THE REGULAR MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF MONTEBELLO WAS HELD ON THURSDAY, JANUARY 18, 2018 AT THE DR. JEFFREY OPPENHEIM COMMUNITY CENTER. THE MEETING WAS CALLED TO ORDER AT 7:48 P.M. FOLLOWED BY THE PLEDGE OF ALLEGIANCE.

Present: Rodney Gittens Chairman

Janet Gigante Member

Samuel Diaz Member

Jack Barbera Member

Elizabeth Dugandzic Ad Hoc

Others Present: Warren Berbit Village Attorney

Martin Spence Village Engineer

Regina Rivera Planning & Zoning Clerk

Absent: Carl Wanderman Member

Member Gigante made a motion to approve the minutes of August 17, 2017, seconded by Member Barbera. Upon vote, the motion carried unanimously.

**Westrock Industries, Inc. – Public Hearing continued**

**5 Wilbur Road**

**40.16-2-8**

Application of Westrock Industries, Inc., 21 North Middletown Road, Nanuet, New York 10954 on behalf of David Rubinstein, 5 Wilbur Road, Montebello, New York 10901 which was submitted to the Village of Montebello Zoning Board of Appeals for Area Variances; Side Yard (to patio) [Required 25 Feet; Proposed: 10 Feet], and Side Yard (to pool) [Required: 35 Feet; Proposed: 14.3 Feet], column 8 of the Bulk Table, Section 195-13 Use Group h, and Section 195-57 of the Zoning Code of the Village of Montebello, to permit construction, maintenance and use of an in-ground swimming pool on a single family dwelling. The Property is located on the Northeast side of Wilbur Road, approximately 320 feet from the intersection of Haverstraw Road in the Village of Montebello, which is known and designated on the Ramapo Tax Map as Section 40.16, Block 2, Lot 8 in an RR-50 Zone.

In attendance were the applicant Mr. David Rubenstein, the applicant’s attorney Ms. Amy Mele, and Robert Ball, founder and president of Westrock Pool & Spa.

Chairman Gittens read the public hearing notice, established that the posting, publication and mailing legal requirements were met, and noted receipt of a letter from the Village Building Inspector Larry Picarello dated October 27, 2017 (attached) and a memo from the Village Engineer Martin Spence dated November 6, 2017 (attached). Ms. Mele handed the Planting, layout and lighting plans dated July 11, 2017 to Chairman Gittens, noting that they were left out of the application packet in error.

Ms. Mele stated that they were requesting two area variances so that her client can put a pool and a patio on his property which is 1.4 acres. Noting that the backyard is small for the lot size and contains several large, mature trees, Ms. Mele said that the side yard, which is relatively flat with fewer trees, would be a more ideal setting for the pool. Further, the backyard offers the children a safe, grassy place in which to play and can be easily seen from the house. Ms Mele explained that a further reason for the side yard location is that, with the proposed heavy vegetative screening, the pool cannot be seen from the house, which is important to her client for religious and modesty reasons.

With regards to alternate placement options, Ms. Mele said that if moved to the opposite side of the house, they would be too close to the neighbor’s property line, and, as noted before, there is too much visibility in the back yard and the children would not have a safe space in which to play. Ms. Mele acknowledged that the plan indicates removing twelve trees, but explained that the trees are very small, whereas the trees in the rear year are quite mature and very large

Member Barbera said he visited the property and saw that the property in the side yard slopes down to the neighbor’s house. Ms. Mele said that he was correct and asked Mr. Ball to speak to that issue. Mr. Ball acknowledged the slope and said that he could split the grade. If the Board is not satisfied with that degree of slope, he said, the grade can be raised to be even with that of the backyard.

Village Attorney Warren Berbit said that the planting layout plans do not match the pool plan in scale and measurement and noted that if the pool angle were pivoted to be parallel with the property line, one of the variances will be eliminated. Ms. Mele said that the Landscaping Architect, Ms. Blythe Yost, utilized the survey in drawing up her plans, which are only conceptual at this point. Mr. Ball said that the pool survey reflects the true measurements and is accurate. Mr. Berbit said be that as it may, the relationships and shapes of the objects are different.

Mr. Berbit then questioned the safety of the applicant’s children in the pool area if it cannot be seen from the house. Ms. Mele said that there will always be a parent in the pool with the children, and explained that this is Mr. Rubenstein’s summer home so they will only be there sporadically.

Chairman Gittens noted the extensive berm between the driveway and the pool and asked if the pool could be moved closer to the driveway thereby reducing the variance. Ms. Mele said it was a question of privacy and that moving it closer to the driveway would bring it closer to the property line.

Mr. Ball said the pool could be moved four feet toward the house, leaving enough room for the landscaping to grow and increasing the side yard. It would still not be in compliance with the zoning, he said, but it would allow for more buffer space. Mr. Berbit’s idea of making it parallel to the property line would work as well, he said, but added that he would like to keep the pool at the current proposed angle because it will be in line with the road and the patio. Ms. Mele clarified they could reduce the variance request from 14.5 to 18.5 feet by moving the pool closer to the house.

Mr. Spence summarized his review dated November 6, 2017, noting that he asked the applicant to demonstrate why other areas on the property were not better suited for the pool location. It’s flatter in the rear of the house, there are less trees, and typically, pools are located in rear yard areas where there is likely to be more visibility from kitchen and living areas, he said. There are also potential ground water issues because of the slope on the side yard that could cause drainage issues, he added. The applicant only just this evening submitted the landscaping plans so there has been no time to review it and its potential impacts on drainage, good or bad, he said.

Chairman Gittens agreed with Mr. Spence and asked if he would recommend a soil percolation test to see if the seepage pits will work. Mr. Spence said those tests should be performed but only prior to construction, and that this Board should concentrate on the variances. Should they be approved, then such approval can be conditional upon performing these tests. Mr. Ball said that an engineer is usually present to supervise such test the first day they dig the pool. Mr. Spence said the emphasis here should be on whether or not the proposed location is the best location for the pool.

Mr. Berbit asked if there will be an improvement if the pool is moved closer to the house as suggested. Mr. Spence said that moving the pool toward the house and toward Wilbur Road will put it at a higher elevation, which is an improvement regarding optimizing placement, but it doesn’t improve much else.

Chairman Gittens expressed his grave concerns over the fact that the children could not be seen in the pool area from the house. Ms. Mele explained that locating the pool in an isolated way with dense and elaborate plantings such that it will not be visible from the house is to protect the modesty of the men and women who use the pool. The backyard is the only green area in which the children can play and be seen from the house, she reiterated. Mr. Rubenstein put a lot of thought into the proposed pool location, she said, and though it’s more expensive and requires variances, it suits the needs of his family and their religious beliefs.

Mr. Rubenstein confirmed the religious modesty issue, and assured the Board that the children will always be supervised by adults while in the pool and pool area. Toward this end, Mr. Ball confirmed that there will be an automatic closing pool cover able to hold up to 800 pounds, an alarm that senses anyone in the pool, lighting and a fence.

Mr. Diaz asked the size of the tanks. Mr. Spence said there are two 1000 gallon Tanks. Mr. Diaz said he’d like to see details where they will drain. Mr. Spence said, according to comment #S1 of his memo, they recommend overflow come up through the open grate. Mr. Ball added that no overflow pits are required and that there will be additional drain connections to the seepage spits on the south side of the patio.

Chairman Gittens asked if the Board would be willing to approve the application conditionally, and if so would they like to first see the changes as discussed. Member Gigante said that she would like to see revisions before rendering any decision, as did Member Barbera. Member Dugandzic said that a revision wouldn’t change her opinion of the application. Member Diaz said he would like to see the changes, especially if they were leaning towards approval, then asked what the next step would be after approval. The Planning Clerk noted that, should the variances be granted, the applicant would have to apply for a land disturbance permit, to be approved by Mr. Spence, and then a building permit. Ms Mele asked if they could submit the land disturbance permit in advance without Board approval.

Mr. Berbit asked Mr. Spence if he was amenable to conditionally approving the land disturbance application subject to the Board possibly taking action at the next meeting. Mr. Spence said he would not mind getting it in advance, then stressed the fact that this Board ultimately wants to see a greater distance from the property lines and the possibility for landscaping between the pool and the property line. Mr. Ball Said that he will submit a revised plan with a landscaping plan by early February, and assured the Board that Ms. Yost’s landscaping plans will be based upon the Engineer’s revised pool plan.

Chairman Gittens agreed with the rest of the Board and added that the revised numbers should be reflected in the bulk requirements.

Chairman Gittens opened the public hearing.

Mr. Loren Ware, 10 Wilbur Road, Montebello said that he attended this meeting to see the proposal and then introduced himself to his new neighbor.

In the interest of full disclosure, Mr. Berbit told the Board that the Village Board approved requested changes to Wilbur Road in association with Mr. Ware’s three-lot subdivision at 10 Wilbur Road.

Member Gigante made a motion to adjourn the public hearing to the February 15, 2018 Zoning Board of Appeals meeting, seconded by Member Barbera. Upon vote the motion carried unanimously.

Member Gigante made a motion to adjourn the meeting February 15, 2018, seconded by Member Barbera. Upon vote the motion carried unanimously.

The meeting adjourned at 8:47 p.m.