

A MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF MONTEBELLO WAS HELD ON THURSDAY AUGUST 17, 2023, AT THE DR. JEFFREY OPPENHEIM COMMUNITY CENTER, 350 HAVERSTRAW ROAD, MONTEBELLO, NY. THE MEETING WAS CALLED TO ORDER AT 7:00 P.M. FOLLOWED BY THE PLEDGE OF ALLEGIANCE.

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

### **Minutes approval**

Vice Chairman Wanderman deferred the approval vote of the July 20, 2023 meeting minutes to the next meeting because the majority of the members who attended that meeting were absent. He then promoted new Ad Hoc Member Rosana Millos to full member with voting privileges for this meeting.

### **Simon Ganz 3 Sycamore Lane 49.05-1-29**

Application of Simon Ganz on behalf of 3 Sycamore Lane LLC, owners of 3 Sycamore Lane, Montebello, NY, which was submitted to the Village of Montebello Zoning Board of Appeals for a variance for: Development coverage [maximum 20%, proposed 23%] as per Section 195, Attachment 2, Use Group h of the zoning code of the Village of Montebello for the construction of a circular driveway. The Parcel is located on the west side of Sycamore Lane approximately 350 feet north of the intersection of Viola Road and is identified on the Ramapo Tax Map as Section 49.05 Block 1 Lot 29 in the RR-50 Zone.

Present was the applicant's engineer Rachel Barese of Civil Tec Engineering who said that she was there for an override of a comment from the County GML in which they direct the Applicant to comply with the RC Highway Department. Ms. Barese said that the comment in their letter dated May 30, 2023 is clearly an overreach as the property is not on a county road, nor does their purview have anything to do with the development coverage variance being sought. At the last meeting, one Board member requested that the Village Engineer weigh in before an override is made, and in a memo dated August 5, 2023, Martin Spence determined that the County Highway comments bore no merit. Ms. Barese noted that the Board did not have a super majority present for an override and requested that the application be adjourned to the subsequent meeting.

Vice Chairman Wanderman opened the public hearing but there was no one present wishing to comment. Member Dugandzic made a motion to adjourn the application to the September 21,

2023 ZBA meeting seconded by Vice Chairman Wanderman and upon vote, the motion passed unanimously.

**Mendy Kempler**  
**213 Spook Rock Road**  
**49.13-1-4**

Application of Mendy Kempler, owner of 213 Spook Rock Road, which was submitted to the Village of Montebello Zoning Board of Appeals for variances for: Total side setback [required 75 feet, provided 56.40 feet]; north side yard [required: 25 feet, provided 5 feet]; and side setback [required 30 feet, provided 23.30 feet] as per Section 195 Attachment 2, row h, columns 6, 7 and 8 of the zoning code of the Village of Montebello for a proposed addition to a single-family dwelling. The parcel is located on the east side of Spook Rock Road, 10 feet north of Topaz Court and is identified on the Ramapo Tax map as Section 49.13 Block 1 Lot 4 in Zone RR-50

Present on behalf of the Applicant was Gracie McGuinness of Hudson Design who explained that they received feedback at the last meeting regarding the side yard setback. We have since corrected that variance request, she said, and noted that the agenda should be corrected as well to reflect the actual variance. She requested that the Board set the public hearing for the next meeting. Member Dugandzic made a motion to set the public hearing for the next ZBA meeting on September 21, 2023. Member Millos seconded the motion and upon vote the motion passed.

**Montebello Gateway, LLC—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: Maximum Height [required 36'\* feet, proposed 53 feet]; Floor Area Ratio [required .24\* proposed .25] 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 228 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.

\*per ZBA Resolution of May 2021

Present was Paul Baum, the Applicant's attorney, and Gabe Einhorn, Architect with AB Designs. Mr. Baum stated plainly that the Board did not have the necessary super majority for any GML overrides. Nonetheless, he gave a presentation of the application to benefit those present for the public hearing, explaining that he and his clients are there to correct the record and that the building that was approved by the Planning Board, the Zoning Board and the Historic Preservation and Parks Commission (HPPC) was the same building all along. He showed a rendering of the approved building noting that the bulkhead was always present.

Mr. Baum said that the former, now retired, building inspector determined that the bulkhead fit within the height exceptions of the code but that the current building inspector, upon review for the building permit, did not agree and determined that additional variances were necessary. Mr.

Baum said they were seeking to set the record straight and that they were not proposing anything higher than originally proposed. He explained further that after receiving a permit denial letter, they submitted designs excluding the bulkhead and rooftop elevator vestibule to obtain at least a foundation permit lest the site plan approval expire. But the developer would absolutely prefer to build the building that was approved, he added.

Vice Chairman Wanderman noted that the construction was already underway. Mr. Baum said the foundation construction is in full swing and that if the variances are not received in time, the building will be constructed without the bulkhead.

Member Dugandzic asked if this was simply a matter of aesthetics or if the roof was intended to house more offices. Mr. Baum assured her there would be no extra office space, no extra required parking, and that the elevator lobby is meant to allow people to walk out onto the roof for lunch and small gatherings. Mr. Einhorn said that the bulkhead is just an enhancement, centering the building while removing a boxy look.

Vice Chairman Wanderman opened the public hearing.

Charles Nicholas, 1 Finnigan Lane, Montebello, NY wanted to know how this mistake was made. Ms. Terhune explained that the original Building Inspector determined that the bulkhead and elevator shaft were exempt from the height regulations and everyone accepted that determination. That Building Inspector retired. The current Building Inspector, Adam Gordon, reviewed the plans for the building permit and determined that the former inspector was incorrect and that everything counts towards height, which technically increases the variance. Had the Applicant known they needed more of a height variance, they would have requested that in the first place, she said.

Mr. Nicholas wanted to know if the building will be the same at 53 feet as 36 feet high. Mr. Baum showed Mr. Nicholas the rendering with the bulkhead, noting that 36 feet is the top of the building and 53 feet is the top of the bulkhead and elevator shaft. He added that the additional height occurs in small areas of the roof and that most of the building will be 36 feet high.

Eric Moedler, co-owner of several suites at 1 Executive Blvd., Montebello, NY, said he disagreed with Mr. Baum's assertion that this is what was approved and asked what the noise impact of rooftop gatherings will be. Vice Chairman Wanderman asked Mr. Moedler if he had any objections to the bulkhead being built? Mr. Moedler said he did not but that he objects to the addition of the bulkhead and rooftop elevator shaft after the fact. Ms. Terhune said that this building, with the bulkhead, was approved by all the land use Boards and that a full SEQR analysis was performed, which included traffic and noise impacts. She added that the bulkhead and elevator shaft were always presented as part of the application and that the only difference is between the two building inspectors' determinations. She noted too that the Planning Board and the ZBA followed the former Building Inspector's conclusions.

Mr. Moedler wanted to know if there were any studies on how the building with the bulkhead would cast shadows? Ms. Terhune said no, but that the SEQR study is available if he cares to read it.

Mr. Nicholas wanted to know if the trees and landscaping will be affected by the extra height. Mr. Baum reminded him that they agreed to install significant landscaping on that side of the property and assured him that will not change at all, adding that the variance applies to the building height only. Mr. Nicholas asked how the height will impact the view from his own property. Mr. Baum said the Bulkhead will face Executive Boulevard and cannot be seen from Finnegan Lane. Mr. Nicholas noted that the agenda designates the building as a medical office building. Mr. Baum said it was approved for both office and medical office space. Ms. Terhune said that the site plan will not change and reminded him that the Planning Board spent a good deal of time on screening residences, and required a change in the parking lot so that it was farther away from the residential area. Mr. Baum said that there is a landscaping plan with additional trees and vegetation to be planted along the property line which will not change.

No one else from the public having any comments, Member Dugandzic made a motion to close the public hearing and to adjourn the meeting to September. Member Millos seconded the motion and upon vote all were in favor.