

A MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF MONTEBELLO WAS HELD ON THURSDAY NOVEMBER 17, 2022, AT THE DR. JEFFREY OPPENHEIM COMMUNITY CENTER, 350 HAVERSTRAW ROAD, MONTEBELLO, NY 10901. THE MEETING WAS CALLED TO ORDER AT 7:00 P.M. FOLLOWED BY THE PLEDGE OF ALLEGIANCE.

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

Member Dugandzic made a motion to approve the meeting minutes of September 15, 2022, seconded by Member Gigante and upon vote, the motion passed unanimously.

**38 Coe Farm Road**  
**Naftali Brachfeld**  
**48.07-1-8.3**

Application of Naftali Brachfeld, 38 Coe Farm Road, Montebello, NY which was submitted to the Village of Montebello Zoning Board of Appeals for variances for: Side yard [required 25 feet, proposed 14.5 feet]; and Pool side yard [required 25+10 feet, proposed 34.2 feet] as per Sec. 195-13 Bulk Table, Use Group h, column 8 and Sec. 195-57D of the zoning code of the Village of Montebello. The Applicant has installed a pool and patio pavers that encroach into the required side yard. The parcel is located at 38 Coe Farm Road in the Village of Montebello, which is designated on the Ramapo Tax Map as Section 48.07 Block 1 Lot 8.3 in the RR-50 Zone.

Chairman Gittens read the application and submissions into the record which included

- ZBA application dated September 14, 2022
- Narrative summary dated September 23, 2022
- A final as-built survey for Coe Farm Road from Anthony R. Celentano PLS dated July 12, 2022, and revised September 7, 2022
- GML review from Rockland County Planning dated November 14, 2022

Present were the Applicant's contractor Hershy Fisher and his attorney Amy Mele. Ms. Mele explained that the pool was installed just shy of the required setback of 35 feet, the result of an on-site error. Pavers were installed and bumped out further to support a pergola and are only 14.5 feet away from the property line, a greater infraction than that of the pool since the required setback is 25', she said, adding that there is an attractive solid fence and plantings that fortunately obscure the view of the patio. Ms. Mele said they are hoping that the ZBA will understand that there is no impact to the neighborhood, no complaints from the neighbors, that the area is fenced off and secluded and that the conditions are inconsequential so as not to set any precedents. She noted too that the Rockland County Department of Planning recommended an approval in their GML review dated November 14, 2022, and that, aside for a small correction to the narrative, all comments are acceptable and no overrides are being requested.

She then invited the Board to perform a site visit to see for themselves how small the encroachment is before the next meeting.

Chairman Gittens asked if the work was performed under a Building Permit and Ms. Mele said it was, and that the issues were discovered when the as-built survey was submitted for final inspection. Chairman Gittens asked if the plans submitted for the building permit showed compliance. Ms. Mele said they did and that there was an error made during construction, clarifying that the issue was flagged by the Village Engineer during his inspection to close the Land Disturbance permit.

Chairman Gittens took issue with the fact that the pavers were not shown on the plans submitted for the Building Permit, reasoning that if they had been included, the permit would've been denied pending resubmittal. Ms. Mele agreed the plans do not match those approved for the building permit and that some of that has to do with additional landscaping. She explained that Mr. Fisher was focused on lot coverage as opposed to the setback and made an error in construction. She said they understood that the pavers are not pervious and that they do encroach but that they hoped to not have to rip up the lovely design.

Chairman Gittens said that this is a lesson learned for the contractor, and that when any layout is altered it must be submitted to the Building Department. Field change omissions are risky and a detriment to the client, he added. Ms. Terhune agreed with the Chairman and noted that even pervious pavers count toward lot coverage, which isn't in the code. Ms. Dugandzic, to Ms. Mele's point, said that the neighbors do not have a problem with it mainly because they have not yet been notified about the ZBA application. She added that she liked and appreciated the landscaping on the exterior of the fence because it was considerate to the neighbors.

Member Bryan asked if the pergola was included in the original design plans and if there are footings to support it. Ms. Mele said all this will be clarified for the next meeting. Member Bryan asked if the footings for the pergola were inspected and Mr. Fisher said that the footings are 36" deep as per the code and that they were inspected before the pavers were installed. Ms. Mele reminded them again that it was the village Engineer who discovered the encroachment. Member Gigante wanted to know what materials comprised the pergola and was told that it was cast aluminum.

Chairman Gittens asked about the shed. Mr. Fisher said it was 12' x 18', lined up with the pool and was included in the plans for the building permit. The Chairman instructed Mr. Fisher to confirm the size of the shed and to add it to the survey. Member Bryan noticed an unidentified structure on the survey to the rear of the property and was told that it is a generator on a concrete pad that was properly permitted. The Chairman instructed him to identify that on the survey and wanted to be sure it was included in the development coverage calculation. Ms. Mele confirmed it was. The Chairman reiterated that everything should be included on the survey for the December meeting, right down to the play structure. Ms. Mele said that the survey will be updated and the narrative will be amended for the next submission.

No one having further questions, Member Bryan made a motion to set the public hearing for the December 15, 2022, ZBA meeting. Member Gigante seconded the motion and upon vote, all were in favor.

**1 Plum Hill Drive**  
**Arnold Heinemann, A&B Improvements LLC**  
**1 Plum Hill Drive**  
**49.05-1-42**

Application of A&B Improvements LLC on behalf of David Berger, owner of 1 Plum Hill Drive, Montebello, NY which was submitted to the Village of Montebello Zoning Board of Appeals for variances for: Front setback [required 50 feet, proposed 36.7 feet]; Front yard, [required 50 feet, proposed 36.7 feet]; Development coverage [required 20%, proposed 22%]; and Minimum off-

street parking [required 2 spaces, proposed 1space] as per Section 195, attachment 2, Row h , and Section 195-17 of the zoning code of the Village of Montebello. The parcel is located on the south side of Plum Hill Road west of the intersection of Sycamore Lane in Zone RR-50.

Present on behalf of the homeowner were the Applicant Arnold Heinemann of A&B Improvements, LLC, Engineer Rachel Barese of Civil Tec Engineering & Surveying, and attorney Ryan Karben.

Chairman Gittens read the application into the record and noted the following submissions:

- A narrative from the Applicant Arnold Heinemann, President of A&B Improvements, LLC dated October 27, 2022.
- Applicant review form dated October 27, 2022
- A permit denial letter from Building Inspector Adam Gordon dated September 30, 2022
- Building permit plan for 1 Plum Hill Drive from Rachel Barese, P.E. of Civil Tec Engineering dated September 18, 2017, latest revised date of June 2, 2022. (page 1 of 1)
- Floor plans and elevations from Eric Knute Osborn, Architect, entitled “The Berger Residence” and dated May 20, 2022, pages A-100, A-101, A-200, A-201

Mr. Karben gave an overview of the proposed addition on the 51,000+ square foot parcel and stated that the requested bulk variances are not significant. Of note is that the proposed one-car garage fulfills the off-street parking requirement but pushes the project slightly over the maximum development coverage. Mr. Karben said the chosen location of the addition is the most logical in terms of access and because the pool and the patio take up much space on the other side of the house. They tried to minimize the variances as much as possible, but any other location would result in greater impacts on required setbacks, he said. It’s a large, odd-shaped lot left over from the subdivision and we feel that this design best suits the client’s needs while keeping the variances to a minimum. All Drainage will be compliant and the design will not be anything other than what is typical throughout the village. Mr. Karben said he was looking forward to the design input from the Board as well as from members of the public.

Ms. Barese explained that the lot is a uniquely shaped corner lot with an existing home that restricts other possible locations for the addition. Chairman Gittens asked if the garage could be moved back by about 50 feet and turned 90-degrees so that it is parallel with the deck thereby reducing that setback variance. Ms. Barese said she could talk with the architect and the homeowner to see how they would feel about such design changes. Ms. Terhune asked what the topography was and Ms. Barese said that the lot was fairly flat but not consistently so. Mr. Karben said that the architects work on these plans for months and asking them to make changes is difficult but promised to talk with them about the viability of alterations.

Member Bryan asked if there is an existing garage. Mr. Karben said there was but that it is being repurposed. Member Dugandzic asked if there would be changes to exiting interior of the house. Mr. Karben said there would be some interior reconfigurations but that the second floor will remain the same.

Ms. Terhune, looking at the ZBA application form, noted that the Applicant, Mr. Heinemann, was not the homeowner and asked if there was an affidavit authorizing such representation. A brief discussion ensued about amending the form to include such an affidavit.

Member Bryan asked them to consider a different configuration and location of the addition. Mr. Karben explained in several ways why the proposed location is best, including distance from road and the location of the existing pool. We are navigating the needs and desires of the homeowners while making as little impact on the neighborhood. It is not simply a preference, rather it considers benefit versus detriment, he said.

Ms. Terhune clarified that for the next submission, the Applicant is to submit any alternate configuration for the addition, the square footage of each floor, the square footage of the addition, and the total square footage of the existing home and with the addition. These are needed to ensure that the FAR calculations are accurate and that the home does not exceed the FAR requirement. She also requested that an additional column be added to the bulk table so that it reads “proposed” “required” and “existing.” Ms. Barese said she would get the breakdown of the square footage from the architect and amend the bulk table on the survey.

No one having further questions, Member Dugandzic made a motion to adjourn the application to the December 15, 2022, ZBA meeting, seconded by Member Bryan and upon vote, all were in favor. Ms. Barese asked if there would be public hearing on this application for the subsequent meeting and was told that the public should comment on the final version of the project and the Board will not set the public hearing while the possibility of change exists.

Member Dugandzic made a motion to adjourn the meeting at 8:37 p.m., seconded by Member Gigante. Upon vote the motion passed unanimously.