VILLAGE OF MONTEBELLO
ZONING BOARD OF APPEALS MEETING
JUNE 19, 2008

The Village of Montebello Zoning Board of Appeals meeting was called to order by the Chairman, John Urcioli at 7:46 p.m. The meeting was held at Village Hall, One Montebello Road in the Village of Montebello, New York 10901 on Thursday evening, June 19, 2008.

PRESENT
John Urcioli, Chairman
Tim Cronin
Edward Bracken
Rodney Gittens
Maria Conte Benedict, sitting by designation

OTHERS
Warren E. Berbit, Village Attorney
Carol Adduce, Clerk

Fran Osei arrived at 8:32 p.m.

Motion to approve the May 15, 2008 minutes.

MOTION: Tim Cronin

SECOND: Rodney Gittens

VOTE: Unanimously accepted.

Executive Enterprises GP
(Empire Executive IX)
Public Hearing

Application of Executive Enterprises GP, 4 Executive Boulevard, Suite 200, Suffern, New York 10901 for variance from the provisions of Article IV, Section 13, Use Group J, Cols. 5,8,10 and 12 of the Zoning Local Law of the Village of Montebello to permit construction, maintenance and use of approximately 96,000 ft. office building. The premises which are the subject of this application are located on the south side of Executive Boulevard approximately 1,500 feet from the intersection of North Airmont Road in the Village of Montebello, which is known and designated on the Ramapo Tax Map as Section 55.07, Block 1, Lot 9 in a LO Zone.

Present Joshua Goldstein, Applicant
Michael Klein, Esq.
William Johnson, Sparaco Engineering
John Anastasion, Warshauer Architects

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

Chairman Urcioli made a declaration that his office is across the street from Executive Boulevard and he has no problem listening to the application and making a decision.

Mr. Klein stated that the applicant has no problem.

The applicant is appearing before the Board for variances from Article IV, Section 13, Use Group J, cols. 5, 8, 10, 12: for Front Yard (required 15 ft. - proposed 13 ft.) ; Side Yard (required 30 ft. - proposed 9 ft.); Rear Yard (required 30 ft. - proposed 11 ft.); and Height (required 35 ft. - proposed 45 ft.)

Mr. Klein and Mr. Johnson made a presentation based upon the appended narrative dated April 24, 2008.

Mr. Anastasion showed a three dimension image of the two buildings taken from the NYS Thruway side. He described the architectural character of what the buildings would look like. Mr. Anastasion explained that the buildings are identical, with front entrances looking towards each other with a common entrance between them. He said that they took the architecture of the existing building and blended it into the new buildings. He said the buildings will have metal panels and non-reflective glass in front and to accentuate the shape of the building there will be a darker tinted glass at the corners.

Discussion regarding the building height.

Chairman Urcioli asked how high the building was from the ground to the tallest point.

Mr. Anastasion stated that it is 45 ft. with an 8 ft. bulkhead, that contains the mechanicals and stairwell, it would be 54 ft., but typically the bulkhead is not counted in the total.

Chairman Urcioli asked what was the footprint of the bulkhead?

Mr. Anastasion stated approximately 200 ft. by 8 ft. high.

Mr. Berbit asked what the practical difficulty would be if one floor was removed from the building in order to eliminate the need for a height variance?

Mr. Johnson explained that if one floor is removed, more square footage would be added to the other floors below and if the footprint was made larger, parking spaces would be lost. He said it would be a drastic change to the layout and there would be a possibility of losing some of the island or parking.

Discussion regarding having one building versus two buildings in order to lessen variances.

Mr. Klein stated that it is a matter of economics. He said they would like to build one building first and rent it out and then build the second one.

Mr. Anastasion stated that it would be easier to get tenants for the smaller buildings.

Discussion regarding the number of handicap parking spaces.

Chairman Urcioli stated that he would like to recommend to the Planning Board that there should be more handicapped parking spaces.

Member Cronin commented that if some of the parking spaces were reduced, mayeb the side yard variance could be reduced.

Mr. Klein stated that the Planning Board was concerned with the number of parking spaces. They wanted to make sure there was enough spaces.

Member Bracken asked what is the percentage of vacancies in the other two buildings?

Mr. Goldstein stated that there is 100% occupancy in the other buildings.

The public hearing was opened to the public.

No one from the public spoke.

Motion to close the public hearing at 8:50 p.m.

MOTION: Edward Bracken

SECOND: Rodney Gittens

VOTE: Unanimously accepted.

Discussion and Decision:

The Board reviewed the criteria for granting a variance. The Board agreed that there was no major impacts, no increase in footprint and no undesirable changes.

Motion to accept the proposed resolution granting Executive GP (Empire Executive IX) variances from the provisions of Article IV, Section 13, Use Group J, Columns 5,8,10,12; Front Yard (required 15 ft. - proposed 13 ft.); Side Yard (required 30 ft. - proposed 9 ft.); Rear Yard (required 30 ft. - proposed 11 ft.); Height (required 35 ft. - proposed 45 ft.) with the following conditions:

1. The Board leaves for the determination of the Planning Board the issue of allowing additional height for the roof top stair and elevator bulkheads, except that it recommends that the total square feet not exceed 250 and height not exceed 9 ft. (exclusive of mechanicals and HVAC)

2. That the Planning Board consider additional handicapped spaces.

3. That the Zoning Board of Appeals considers the relief granted hereby to be final, and should not in the future entertain an application for additional dimensional relief; such as with respect to Phase II (the western most building of the project)

MOTION: Tim Cronin

SECOND: Rodney Gittens

VOTE: Unanimously accepted.

Resolution annexed hereto and made a part hereof.

IN RE: Executive Enterprises GP
CALENDAR CASE NO. 1136

Before the Board of Appeals of the Village of Montebello, at a public hearing held at Village Hall, Montebello, New York, on June 19, 2008, for variances from the provisions Article IV, Section 13, Use Group J, Columns 5,8,10,12; Front Yard (required 15'- proposed 13'); Side yard (required 30'- proposed 9'); Rear Yard (required 30'- proposed 11'); Height (required 35'- proposed 45').

The premises which are the subject of this application are located at Executive Boulevard, on the south side, north of the Thruway and 1500 feet west of the intersection of North Airmont Road in the Village of Montebello, and which is known and designated on the Ramapo Tax Map as Section 55.07, Block 1, Lot 9, in a LO Zoning District.

The Board, upon motion duly made by Tim Cronin and seconded by Rodney Gittens resolved:

WHEREAS, the applicant was represented by Michael Klein, Esq. and the following documents were placed into the record and duly considered:

Application; Narrative; SEQR Negative Declaration dated March 11, 2008; site plan drawings showing the location of the requested variances; Rockland County Planning Department letter dated May 23, 2008, which requested clarification whether a stairwell bulkhead height variance of 3' to 4' was required vs. the 45' limitation, and indicating that review and permitting by the NYS Thruway Authority was needed; Building Inspector's memorandum dated April 25, 2006 having no comment; renderings of the proposed building; and, NYS Thruway Authority letter of May 9, 2008, containing no objections; phasing plan; tentative landscaping plan; and

WHEREAS, the proposed action is an unlisted action under the regulations promulgated pursuant to the New York State Environmental Quality Review Act, and a negative declaration was granted by the Planning Board as Lead Agency on March 11, 2008; and

WHEREAS, a public hearing was scheduled to be opened and was held on June 19, 2008, and testimony of the following persons was duly considered:

For the applicant:
Michael Klein, Esq.
Bill Johnson, Engineer
Josh Goldstein, Owner
John Anastasiou, Architect

No one from the pubic spoke; and

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. It is seeking site plan approval for two office buildings of approximately 96,000 total square feet from the Planning Board versus an approximately 103,000 square feet single building previously approved for the same site. The Planning Board is in the process of reviewing that application, and has issued a negative declaration under SEQRA, allowing this application for variances to move forward.

The subject is located in the LO zoning district, and is part of an integrated series of buildings with cross parking easements. The variances are consistent with the balance of the project, and do not impinge upon same. The change to two, smaller buildings, creates more of an open campus appearance and effect, and the applicant indicates is necessary due to the market such that the building may be phased, thus creating an open space between the buildings filled by a turn around and proposed fountain or sculpture and grassy space which tend to push the buildings, and associated parking more toward the perimeter.

In addition to the balance of the integrated office park, the buildings are bounded on the south by the New York State Thruway, and on the west by property owned by the Archdiocese of New York in the LO-C zoning district. An existing detention pond and open space fills the space between the property to the west and the western most building.

Given the foregoing location and placement of the proposed buildings, the variances are de minimis in impact; and

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 is a planned laboratory office area which is already developed in an integrated way consistent with the proposed development of the subject site. On the south is the Thruway which will not be impacted, and the LO-C district to the west is buffered by a detention basin and open space. The variance will not produce undesirable change.

(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 dimensional variances are needed because of the angled property lines, and are not representative of a need all along the line. Eliminating the need would chop off the lay-out, and force the buildings closer together. The height is consistent with the other buildings, and lowering the buildings would result in more development coverage, which at the proposed height is 48% vs. the permitted 65%.

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

> The variances are not substantial given the overall layout of the project, and its proximity to similar buildings and the New York State Thruway.

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

> As already noted, the subject is being developed consistent with the rest of the project and will not detract from or adversely impact environmental conditions in the vicinity.

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

> The applicant desires to complete the overall project consistent with the buildings in the vicinity and the Village's zoning for the overall site. This desire, plus present market

conditions and the desirability of creating a more open look by splitting the building into two buildings created the difficulty.

NOW, THEREFORE, BE IT RESOLVED, that the application of Executive GP for variances from the provisions Article IV, Section 13, Use Group J, Columns 5,8,10,12; Front Yard (required 15'- proposed 13'); Side yard (required 30'- proposed 9'); Rear Yard (required 30'- proposed 11'); Height (required 35'- proposed 45') submitted herein, is hereby approved subject to the following conditions:

1. The Board leaves for the determination of the Planning Board the issue of allowing additional height for the roof top stair and elevator bulkheads , except that it recommends that the total square feet not exceed 250 and height not exceed 9 ft. (exclusive of mechanicals and HVAC)

2. That the Planning Board consider additional handicapped spaces.

3. That the Zoning Board of Appeals considers the relief granted hereby to be final, and should not in the future entertain an application for additional dimensional relief; such as with respect to Phase II (the western most building of the project)

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 upon final approval of a site plan by the Planning Board which shall be given notice of this determination.

MEMBERS PRESENT:	YEA OR NAY
John Urcioli, Chairman	YEA
Timothy Cronin, Vice Chairman	YEA
Rodney Gittens	YEA
Edward Bracken	YEA
Maria Conte-Benedict, by designation	YEA

Fran Osei (arrived after hearing began)

The Chairman declared the resolution approved and the application approved.

John Urcioli, Chairman

The Clerk is hereby directed to file this resolution and to notify the applicant accordingly.

Motion to adjourn the meeting at 9:13 p.m.

MOTION: Edward Bracken

SECOND: Tim Cronin

VOTE: Unanimously accepted.