOTION: Maria Conte-Benedict

SECOND: Fran Osei

VOTE: Unanimously accepted.

Richard Steinberg
Public Hearing

Application of Richard Steinberg, 15 Copeland Drive, Montebello , New York 10901 for variance from the provisions of Article IV, section 195-13, Use Group H, Cols. 6,7,8,13; side setback (30 ft. required - proposed 25.29 feet); total side setback (75 feet required - proposed 64.29 feet); front pool patio side yard setback (25 feet required - proposed 16.00 feet); rear pool patio side yard setback (25 feet required - proposed 13.00 feet); development coverage (20% maximum - proposed 20.9%) of the Zoning Local Law of the Village of Montebello to permit construction, maintenance and use of an existing cabana, swimming pool and patio. The premises which are the subject of this application are located on the east side of Copeland Drive approximately 50 feet from the intersection of Babbling Brook in the Village of Montebello, which is known and designated on the Ramapo Tax Map as Section 48.7, Block 1 and Lot 38 in a RR-50 Zone

Present: (Elliot) Richard and Mindi Steinberg, Applicant
Bart Rodi, P.E.

Mr. Rodi stated that there are a lot of layers to this application. He said prior to 2002, the Steinberg's hired a landscaper architect /engineer to design a pool, cabana and some patios. In the fall of 2002, a permit was taken out for the cabana, the Building Inspector, after the foundation was installed, required a staking, which was done by an engineer named Joe P. Corless, that staked the setback of the corner of the foundation which was 30 feet from the side property line. Upon completing the entire project, the Building Inspector requested as a requirement a final plot plan which showed the cabana at 25.29 feet, so there was an error made and at that point there was an application to come before the ZBA the two variances they were seeking but, apparently when the application was made, three other variances came up, because the landscape architect/engineer was not aware of the development coverage regulations of Montebello. He said three of the variances involved the patio and two involved the cabana. The variances needed are for the cabana, which is 25.29 feet from the property line and the requirement is 30 feet and in addition the total side setback should be 75 feet and it is 64.29 feet. The other variance is for the patio side yard. The requirement is 25 feet, and because the patio is a free form sloping circular style patio shape, its closest points are 13 feet and 16 feet from property line. The other variance is for lot development coverage; the maximum is 20% and existing is 20.9%. Mr. Rodi stated that the problem is, that the Steinberg's hired what they thought were qualified professionals; they got permits as they were suppose to; the work was done and then at the end they were told that there was an error made and now the Steinberg's have all these violations. Mr. Rodi said from what he understands, at one point a Certificate of Occupancy was issued and then rescinded for the work. He said at this point the alternative was to come to the ZBA for variances. Mr. Rodi stated that he has been in contact with the Village Engineer and one of the comments after knowing that the patios were too close was that some screening should be put in and the Steinberg's did put in beautiful screening.

Dr Urcioli questioned do you think that the applicant's professional made a mistake?

Mr. Rodi said it has to be because they filed for a permit and one was granted. He said, so whoever filed for the permit, the survey must have been wrong. He said that he is still trying to gather information, but the survey had to be wrong because how could a permit have been issued if the survey showed a variance was needed.

Mr. Gittens asked if the survey was current, and if it showed what actually exists now?

Mr. Rodi stated that the survey was done by Joe Corless and was signed September 9, 2006 and nothing has been done since then.

Mr. Gittens stated that when the house was built it was an R-35 zone and now it has been changed to RR-50 zone.

Mr. Emanuel explained that even though the house was built under the R-35 zone, anything built after the zone was changed would have to conform to the new RR-50 zone.

Mr. Gittens stated that he would like copies of the other surveys.

Mr. Cronin asked what type of patio is it?

Mr. Rodi stated it is a stone patio, cemented in.

Mr. Cronin said, so, it is a totally impervious surface and there are no seepage cracks; it is solid decking of concrete material.

Dr. Urcioli asked if a permit was issued for the cabana?

Mr. Rodi stated yes, and submitted the information to the Board.

Mr. Emanuel stated that there is an application for the building permit which is marked received May 1, 2003 Building Department Permit #297-03 for Rick and Mindi Steinberg and this is for cabana issued July 11, 2003 by Harry P. Lewis, there is also a copy of the permit notice and there is a site plan dated June 23, 2003 revised July 7, 2003 with a notation of a relocated cabana and it shows the pool and patio under construction and the proposed cabana in a location, which is different from the as-built.

Mr. Emanuel stated in the correspondence, a Richard Nozell, Jr. signed as acting agent.

Mr. Rodi stated that Mr. Nozell is a contractor that came in at the end after this was started, he was trying to help the Steinberg's.

Mr. Cronin asked who was in charge of submitting this permit? Was it the same person who built this afterwards and who was that?

Mindi Steinberg stated that it was Rick Nozell.

Mr. Cronin stated, so, Rick Nozell submitted this application to get this permit for the cabana.

Dr. Urcioli asked if the permit was for the cabana or for the cabana and pool?

Mr. Rodi stated just for the cabana, the pool was taken out earlier on a separate permit.

Dr. Urcioli stated, so, you have a permit for a cabana that you did not build.

Mr. Rodi stated that he has not searched all the files yet, but according to several sources it was built here. He said there was a foundation stake after it was built by Mr. Corless showing that the existing cabana was 30 feet from the property line, which leads him to believe there was a batter board put up. That means that you ask the surveyor, where should the foundation be put and he marks a spot for you and you build it there and you assume it is in the right location. Mr. Rodi said that he does not have a copy of that document, and that may put Mr. Corless in a very bad position, that he certified something that was not correct. He said that he believes that Mr. Lewis required that and it was submitted. He said as far as the contractor and the homeowner

knew, it was being put in the right position.

Dr. Urcioli stated, but it still was not built according to the proposed plan.

Mr. Emanuel added, it is a different shape.

Mr. Rodi stated that he did not know why it was not built according to that plan.

Mr. Emanuel stated in the materials received from the Building Inspector dated February 8, 2007 there was a copy of a C of O that was issued by the Town of Ramapo back in 1966. The C of O was for a single family home with an in ground pool, what happened to that pool?

Mrs. Steinberg stated that when they moved in there was no pool.

Motion to open the public hearing.

MOTION: Maria Conte-Benedict

SECOND: Rodney Gittens

VOTE: Unanimously accepted.

Robert Magrino, Esq. stated that he is representing Mr. & Mrs. Floyd, who are adjacent property owners to the east and he said according to the Floyd's, there was an above ground pool on the property sometime ago, but has since been removed. Mr. Magrino stated that the Floyds object to granting any variances and the reason for this is due to the impact it would have on them. Obviously the improvements , cabana and patio are already in, so they know the impact that any variances will have on them if they are granted. He said more importantly if the patio and the pool were built without the need for variances the concerns of the Floyd's would have been addressed. He said, the Floyd's kitchen window looks right out onto the Steinberg's pool and patio and it appears as if it were theirs. The Floyd's have no choice but to look at the pool and patio. Mr. Magrino said, while the Steinbergs have a right to have a pool & patio, the reason zoning laws are in place is so there are no negative impacts on the neighboring property. The patio has been there for sometime and when there is a party and the entire patio is being used and the lights are shining, it is an impact on the Floyds especially since there is not much screening between the properties. Mr. Magrino stated if everything was built in conformity with the zoning, there would not be much of an issue but the fact that at one point the patio is 16 feet from their property line and 13 feet at the spot where it is the closest to the Floyd's home, this affects the Floyd's quality of life and the aesthetic value of their property. Mr. Magrino stated whether this is a contractors or a surveyors problem it is now the Floyd's problem and on behalf of the Floyd's he is asking the Board not to go forward with the variances and certainly the Steinberg's would have rights against someone who made a mistake in putting this in the wrong place. Mr. Magrino said one of the things the Board must consider is whether the variances are significant and he said they feel they are.

The Board requested that pictures of the Steinberg property from the Floyd property be submitted.

Helena H. Epstein, 3 Hunderfund, Pearl River stated that she has had occasion to be sitting outside the Floyd property in the summer and the patio and cabana are very close to the property line and the lack of screening makes it feel like you have uninvited guests in your backyard.

Mr. Emanuel advised the applicant since the bulk table is incorrect to use the Building Inspectors numbers and

fix the bulk table with asterisks. He also advised submitting a site plan and if you have access to the Rockland County GIS map, you can superimpose the location of the Floyd house onto a plot plan that shows the Steinberg house, pool, patio and cabana and the surrounding homes.

Mr. Rodi stated that he will submit everything that the Board requested for the next meeting along with a physical measurement of the cabana to the Floyd property line.

Motion to continue the public hearing to the March 15, 2007 meeting.

MOTION: Tim Cronin

SECOND: Rodney Gittens

VOTE: Unanimously accepted.

Monsey Jewish Center
Public Hearing

Application of Monsey Jewish Center, 201 Route 306, Monsey, New York 10952 for variance from the provisions of Article IV, Sec. 195-13, Use Group c (Lot Width - Front Setback - Front Yard - Side Setback - Side Yard - Rear Yard and Development Coverage) of the Zoning Local Law of the Village of Montebello to permit construction and use of a synagogue and clergy (existing) residence. The premises which are the subject of this application are located on the south side of Montebello Road approximately 1,000 feet north of the intersection of North Airmont Road in the Village of Montebello, which is known and designated on the Ramapo tax Map as Section 48.19, Block 1, Lot 19, Section 55.07, Block 1, Lot 1 and Section 48.19, Block 1 and Lot 48 in a RR-50 Zone.

Present: Dan Kwilecki, representing the Monsey Jewish Center
Barry Haberman, Esq.
Stuart Strow, PLLC
David Mayerfield, Architect

Mr. Emanuel gave a brief outline of the project at the Planning Board level. He explained that the Planning Board referred the application to the February 15, 2007 Zoning Board of Appeals meeting figuring that the applicant would be appearing before the Planning Board on February 13, 2007 at which time a negative declaration would be granted. However, due to a conflict this did not happen because the Zoning Board of Appeals meeting was moved from February 15, 2007 to February 12, 2007, which means the applicant could not get a negative declaration. Mr. Emanuel stated that this means the Board cannot make any decisions, but they can listen to the applicant at this time.

Description of the project is described in the appended narrative dated January 24, 2007.

Mr. Haberman made a presentation based on his written statement dated February 12, 2007.

Mr. Strow explained the technical aspects of the variances requested. (see Building Inspector's letter of January 26, 2007 appended).

David Mayerfeld, architect for the project, showed a rendering of the project and gave a quick overview of how the building works and why there is a need for the split driveway at the entrance (which is needed to pre-

vent stacking on Montebello Road); why all the parking is in the back, when the formal entrance is in the front (this was done to protect the view from Montebello Road).
Ms. Osei stated that there is 125 parking spaces with an agreement with the adjacent property owner, for overflow parking for approximately 625 spaces.

Mr. Haberman stated that they had an agreement with Executive Associates North, LLC for overflow parking.

Ms. Osei asked if there will be a lot of catering?

Mr. Haberman stated that it is only a warming kitchen; it is not designed nor intended to be a full kitchen.

Mr. Gittens stated there is a service driveway by the kitchen area; he asked how often will there be deliveries to the kitchen and how long will the delivery truck be out there?

Mr. Haberman stated that they have a delivery once a week and the truck is there approximately 15 - 30 minutes.

Mr. Cronin stated that maybe there ought to be another provisional entrance when there is inclement weather to prevent people from stacking up in front onto Montebello Road because it is a long walk from the back around to the front entrance.

Dan Kwilecki stated that the synogogue was designed so that the entranceway would be the pivotal location. If you let people come in from different places, it creates bedlam, that is why there is always one entrance.

Mr. Emanuel asked if the applicant is asking for an interpretation of the Zoning Code with respect to the setbacks of the Rabbi's residence, but it was not mentioned in the presentation.

Mr. Haberman said that he spoke to the Building Inspector and he said that he had to speak to the Village Attorney and then he was told by phone that the variances are needed. He said if the interpretation is that the variances are needed, then they are asking for them; if it is determined that this is a preexisting non-conforming condition and the variances are not needed, then we will not be asking for them.

Mr. Emanuel said you had asked for alternative relief. He said that his and the Building Inspector's opinion is that it is subject to appeal of this Board. Mr. Emanuel asked Mr. Haberman if he is still seeking relief?

Mr. Haberman answered, yes.

Mr. Emanuel explained to the Board that there is an issue as to whether the existing residence, that is proposed to be used by the Rabbi, needs variances. Mr. Haberman's argument is that the residence has been in existence since 1962 and they are not changing, moving, or enlarging it; they are not doing anything to it that affects those particular setbacks. Mr. Emanuel said, the response to that is, while there is no proposals to change or modify the distances in anyway, he would take issue that
there is no change in use because there is a technical change in use. He said the technical change in use is from a single family dwelling to a clergy's residence as part of a place to workshop and those are two distinct uses set forth in the Zoning Code with two distinct use groups and on that basis it is his and the Building Inspector's opinion that the variances, although are preexisting, are necessary even though there is no change. Mr. Emanuel said clearly the Board will have to take into account the fact that there are no changes being made to the physical characteristics and the Board also has to keep in mind the preferred status that both New York State and Federal Law gives to religious uses and the clergy's residence is clearly a religious use. Mr. Emanuel stated that the use category has changed; the functional use of the house probably will not change; it

will function as a single family house.

Mr. Cronin asked what was the total square footage of the development coverage?

Mr. Strow stated approximately 79,000 square feet and the allowable coverage is 60,000 square feet.
Ms. Osei asked if there has been any consideration given, since all of the parking spaces will be used on a regular basis, to have some of the spaces grassed to reduce the impervious surface?

Mr. Haberman said this was discussed at length at the Planning Board, but we felt that the spaces should be clearly delineated to make sure there were 125 spaces and as far as putting in grass crete, it would be too expensive to maintain.

Dr. Urcioli questioned if there was any consideration given to the affects of the parking lot lights on the neighbors?

Mr. Haberman stated that it will be heavily landscaped and the Planning Board has been very definite as to the type of trees etc. that they want.

Peter Weiss, 4 Belvedere Path, Montebello stated that he has been a resident for 36 years and also serves on the Village of Montebello Parks Commission and is a member of the Monsey Jewish Center. He then read into the record the appended statement dated February 12, 2007.

Daniel Kiwilecki, 41 Oxford Drive, stated that he is a resident of Montebello and is a long time member of this congregation. He then read his statement dated February 12, 2007 (appended) into the record explaining what the costs would be to tear down the existing house that is to be used by the Rabbi, if the variances were not granted.

Motion to open the Public Hearing to the public.

MOTION: Tim Cronin

SECOND: Fran Osei

VOTE: Unanimously accepted

Red Adler, the house Chairman for the Center stated that there are no trucks coming in for catering; everything is delivered by a van or car.

Motion to continue the public hearing to the March 15, 2007 meeting.

MOTION: Maria Conte-Benedict

SECOND: John Urcioli

VOTE: Unanimously accepted.

New Business:

A motion was made to change the April 19, 2007 meeting, to Monday, April 16, 2007.

MOTION: John Urcioli

SECOND: Tim Cronin

VOTE: Unanimously accepted.

Motion to adjourn the meeting.

MOTION: Tim Cronin

SECOND: Maria Conte-Benedict

VOTE: Unanimously accepted.

Respectfully submitted:

Carol Adduce, Planning & Zoning Clerk