

THE REGULAR MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF MONTEBELLO WAS HELD ON THURSDAY, DECEMBER 20, 2012 AT THE MONTEBELLO COMMUNITY CENTER. THE MEETING WAS CALLED TO ORDER AT 7:45 P.M. FOLLOWED BY THE PLEDGE OF ALLEGIANCE.

Present:	John Urcioli	Chairman
	Rodney Gittens	Member
	Alice DiSanto	Member
	Janet Gigante	Member
	James Tanner	Member
	Jack Barbera	Member
Others Present:	Ira Emanuel	Asst. Village Attorney
	Gloria Scalisi	Planning & Zoning Clerk
Absent:	Stan Shipley	Member

Yosef Emuna
96 Viola Road
49.05-11-15
Public Hearing

Application of Yosef Emuna, 129 Grandview Avenue, Monsey, New York 10952, in connection with a proposed re-approval of a two-lot subdivision, for Variances from the requirements of Article IV (Section 195-13), Use group m, of the Zoning Local Law of the Village of Montebello: for proposed lot 1: Column 8 (Side Yard), Required 25' Feet, Proposed 10.6' feet; for proposed lot 2: Column 2 (Minimum Lot Area), Required 50,000 sq. feet, Proposed 38,220 sq. feet; Column 4 (Front Setback), Required 50'feet, Proposed 15.3'feet[Spook Rock Road] 40.3'feet[Viola Road]; Column 5 (Front Yard), Required 50'feet, Proposed 15.3'feet[Spook Rock Road] and 40.3'feet[Viola Road]; to permit construction, maintenance and use of a new single family dwelling on proposed lot 1 and an existing single family dwelling on proposed lot 2. The subject property is located on the north side of Viola Road approximately Zero feet of the intersection of Spook Rock Road in the Village of Montebello, which is known and designated on the Ramapo Tax Map as Section 49.05, Block 1, Lot 15 in a RR-50 Zone.

In attendance are the applicant and applicant's attorney, Mr. Yosef Emuna and Mr. Barry Haberman.

Chairman Urcioli established the posting, publication and mailing legal requirements were met. Chairman Urcioli read the application and the Applicant's narrative, denial letter from the Village Building Inspector, dated November 29, 2012, Building Inspector's memo dated December 20, 2012 and a letter from Rockland County Planning dated December 20, 2012.

Mr. Haberman stated that the current project has been before and approved by the Zoning Board of Appeals in May of 2008. Mr. Haberman stated that the existing house on lot one should not be designated as landmark status due to various factors beyond the control of the Applicant. The house has been abandoned and not used for many years. During that period of time the house has suffered severe damage to the extent that the Applicant does not know if the house can be habitable or to what extent it would take to make it habitable. The existing house pre-dates zoning and requires many variances; if the house is removed the benefit to the community is that a new house can be built without variances and further away from the road to avoid traffic impairment due to sight lines. The second lot is a conforming lot of 50,000 square feet with no variances required. Mr. Haberman stated that if permission were granted, to tear the house down, the new house would require no variances other than the area variance.

Chairman Urcioli questioned the Applicant on the total acreage of the property. The Applicant replied that the property is 96,704 square feet approximately 2.2 acres.

Mr. Ira Emanuel, Assistant Village Attorney, stated that on the plat there is a notation of area attributable to the widening for each lot as well as the total.

Member Tanner questioned the Applicant on whether he will live in one of the houses. Mr. Haberman replied that the Applicant will not live in the houses he is building on spec.

Mr. Haberman stated that the house has been severely damaged due to neglect for years. Mr. Haberman informed the Board that the neglect was not due to the Applicant. Mr. Haberman read and submitted a report, dated December 10, 2012, from Architect Eric Knute Osborn. Mr. Haberman stated that the Applicant submitted the map based on what was approved in 2008 but would prefer not to keep the existing house. The Applicant would prefer to remove the existing house and then go to the Planning Board and present a house that will fit in the building envelope without needing any variances other than the area variance.

The Applicant would like to treat the property as vacant land. Mr. Emanuel stated that the Board should be aware that what the Applicant is requesting is not the same as what was approved in 2008.

Member Gittens stated that the property is slated to be landmarked and would like the Applicant to provide the costs involved in rehabilitating-renovating-restoring the house. Member Gittens would like a cost analysis. If the house is removed, would like the new house to conform to zoning. Mr. Haberman stated that if the house is removed they would build a new house that will conform to zoning.

Member DiSanto questioned the status of the peripheral existing buildings.

Mr. Emanuel read a letter from Rockland County Department of Planning dated December 20, 2012 (copy attached).

Mr. Haberman stated that the primary goal for the Applicant to remove the historic landmark designation from the approval.

Mr. Emanuel stated that there is nothing in the Village of Montebello's Historic Preservation Code which would prohibit the demolition of a designated property if warranted but provides a heightened standard of proof for demolition.

Chairman Urcioli stated that he believes the primary objective of the Applicant is to remove the existing house therefore there is an opportunity to get a better looking house on the corner to help the sight lines.

Member Gittens stated that Board needs engineering evaluations to go along with the costs analysis.

Member Tanner questioned the exact age of the existing house. Member Barbera stated that he read the house was built in 1840.

Mr. Yosef Emuna stated that if the house will be torn down the peripheral building will also be torn down. Mr. Emuna stated that he has had the existing house for sale and no one wants to touch it, all of the inquiries have been to tear the house down and build a new one. Mr. Emuna stated that if the Board approves the house to be torn down, they, the Zoning Board of Appeals, can dictate the size and position of the lots.

Member Barbera questioned the Applicant on the type fuel used to heat the house. Mr. Emuna replied that the house uses gas for heat.

Chairman Urcioli made a motion to open the Public Hearing.

Laurie DiFrancesco, licensed real estate broker for Mr. Emuna, stated that she is marketing the house on a possible subdivision of under one acre of property. The house is marketed not to be removed because at this moment the only agreement in place is to keep the existing house. The house is currently on the market for \$299,999 and the estimates that the broker has received to renovate the house have been in the range of 300-400 thousand. Ms. DiFrancesco stated that it is more expensive to renovate that to build new. Ms. DiFrancesco suggests that the Board perform and on-site visit to the property to see the extent of the damage.

Mr. Emanuel stated that the property appears on a map that was prepared by the county's Historical Society; the map does not make judgments on the structural soundness of a particular piece of property. Mr. Emanuel stated that at the moment it is an old house that may have historic value.

Member Tanner recommended that the Applicant secure and board the house so that it is safe.

Mr. Haberman would like the Board to consider that the house that exists today is not the house that existed in 2008.

Chairman Urcioli stated that if the Board approves the demolition of the house he would like the property lines shifted. Mr. Emuna stated that he would accept the property line in the middle of

the subdivision. Chairman Urcioli stated that first the Board needs to establish whether or not the existing house is salvageable and if it's salvageable the house should be saved.

Mr. Haberman stated that the Applicant has no problems shifting the lot lines.

Chairman Urcioli would the Village Engineer, Martin Spence, to review the house and report back to the Zoning Board of Appeals. Member Tanner stated that he would also take a look at the house and report back to the Zoning Board of Appeals using his expertise as an Architect.

Mr. Arnold Hecht, 162 Spook Rock Road, Montebello, stated the Zoning Board's suggestion to make the corner lot 50,000 square feet is more amenable. The house as it stands causes traffic problems Viola Road and Spook Rock Road.

Member Gittens made a motion to continue the Public Hearing for Yosef Emuna, 96 Viola Road until the next scheduled Zoning Board of Appeals meeting on January 17, 2013, seconded by Member Tanner. Upon vote, the motion carried unanimously

Member DiSanto made a motion to adjourn the meeting, seconded by Member Tanner. Upon vote, the motion carried unanimously. The meeting adjourned at 9:18 p.m.



COUNTY OF ROCKLAND
DEPARTMENT OF PLANNING

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C. SCOTT VANDERHOEF
County Executive

December 20, 2012

Montebello Zoning Board of Appeals
One Montebello Road
Suffern, NY 10901

Tax Data: 49.05-1-15

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M

Map Date: 10/8/2012

Date Review Received: 12/7/2012

Item: *YOSEF EMUNA (M-135B)*

Variances for side yard for proposed Lot 15.1, and lot area, front setback (Spook Rock Road and Viola Road) and front yard (Spook Rock Road and Viola Road) for proposed Lot 15.2 to allow a two-lot subdivision of 2.2205 acres in an RR-50 zoning district. If the spring house is retained on proposed Lot 15.2, the front yard variance will increase.

Northwest corner of Viola Road and Spook Rock Road

Reason for Referral:

Viola Road (CR 74); Spook Rock Road (CR 85), Town of Ramapo, Rockland Community College

The County of Rockland Department of Planning has reviewed the above item. Acting under the terms of the above GML powers and those vested by the County of Rockland Charter, I, the Commissioner of Planning, hereby:

****Recommend the following modifications***

1 The Rockland County Historic Society's Historic Sites and Structures Survey includes the existing dwelling on this site as being historically significant and representative of the Dutch Period. We recommend that the Board or applicant contact the New York State Office of Parks, Recreation and Historic Preservation and the Historical Society to obtain information on the proper procedures for protecting historic resources and what financial incentives may exist for preservation. Any new structures or changes to the site should be supportive and protective of the historic and architectural values of this structure.

If the existing dwelling is not restored, we recommend that the New York State Office of Parks, Recreation and Historic Preservation, the Montebello Historic Preservation Commission or the Montebello Historian be contacted prior to demolition of the structure, regarding the possibility of documenting the historic structure, such as with photographs or other records, before and during demolition.

RECEIVED

DEC 24 2012

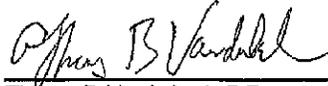
Planning & Zoning Clerk

THOMAS B. VANDERBEEK, P.E.
Commissioner

ARLENE R. MILLER
Deputy Commissioner

YOSEF EMUNA (M-135B)

2 An updated review of the revised subdivision plat must be completed by the County of Rockland Department of Highways and all required permits obtained.



Thomas B. Vanderbeek, P.E.
Commissioner of Planning

cc: Mayor Jeffrey Oppenheim, Montebello
Rockland County Department of Highways
Rockland Community College
Rockland County Historic Preservation Board
Gdanaki Consultants Inc.
Town of Ramapo
New York State Historic Preservation Office

Yosef Emuna

**NYS General Municipal Law Section 239 requires a vote of a 'majority plus one' of your agency to act contrary to the above findings.*

The review undertaken by the Rockland County Planning Department is pursuant to, and follows the mandates of Article 12-B of the New York General Municipal Law. Under Article 12-B the County of Rockland does not render opinions, nor does it make determinations, whether the item reviewed implicates the Religious Land Use and Institutionalized Persons Act. The Rockland County Planning Department defers to the municipality forwarding the item reviewed to render such opinions and make such determinations if appropriate under the circumstances.

In this respect, municipalities are advised that under the Religious Land Use and Institutionalized Persons Act, the preemptive force of any provision of the Act may be avoided (1) by changing a policy or practice that may result in a substantial burden on religious exercise, (2) by retaining a policy or practice and exempting the substantially burdened religious exercise, (3) by providing exemptions from a policy or practice for applications that substantially burden religious exercise, or (4) by any other means that eliminates the substantial burden.

Proponents of projects are advised to apply for variances, special permits or exceptions, hardship approval or other relief.