

THE REGULAR MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF MONTEBELLO WAS HELD ON THURSDAY, APRIL 15, 2021 ON ZOOM. THE MEETING WAS CALLED TO ORDER AT 7:00 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:

Minutes Approval

Member Wanderman made a motion to approve the minutes of March 18, 2021, seconded by Member Dugandzic 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: 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 .24] per 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, 46,400 square foot medical office building with 227 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.

Present were the Applicant, Berel Karniol, and his attorney Paul Baum, along with engineers Joseph Nyitray of Brooker Engineering, and traffic engineer Harry Baker of Maser Consulting.

Chairman Gittens noted that the public hearing was closed at the last meeting on March 18th, and that the only new submissions were the GML review dated March 24, 2021 and a response narrative to that GML from the Applicant dated April 15, 2021.

Mr. Baum gave an overview of the project and explained that the building was scaled back to eliminate three variances, for development coverage, front set-back on Airmont Road and the buffer to Airmont Road. The Applicant is requesting three overrides of the GML review which, contrary to the earlier review dated August 17, 2020 disapproving of the project, now offers recommendations.

Mr. Baum stated that the remaining variances, for height, FAR and a driveway within 300 feet of the residential zone, are appropriate and that the building is in character with the surrounding commercial buildings and in conformance with the 2017 Village Comprehensive Plan.

Three overrides of the March 24, 2021 GML review are being sought, he continued:

Comment # 1 recommends a further reduction in height and FAR before the Planning Board should grant any waivers. Mr. Baum noted that the Planning Board already granted waivers at the March 9th meeting, and that the building size and the FAR were already reduced as much as is feasible. After working with the Planning Board on several versions of the building, he explained, this is the Building they agreed should be developed.

Comment #3 requires compliance with the Rockland County Highway Department letter of May 13, 2020 in which they ask for a gratuitous dedication of a portion of area in front of the property along Montebello Road. That designated street and property line are one and the same, he said, adding that any further widening would be inconsistent with the requirements of the Historic and Scenic Roads Overlay District (HSROD). The Applicant is requesting an override from both the Planning Board and this Board because none of that property lies within the designated right of way.

Comment #7 requires the Applicant to conform to the Tallman Fire Department letter of July 31, 2020, specifically their request to provide access through Montebello Road. Mr. Baum said that would be an encroachment through the HSROD, something the Planning Board and consultants equally oppose, which is why the building is oriented entirely to Executive Blvd, with two access points on that road and enough room for fire truck turnaround and access. Mr. Baum clarified that they had no objections to the rest of that letter and that the building will be fully sprinklered and standpipes will be provided in stairwells as required by NYS and Fire building codes.

Mr. Baum explained that they were not seeking an override of Comment #2 in which the county recommends a re-evaluation of the project and its potential cumulative impacts on infrastructure and traffic and to consider further reductions. It doesn't seem they are imposing any requirements, rather they are advising that the village consider all these issues, he said. All these environmental reviews have been done by the Planning Board under SEQR, and a Negative Declaration of Environmental Impact (Neg Dec) was issued after all cumulative regional and environmental impacts were reviewed, he said, adding that asking the ZBA to do the same is simply unwarranted.

Ms. Terhune said she was confused by Comment #2 as well and offered that the last sentence appears to impose a general Village-wide mandate to review and re-consider. The Board can offer an override just to be safe if they so choose, she said. Mr. Baum added that they were not seeking to avoid any responsibility, only that they feel this comment is strange and redundant. He then stated that there were no objections to the rest of the comments of the GML review, noting that the Applicant will request the same overrides from the Planning Board.

Ms. Terhune recommended that the Board adopt the concurring declaration to close SEQR and then have a discussion of the overrides and the application. Mr. Baum said this is a coordinated SEQR review with the Planning Board, whose Neg Dec stands and that this Board shouldn't need to do anything other than acknowledge it was done. Ms. Terhune said she usually has the Board acknowledge the SEQR regulations and that it is important for them to accept and close the loop.

Member Wanderman made a motion to accept the Neg Dec issued by the Planning Board on March 9, 2021, seconded by Member Barbera and upon vote, all were in favor.

Chairman Gittens said that an override of comment #1 seems plausible since the proposed building is not out of character with surrounding buildings. Member Bryan noted that the comment included the reduced number of required loading berths. Mr. Baum reminded the Board that the Planning Board already granted the waivers, which included this requirement. Chairman Gittens asked for an explanation for that reduction. Mr. Baum said that loading berths are designed to accommodate large tracker trailers, and that only one is needed by the Applicant because the office building does not require deliveries of that magnitude. An area was set aside to accommodate smaller delivery vehicles, he said, adding that the Planning Board is fine with it since they issued the waiver.

Chairman Gittens asked if there will be medical practices in the building and if so, how the medical waste will be handled. Mr. Baum said that approximately half of the building will be comprised of medical practices and that these offices usually have lock boxes outside their entrances for medical waste that is picked up by designated transport companies.

Member Gigante made a motion to override comment #1 of the Rockland County Planning Department's March 24, 2021 GML review, seconded by Member Wanderman and upon vote the motion passed unanimously.

Member Barbera made a motion to override Comment #2 of the Rockland County Planning Department's March 24, 2021 GML review seconded by Member Dugandzic and upon vote the motion passed unanimously.

Regarding comment #3 requesting a gratuitous dedication of parts of Montebello Road by the County, Ms. Terhune noted that the County could, if it wanted to, condemn portions of properties to expand the road and in her opinion, such a dedication would destroy Montebello Road. Mr. Baum said the Rockland Highway Department believes that part of the property line is within the right of way and so the dedication would conform with their official map. In this case, however, they already have a full sixty feet on Montebello road so there is no logical reason for them to encroach into the property and the buffer which the Applicant is working hard to maintain. If the County someday needs the space, they will just take it, but we certainly will not voluntarily give it to them, he said.

Member Dugandzic made a motion to override comment #3 of the Rockland County Planning Department's March 24, 2021 GML review, seconded by Member Wanderman and upon vote all were in favor.

Discussion about Comment #7 ensued in which the County requires the Applicant to comply with the recommendations contained in the Tallman Fire Department's letter of July 31, 2020. That letter issued to the Planning Board recommends that the building be fully sprinklered, that standpipes be provided in stairwells and that there be entry from both Executive Boulevard and Montebello Road.

Mr. Baum said that they have no objections to sprinklers and standpipes should the New York State building code require them, but the Applicant as well as the Planning Board and CDRC consultants object strongly to an access road through Montebello Road. Fire truck maneuverability has been demonstrated and accepted by the Tallman Fire Department and there are two points of access from Executive Boulevard. We are seeking an override because maintaining the buffer on Montebello Road is everybody's preference and has been from the beginning, he said.

Chairman Gittens disagreed stating that this is a safety issue. Mr. Baum repeated that there are no issues with other safety measures, only with access going through the buffer on Montebello Road

on the Historic and Scenic Road District. Chairman Gittens asked if that letter from Tallman was the latest and Ms. Terhune said it was and there has been no subsequent correspondence from them. Chairman Gittens said that the review is nine months old and said perhaps there could be more comments. Mr. Baum said that the fire department did review the plans thoroughly and accepted the truck maneuverability and the ingress/egress points on Executive Boulevard. Ms. Terhune said that one of the first plans the Applicant brought to CDRC showed an access road onto Montebello Road, and that committee suggested redesigning specifically to eliminate that road in the HSROD.

The Board remained adamant that this is a safety issue. Mr. Baum said that if they don't override Comment #7 the whole proposal would need to be redesigned and a curb cut would be added onto Montebello Road. Ms. Terhune agreed and said that the Planning Board has made clear they do not want that encroachment. Mr. Baum added that they would be happy to go back to the Tallman Fire Department for further comment. Member Gigante asked about the access points on Executive Boulevard. Traffic consultant Harry Baker said that there are two access driveways on Executive Boulevard which is adequate and that a road to Montebello Road would adversely affect traffic patterns on that Road.

Ms. Terhune explained that this is a Planning Board site plan issue, not a bulk issue, and the Tallman FD comment is really about truck maneuverability in general and not about specifically about access on Montebello Road. If the Planning Board fails to override the comment, then they cannot approve the project and the Applicant would have to redesign the whole plan. Chairman Gittens said he would prefer to table this vote until after the Planning Board passes the override and the rest of the Board agreed.

Ms. Terhune reiterated that it is a Planning Board issue and not a ZBA issue. Chairman Gittens asked if they could partially override the comment, expressing his concern that the comment requires the Applicant to sprinkler the building and install standpipes in stairwells which are vital safety measures. Ms. Terhune said there can be no partial overrides because the comment includes the whole letter from Tallman Fire Department and not just certain comments within the letter.

Chairman Gittens asked if they could defer the override to the Planning Board. Ms. Terhune said no matter what, this Board must vote on the GML overrides at some point otherwise they cannot grant any variances. Mr. Baum suggested that this Board condition the override on the Planning Board's override. Ms. Terhune said she would not recommend that course of action because it would render granted variances vulnerable to another Board's actions.

Chairman Gittens and the Board remained firm in their decision to table the override vote. Mr. Baum said that he will go to the Planning Board in May for their overrides and feedback, solicit an updated review from the Fire Department and return to this Board on May 20th.

Member Wanderman made a motion to defer the application to the next meeting, seconded by Member Gigante and upon vote, all were in favor.

Member Dugandzic made a motion to adjourn the meeting at 8:30 p.m., seconded by Member Wanderman, and upon vote, the motion passed unanimously.