

THE REGULAR MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF MONTEBELLO WAS HELD ON THURSDAY, DECEMBER 17, 2020 ON ZOOM. THE MEETING WAS CALLED TO ORDER AT 7:03 P.M. FOLLOWED BY THE PLEDGE OF ALLEGIANCE.

Present:	Rodney Gittens	Chairman
	Jack Barbera	Member
	Elizabeth Dugandzic	Member
	Janet Gigante	Member
	Carl Wanderman	Member
	Ezra Bryan	Ad Hoc
Others Present:	Alyse Terhune	Assistant Village Attorney
	Regina Rivera	Planning & Zoning Clerk

Absent:

Member Wanderman made a motion to approve the minutes of October 15, 2020, seconded by member Barbera and upon vote all were in favor.

**Montebello Gateway, LLC, PO Box 782, Monsey, NY 10952 – PUBLIC HEARING
34 N. Airmont Road
55.07-1-3**

Application of Montebello Gateway, LLC, PO Box 782, Monsey, NY 10952 for 34 North Airmont Road, Montebello, New York 10901 which is submitted to the Village of Montebello Zoning Board of Appeals for area variances for: Buffer to Airmont Road [required 50 feet, proposed 23 feet]; Ingress/Egress within 300 feet of residential district [required 300 feet, proposed 99 feet]; Maximum Height [required 30 feet, proposed 36 feet]; Floor Area Ratio [required .20, proposed .26]; Front Setback [required 75 feet, proposed 56.8 feet]; and Development Coverage [required 50%, proposed 52.8%]; Floor area ratio [required 0.20 proposed 0.26]. per Sec. 195-87.3(A), Sec. 195-9 Use Table for LO-C District, Column G, and Sec. 195-13 Bulk table, Use Group L of the zoning code of the Village of Montebello. The Applicant is proposing the construction of a 3.5 story, 50,000 square foot medical office building with 253 parking spaces. The parcel is located at 34 North Airmont Road, on the northwest side of Airmont Road at the intersection of Montebello Road in the Village of Montebello, which is designated on the Ramapo Tax Map as Section 55.07 block 1 Lot 3 in the LO-C zone.

The applicant was last before this Board on October 15, 2020 and has requested an adjournment to the January 21, 2021 Zoning Board of Appeals meeting.

**Aron Bistrizky, 160 Spook Rock Road, Montebello, NY—PUBLIC HEARING
49.05-1-12**

Application of Aron Bistrizky of 160 Montebello Road, Montebello, New York 10901 which was submitted to the Village of Montebello Zoning Board of Appeals for variances for: Front yard [required 50 feet, proposed 9.6 feet]; Side setback [required 30 feet, proposed 23.1 feet]; Total side setback [required 75 feet, proposed 55.7 feet]; Side yard [required 25 feet, proposed 9.5 feet]; Rear yard [required 25 feet, proposed 10.4 feet]; Development coverage [required 20%, proposed 34%]; and south side yard [required 25 feet, proposed 16.8 feet] as per Sec. 195-13 Bulk Table, Use Group h, columns 5, 6, 7, 8, 10, and 13,

and Sec. 195-17 of the zoning code of the Village of Montebello. The Applicant is proposing the construction of an addition to a single-family dwelling with a covered dining and lounge area, an in-ground pool, a sports court, and a parking area. The parcel is located at 160 Spook Rock Road in the Village of Montebello, which is designated on the Ramapo Tax Map as Section 49.05, Block 1, Lot 2 in the RR-50 Zone.

Present were the Applicant, Aron Bistritzky, his attorney, Paul Baum, Engineer Rachel Barese of Civil Tec Engineers, PLLC and Landscape Architect Blythe Yost of Yost Design.

Chairman Gittens read the application, established that the posting and mailing were completed, and read the materials into the record.

Ms. Barese explained that the property, as it now exists, is over the permitted development coverage and that any improvements would require a variance. A comprehensive storm water protection plan (SWPP) was developed to treat runoff and to mitigate any drainage impact on the neighbors, noting that surrounding neighbors are not in direct proximity to the work being done. Chairman Gittens asked if the site plan was also presented to the Village engineer. Ms. Barese said it was presented to the Building Inspector to trigger a denial letter and this ZBA application and that only the SWPP was reviewed by the engineer which will continue to be reviewed by him throughout this process.

Chairman Gittens asked about the rain garden. Ms. Barese explained that rain gardens are a green infrastructure practice that serve as small bio retention systems that mitigate roughly ninety percent of the runoff during small rain events. They are attractive and can be incorporated into the overall design, and, in addition to providing retention, filter and clean the water in accordance with New York State DEC treatment practices.

Chairman Gittens wanted to know more about the proposed parking on the south side, noting that the existing parking should be sufficient for one family. Ms. Barese explained they are designing it as asphalt, that the original plan was to replace the asphalt with pervious pavers to reduce the development coverage, but the village does not agree and the Building Inspector deemed it inadequate. If the Applicant later decides to use pervious pavers they may do so, but either way asphalt and pervious pavers both count toward coverage, she said. Ms. Terhune added for the record that the village made the same determination on the pervious pavers for other properties as well and is not something that was decided just for this proposal.

Chairman Gittens suggested it remain grass until they decide to use it to reduce the coverage variance. Ms. Barese said that is their intension until the need arises but felt it better to present it now so an additional appearance before this Board is avoided. In any case, they can never go below the development coverage because the property is already non-conforming. If the parking area were removed, the development coverage would be reduced to 31% with only a 2.8% variance reduction, she said. Chairman Gittens asked if the parking area will be used frequently, noting that there is already a very long driveway along which visitors can park. The Applicant, Mr. Bistritzky, agreed the driveway is long, but also narrow and one would be forced to drive on the grass should cars be parked there. Further, the existing parking is not ideal and with six children, some of whom are driving, any extra parking is welcome, he said.

Ad Hoc Member Bryan asked how the proposed parking on the south side would impact the corner utility box. Ms. Barese said they do not plan to relocate the box and they would be sure to avoid it.

Member Gigante asked if trees will be removed to make room for the parking area in front of the house on the northwest side. Ms. Barese said that one tree will need to come down because it is in the center of the proposed parking area, but that they will do their best to leave the rest untouched.

Member Wanderman asked the number of cars that the additional parking areas will hold. Ms. Barese said that, depending on the make and model of the cars, the northwest area at 33 feet can fit about four cars maximally, and the south parking, at 30 feet and can accommodate a maximum of 3 cars.

Chairman Gittens, in trying to understand the placement of the sports court, suggested it can be turned 90 degrees which will eliminate the front yard variance while keeping further away from the nearest neighbor, though it would result in a loss of one or two trees. Ms. Barese said that since that neighbor is a fair distance away, they opted to save the trees. Mr. Baum said if the sports court were reoriented it would still require a variance, albeit a lesser one. It will sit on grade and the neighbors won't see it in any case, he said.

To that point, Landscape architect Blythe Yost explained that the trees located near the proposed sports court form a natural hedgerow for privacy. Chairman Gittens asked if the impervious surface or the court would damage their root system. Ms. Yost said the possibility of damage is reduced because the trees, old hemlocks, are small and the sports court area is minimal. Chairman Gittens again suggested the court could be re-oriented and then supplemented with additional buffer trees.

Mr. Wanderman wondered what sort of sports court is proposed. Mr. Bistritzky said it will mainly be used for basketball and hockey. Mr. Wanderman asked if there was any commercial prospect or if it will be solely for the family's use. Mr. Bistritzky said will be for his family and friends only. Member Gigante asked if there will be lighting for the court. Ms. Barese said that no lighting is proposed and that it will be used only in daylight.

Chairman Gittens asked if the dining lounge would replace the existing deck and suggested that the area be reoriented so the spa would be in a more open area and the variance would be decreased. Mr. Baum said the only thing that requires a variance is the roof of the covered area which overhangs 6.9 feet into the existing setback. Ms. Yost said the primary goal of the Applicant is to have the spa used as much as possible, which is why it is placed under the overhang. We believe the proposed location is ideal, and if the spa were to be relocated away from the house it would straddle the fence around the pool.

Ms. Terhune said the Board may be interested in seeing architectural plans or renderings to help them visualize the layout and elevations. Ms. Yost said they are not yet available but that she will discuss with the Applicant about creating them sooner rather than later.

Chairman Gittens said that, while he likes the overall proposal, he would like the plans to be tweaked to lessen the variances to avoid the risk of setting a precedent. Mr. Baum said that the parcel is in a very secluded area that backs up against the woods behind a very large lot with frontage on Viola Road. He said he believed the development will not disturb any neighbors nor will it impinge on the character of the neighborhood or on the neighboring properties. The side yard encroachment is not significant given the remoteness of the house. The zoning codes and setbacks are arbitrary, and the ZBA exists to grant relief on projects with little or no impact, he said. Chairman Gittens maintained that tweaking the plans and moving the spa to an open space would reduce any haphazard development. Mr. Baum said that these plans were reviewed by the Village Building Inspector and Engineer and there is nothing haphazard about the proposal.

Ms. Terhune asked if there was any documentation by either Village official. Mr. Baum said there is nothing official save for the denial letter from the building inspector triggering this application and some correspondence on the pervious pavers. He noted that the abutting and surrounding neighbors submitted letters stating they had no objections to this application (copies on file).

Member Gigante asked if any of those supporting letters were from the neighbor residing on the parcel in front [158 Spook Rock Road]. Mr. Baum said that neighbor had not submitted a letter but that there is a large setback from their house to the front lot line of 160 Spook Rock Road and that the area of development is at grade and cannot be seen from the road.

Ms. Terhune asked to hear more about the proposed house extension next to the terrace. Ms. Barese explained the layout further and said that the addition to the terrace is in the rear which falls within the setbacks. Member Gigante said that, though a variance is not needed for the extension itself, it contributes to the development coverage, which was not mentioned in the building inspector's denial letter. Ms. Barese said it will have some impact there, but as mentioned earlier, the property is already non-conforming, and the terrace calculations are included in the overall development. Chairman Gittens noted that it is included in the bulk table on the plans under "Dwelling" which includes the outdoor covered room, the addition, and the terrace).

Chairman Gittens stated that the pool equipment and generator located in the rear yard could be moved closer to the house. Member Barbera agreed, noting that generators are not quiet and that noise can very well disturb the neighbors. Ms. Barese said the generator will be 200 feet from the nearest neighbor and if it is moved closer to the house it will be near the neighbor in front. Chairman Gittens asked if there is any proposed sound attenuation. Mr. Bistrizky said he intends to hide it behind the pool equipment with a barrier to screen it from view and that the proposed location is the furthest from any house in the area. Mr. Baum said they will explore whether moving the generator closer will reduce the variance.

Member Gigante made a motion to open the public hearing, seconded by Member Wanderman and upon vote all were in favor.

Cindy Fleischer, 9 Sycamore Lane, Montebello, NY said she lives directly behind the parcel in question and said that lighting and noise around the sports court and pool are potential problems. Sound especially carries across real property lines and through the woods, she said, adding that she can already see lights from the house through the woods. Ms. Barese said the generator is 650 feet from Ms. Fleischer's house. Ms. Fleischer said she hears a lot through the woods. Member Dugandzic noted that no lighting is proposed for either the pool or the court.

Ms. Terhune said there was an Application before this board not too long ago for a tennis court for which, after extensive review and public opinion, the proposed lighting was removed. This Applicant is not proposing any lighting and this Board can make it a condition of the resolution that there will be no lighting. Likewise, this Board has a lot of discretion in requiring dark sky lighting, lumens, baffling and the like, and it has been done in the past, she said.

Sonny Gong, 158 Spook Rock Road, Montebello, NY said that their property is right next to the "flagpole" of Mr. Bistrizky's lot and there are two concern. First, she asked if there will be any vegetative buffer between her property and the proposed parking area closest to her house. Ms. Barese said the parking does not go to the property line and that there will be almost sixteen feet of green space between Ms. Gong's lot and the parking. Ms. Gong said her second concern was the pond behind the house [at 110 Viola Road] and wondered if there will be negative environmental impacts, particularly upon the wildlife.

Member Gigante asked if the pond ever flooded. Ms. Gong said only when it rains heavily, and the stormwater runs from the pond down to Mr. Hecht's property [at 162 Spook Rock Road]. Chairman Gittens noted that there is already a non-conformance with more impervious surface proposed and wondered how much will be contained by the rain garden. Zero net runoff is the goal, and I would like to know more about storm water mitigation, he said. Ms. Terhune said it was within the Board's prerogative to request the Village Engineer to review and comment on this application and the Board agreed. The Zoning Clerk said she will send the plans to Village Engineer Martin Spence for comment.

Ms. Gong's husband, Xiaobiao Xin Gong, said that they share the green space with their neighbors at 160 Spook Rock Road and that there are very few trees between his lot and theirs and was concerned about the visual impact the sports court will have, especially since many trees were removed. Member Gigante asked if they were removed recently and Mr. Gong said they were taken down last year. Mr. Bistritzky countered that brush was cleared and removed but no trees were taken down, and that they are proposing more trees between the property lines. Chairman Gittens said that the trees do not seem to buffer the Gong's property which could be another reason to rotate the court 90 degrees.

Ad Hoc Member Bryan noted inconsistencies with the tree removal and landscape design and asked the Applicant to elaborate on the buffer between the sports court and the Gong's property line. Ms. Yost said there are no planting plans for that spot because there are existing trees, mainly hemlocks. Member Gigante noted that Hemlocks are dying. Ms. Yost said that these are not dead but have been pruned by the deer and that the disease that was killing the Hemlocks has subsided. Ad Hoc Member Bryan said the plans show a tree in the middle of the proposed pool and Ms. Barese said that will be amended.

Chairman Gittens again asked that the Applicant consider rotating the court 90 degrees to allow adequate buffering and to decrease the side yard variance.

Member Bryan the Applicant how the addition will be used as the use was not labeled on the plans. Mr. Bistritzky said it will be a great room for living space and will not drive a need for more parking. Chairman Gittens asked that the plans be amended to address that issue and that they be modified to address all that was discussed.

No one else wishing to speak, Member Gigante made a motion to adjourn the public hearing, seconded by Member Barbera and upon vote all were in favor.

Mr. Baum said the Applicant wishes to appear at the January 21st meeting and that he will request an adjournment if they are not ready. Ms. Terhune asked him to peruse the Village Code for parking, Sec. 195-29A. Member Gigante said she wanted definitive answers on storm water mitigation and asked if that was part of an environmental assessment. Ms. Terhune said this is a Type II action under SEQR and therefore not subject to an environmental review. Mr. Barbera asked for specs on the generator for the next meeting adding that he had no intension of voting in favor of the proposal if lighting is proposed.

Member Wanderman made a motion adjourn the meeting at 8:37 p.m. seconded by Member Barbera. Upon vote, all were in favor.