THE REGULAR MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF MONTEBELLO WAS HELD ON THURSDAY, JULY 18, 2O13 AT THE MONTEBELLO COMMUNITY CENTER. THE MEETING WAS CALLED TO ORDER AT 7:55 P.M. FOLLOWED BY THE PLEDGE OF ALLEGIANCE.

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

Member Gigante made a motion to approve the minutes of February 21, 2013, seconded by Member Tanner. Upon vote, the motion carried unanimously.

Jonathan Schlosser
3 Chip Circle
48.19-1-58
Public Hearing

> Application of Jonathan Schlosser, 3 Chip Circle, Montebello, New York 10901, for Variance from the requirement of Article IV, Section 195-19C, Side and Rear Yard Exceptions, [Required: 4feet; Proposed: 6feet] of the Zoning Local Law of the Village of Montebello to permit construction, maintenance and use of a fence to existing single family dwelling. The subject property is located on the south side of Chip Circle approximately zero feet of the intersection of Birdie Drive in the Village of Montebello, which is known and designated on the Ramapo Tax Map as Section 48.19, Block 1, Lot 58 in a RR-50 Zone.

In attendance was the applicant Mr. Jonathan Schlosser and his wife Mrs. Julia Kaplun

Chairman Urcioli entered into the record application; Narrative; Short Environmental Assessment Form; Building Inspector's Denial Letter dated June 17, 2013; drawing showing the location of the requested variance; Ramapo Police Department Accident Report dated July 5, 2011; Ramapo Police Department Incident Report dated August 24, 2010; photographs of damaged fence; (copy in file).

Chairman Urcioli made a motion to open the Public Hearing.

No one wishing to comment, Member Shipley made a motion to close the Public Hearing, seconded by Member Gigante. Upon vote, the motion carried unanimously.

Chairman Urcioli made a motion to deny the Application of Jonathan Schlosser as presented, seconded by Member DiSanto. Upon vote, the motion carried unanimously.

VILLAGE OF MONTEBELLO
ZONING BOARD OF APPEALS

IN RE: APPLICATION OF JONATHAN SCHLOSSER
CALENDAR CASE NO. 1159

Before the Board of Appeals of the Village of Montebello, at a public hearing held at Montebello Community Center, Montebello, New York, on July 18, 2013, for variances from the provisions of Section 195-19.C of the Zoning Local Law of the Village of Montebello to permit the construction, maintenance, and use of a six foot high fence in a required front yard.

The premises which are the subject of this application are located at 3 Chip Circle, which is on the east side of Chip Circle, and 0 feet south of the intersection of Birdie Drive in the Village of Montebello, and which is known and designated on the Ramapo Tax Map as Section 48.19, Block 1, Lot 58, in a RR-50 Zoning District.

The Board, upon motion duly made by Dr. Urcioli, and seconded by Ms. DiSanto, 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 June 17, 2013; drawing showing the location of the requested variance; Ramapo Police Department Accident Report dated July 5, 2011; Ramapo Police Department Incident Report dated August 24, 2010; photographs of damaged fence; and

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 July 18, 2013, and the testimony of the following persons was duly considered: applicant; Julia Kapln; 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. He wishes to erect a six foot high fence solid vinyl fence around a portion of the perimeter of his property, which is fronted by Chip Circle, Birdie Drive, and Par Road. The portion to be fenced serves as the rear of the

property, but all portions of the fence would be in a required front yard, as defined in the Zoning Code. The new fence would replace an existing four foot high chain link fence.

The parcel has an area of 0.96 acres, with the house centered on the lot.

In support, the applicant has submitted a narrative summary and two police reports. In his narrative, the applicant states that there have been "two separate occasions" when items have been stolen from his backyard, and one occasion when a truck rolled down the hill of Par Road and hit the existing fence. The applicant also has two young children who play in the yard, and he is concerned for their safety.

According to the police reports, there was an accident involving a truck which damaged the fence in July 2011. The accident appears to involve a failure of the parking brake on the truck or a failure of the driver to apply the parking brake. The truck struck a tree, as well. Three photographs showing the damage to the fence were provided. According to the narrative, the fence has not been repaired, leaving a large hole in it. The applicant testified that someone unknown wired the fence together in a way that allows easy passage through it.

The other report involved the apparent theft of two plastic stools, value $89.00 each, from the rear of the property. This incident was reported in August 2010, but it was unclear when the theft occurred. The applicant testified that other incidents have occurred, but were not reported to the police.

Members of the board have performed individual site visits. The area in which the fence is located is lightly wooded. The frontages of nearby houses are generally unfenced, although some backyard areas that are against the road have conforming (4 foot high) chain link fences with landscaping.

The immediate area where the proposed fence is located faces the fronts of homes on Par Road and Birdie Drive. It is not isolated.

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":

Homes in the immediate area generally do not have fencing, except around swimming pool enclosures. Those homes with fencing along the street have conforming chain link fences with landscaping, thus minimizing the visual impact of the fences.

The applicant is proposing a six foot high solid vinyl fence, which is out of character for the area. The Montebello Pines development, of which the subject is a part, was designed as an integrated whole. The homes were built within a short span of time, and have since developed a

certain neighborhood character and aesthetic. This aesthetic is characterized by open lawns and landscaping along the roads. The proposed fence would be an unwelcome intrusion.

(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 applicant could install a new fence of conforming height and/or additional landscaping. The two police reports are of fairly minor incidents. The proposed fence would not have protected the property from the rolling truck any better than did the old fence, and thick landscaping would most likely be an equal or better deterrent to patio furniture thieves. If the applicant truly believes that a six foot high fence is necessary for protection, it could be built outside the required front yard, although that would result in a smaller enclosure.

Security cameras and/or lights on motion detectors would provide an additional measure of security.

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

This Board has almost always regarded overheight fence variances in front yards as being substantial. The difference between a four foot high fence and a six foot high fence is 50%. The adverse aesthetic impact is great, as the Zoning Code, and this Board, want to avoid a "tunnel" feeling caused by high fences on both sides of the road. In this case, the impact is increased by the request for a solid vinyl fence.

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

As discussed above, the proposed fence will have an adverse aesthetic impact on the area.

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

The difficulty is entirely self-created. The applicant could easily find alternatives to placing an overall height fence in a required front yard. Those alternatives are described above.

NOW, THEREFORE, BE IT RESOLVED, that the application of Jonathan Schlosser for variances from the provisions of Section 195-19.C of the Zoning Local Law of the Village of Montebello to permit the construction, maintenance, and use of a six foot high fence in a required front yard, as set forth in the application submitted herein, is hereby denied.

MEMBERS PRESENT:	YEA or NAY
John Urcioli, Chairman	Yea
Alice DiSanto	Yea
Janet Gigante	Yea
James Tanner	Yea
Stan Shipley (by appointment)	Yea

MEMBERS ABSENT:
Rodney Gittens, Vice Chairman
Jack Barbera (alternate)

The Chairman declared the resolution approved and the application denied.

Member Gigante made a motion to adjourn the meeting, seconded by Member Tanner. Upon vote, the motion carried unanimously. The meeting adjourned at 8:20 p.m.