

A MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF MONTEBELLO WAS HELD ON THURSDAY MAY 18, 2023, 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
	Janet Gigante	Member
	Carl Wanderman	Member

Others Present:	Alyse Terhune	Assistant Village Attorney
	Regina Rivera	Planning & Zoning Clerk

Absent:	Ezra Bryan	Member
	Elizabeth Dugandzic	Member

Member Wanderman made a motion to approve the meeting minutes of April 20, 2023, seconded by Member Gigante and upon vote, all were in favor.

**1 Plum Hill Road**  
**Arnold Heinemann, A&B Improvements LLC**  
**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]; as per Section 195, attachment 2, Row h, columns 4 and 5 of the zoning code of the Village of Montebello for a proposed addition to a single-family dwelling. The parcel is located on the south side of Plum Hill Road west of the intersection of Sycamore Lane and is identified on the Ramapo Tax Map as Section 49.05 Block 1 Lot 42 in Zone RR-50.

Present on behalf of the homeowners were the Applicant Arnold Heinemann of A&B Improvements, LLC, Engineer Rachel Barese of Civil Tec Engineering & Surveying, Architect Eric Osborn and Designer Heather Scheiner.

After reading the application and submitted materials into the record, Chairman Gittens noted that this was a public hearing. Ms. Barese presented and explained that they were able to eliminate one section of pavement to eliminate the development coverage variance, leaving only the front setback/required front yard request. Chairman Gittens asked if the distance to the fence was accurate. Ms. Barese said that the 21.3-foot distance was pre-existing, and in any case, the code allows for rear yard encroachment by fences 6' or under.

Chairman Gittens asked the width of the driveway. Ms. Barese said that it is 12-feet wide existing and that they tried to add a turnaround triangle in the corner but did not in order to meet development coverage. The Chairman asked that the existing and proposed dimensions of the driveway width be added to the survey.

Member Wanderman asked if they were requesting two variances. Ms. Barese said they were but only because the front setback and front yard are one and the same for that one corner of the property. If the building is in the setback, it is by default in the yard, she added.

Chairman Gittens asked what will replace the asphalt in the area where it is to be removed. Ms. Barese said the area will be landscaped and the Chairman asked her to also include that on the map as the Board would like to see what they are approving. Ms. Barese asked if that could be conditioned in the resolution, and Ms. Terhune said it could be.

Chairman Gittens opened the public hearing. No one from the public wishing to speak, Member Wanderman made a motion to close the public hearing seconded by Member Gigante and upon vote, all were in favor.

Ms. Terhune explained that the Board did have a quorum, but if they were to vote yes, it had to be unanimous. She advised the Applicant that they could adjourn until there was a full Board present. Ms. Barese asked for a straw poll. Ms. Gigante said she didn't think there was much to oppose since they were only adding a small living space and a deck. Member Wanderman said that he was leaning towards approval since the Applicant showed good faith by working with the Board to eliminate one of the variances. Chairman Gittens enumerated the criteria by which the ZBA must grant variances and found that, aside from the hardship being self-created, there would be no detriment to the neighborhood, environment or community. He also appreciated that the development coverage variance was eliminated.

No one having further comments, Member Gigante made a motion to grant the variances as requested and as conditioned, seconded by Member Wanderman. Upon vote, the motion passed unanimously.

Ms. Terhune reiterated that the approval is conditioned upon the addition of the driveway dimensions and landscaping details to the map and noted that the Chairman will study the revised maps before signing the resolution, which will be drafted accordingly.

**David Fried and David Schwartz – PUBLIC HEARING  
2 and 4 Belvedere Path  
40.19-1-61/60**

Joint application of David Schwartz and David Fried, property owners of 2 Belvedere Path and 4 Belvedere path respectively, which was submitted to the Village of Montebello Zoning Board of Appeals for a variance for: Minimum Lot size, 2 Belvedere Path [existing non-conforming 33,017 sf, required 50,000 sf, proposed 29,753 sf] as per Section 195 Attachment 2, row h, column 2 of the zoning code of the Village of Montebello. The Applicants propose a subdivision lot line shift that would convey 3,264 sf from 2 to 4 Belvedere Path to bring the existing koi pond area entirely onto one property. The parcels are located on the north side of Belvedere Path west of the intersection of West Gate Road and are identified on the Ramapo Tax Map as Section 40.19 Block 1 Lots 61 and 60 in Zone RR-50.

Present were the Applicants' attorney David Ascher, Esq., and co-Applicant David Schwartz. Chairman Gittens read the application and submissions into the record.

Mr. Ascher explained that Mr. Fried is the property owner of 4 Belvedere Path, whose predecessor, Mr. Peter Weiss, installed a koi pond, paths, trees and other landscaping along the west side of the property spilling into Mr. Schwartz's property at 2 Belvedere Path. This has been the case for forty years and Mr. Schwartz never disputed or objected to the encroachment. Neither property owner wishes to remove these gardens and the lot line shift is the only logical solution. However, both lots are already non-conforming in size, and Mr. Schwartz's property will be made even smaller, necessitating a variance. Mr. Ascher emphasized the fact that the need for this area variance is not self-created, is not sought for financial gain, and is certainly not out of character with the neighborhood.

Ms. Terhune noted that that there would be a title problem if either Mr. Fried or Mr. Schwartz were to sell. Mr. Ascher said that once the subdivision is filed, the deeds will be re-recorded. Ms. Terhune said the original subdivision map that was filed shows the actual current boundaries and by moving this one lot line, they will change the original subdivision. Mr. Ascher said the map will be changed simultaneously so there won't be a problem. Chairman Gittens noted that that is a Planning Board issue and not the purview of this Board, and asked if any new non-compliances will be created. Mr. Ascher said there will be no new structures, merely a property line shift. The Chairman pointed out that shifting lot lines may affect setbacks and development coverage. Mr. Ascher assured the Chairman that bulk regulations will not be affected at all, and Ms. Terhune agreed, stating that one lot will be made a little less conforming that it already is.

No one having further questions, Member Wanderman made motions to set the public hearing for, and to adjourn the application to the next scheduled meeting. Member Gigante seconded the motions and upon vote, all were in favor.

Member Wanderman made a motion to approve the meeting minutes of April 20, 2023, seconded by Member Gigante and upon vote all were in favor.

At 7:36 p.m., Member Gigante made a motion to adjourn the meeting. Member Wanderman seconded the motion and upon vote all were in favor.