

A MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF MONTEBELLO WAS HELD ON THURSDAY DECEMBER 21, 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:	Rodney Gittens	Chairman
	Carl Wanderman	Member
	Elizabeth Dugandzic	Member
	Janet Gigante	Member
Others Present:	Alyse Terhune	Assistant Village Attorney
	Angela Spina	Building Clerk
Absent:	Ezra Bryan	Member
	Rosana Millos	Ad Hoc
	Regina Rivera	Planning/Zoning Clerk

### **Approval of the September 21, 2023 Meeting Minutes**

Member Dugandzic made a motion to accept and approve the minutes of the September 21, 2023 ZBA meeting seconded by Member Gigante and upon vote the motion passed unanimously.

### **Yosef Emuna 96 Viola Road 49.05-1-15**

Application of Yosef Emuna, 129 Grandview Avenue, Monsey, NY, owner of 96 Viola Road, Montebello, NY, which was submitted to the Village of Montebello Zoning Board of Appeals for a variance for:

Minimum Lot Size [Minimum 50,000 sf, proposed 44,434 Lot 15.1 and 41,722 Lot 15.2] as per Section 195-13, Use Group h of the zoning code of the Village of Montebello. The applicant wishes to subdivide the 2.25-acre property into two (2) lots. The Parcel is located on the north side of Viola Road 0 feet west of the intersection of Spook Rock Road and is identified on the Ramapo Tax Map as Section 49.05 Block 1 Lot 15 in the RR-50 Zone.

Mr. Yosef Emuna, the Applicant, and his attorney Barry Haberman were present. Chairman Gittens read the application and the submissions into the record, and then invited Mr. Haberman to present. Mr. Haberman gave a brief history of the application, which had received the same variances and a subdivision approval over a decade ago, which Mr. Emuna allowed to lapse due to financial difficulties in an unfavorable housing market. He noted that there are no changes to the proposed lot lines, and that the area variances are not substantial and will have no adverse impacts to the neighborhood, the environment and the community.

Mr. Haberman noted that had Mr. Emuna not been compelled to donate a certain portion of the land to the Village, he would not need to seek variances at all, and that because the property is on the corner, the amount that was donated was substantial.

Regarding the Rockland County Planning Department GML review dated December 19, 2023 disapproving the project because they believed the Applicant had not secured the property road work permits from the Rockland County Highway Department, Mr. Haberman stated that

they do in fact have a permit which was part of the submittals and requested an override of comment #1.

Chairman Gittens asked the size of the proposed houses. Mr. Emuna said there is one under construction that is roughly 5,000 square feet. The Chairman was concerned that a later request for variances for additions to the homes will be made. Mr. Emuna acknowledged that the Village is strict about FAR limits and if someone wishes to build a larger house on an undersized lot, they may not be able to get the variance. Chairman Gittens said he was concerned about future property owners and wanted the Board to understand that FAR is a function of the lot size and anyone wishing to exceed the allowable FAR for the lot size will have trouble.

Ms. Terhune asked if the building department approved the house currently under construction based on the whole lot and whether creating a new lot will create the need for any setback variances. Mr. Emuna said whether they subdivide or not, the house itself needs no variances of any kind.

Member Dugandzic was concerned about drainage and runoff on these two busy roads. Mr. Emuna said that the village requires zero-net runoff and that drainage must be installed. Member Wanderman asked if there would be a need for variances had the land dedication not been required. Mr. Haberman said there would, but the variances would be much smaller. Member Wanderman noted that the requests are not solely the result of the land dedication.

Chairman Gittens asked the location of the driveway for the new construction. Mr. Emuna said it is on Viola Road in the exact location for the last 60 years for the previous house that was demolished a decade ago.

Ms. Terhune asked if Mr. Emuna received a Certificate of Appropriateness from the HPPC to build a house on Lot 15.2. Mr. Emuna said he could not get a building permit from the Building Department until he received the HPPC approval. Ms. Terhune requested that that certificate be distributed to the Board.

Out of curiosity, Ms. Terhune asked why Mr. Emuna did not do the subdivision before building the house. Mr. Emuna said that he was building the house for him and his family to live in. Ms. Terhune noted that he built a house with the understanding that if he did not obtain the variances he could not subdivide. Mr. Emuna said he always planned to subdivide someday, but that he wanted to build a house for himself there no matter what. Ms. Terhune said that was a risk in any case, even though a subdivision was granted previously. Mr. Haberman noted that the house could have been bigger for the lot size, even though 5,000 square feet is quite large. Ms. Terhune said that this board is strict and does not grant variances lightly. If it does not grant these variances, then there can be no subdivision and then Mr. Emuna is stuck with a smaller house on a larger lot. The fact that 10,000 + square feet of the property was dedicated to the Village is a good reason to grant the variance, but it is not a sure thing, she said.

After some discussion, Chairman Gittens asked for a motion to set the public hearing. Member Wanderman made a motion to set the public hearing for the January 18, 2024 meeting, seconded by Member Dugandzic and upon vote, all were in favor.

No one having further comments, Member Wanderman made a motion to adjourn the meeting at 7:33 p.m. seconded by Member Gigante and upon vote all were in favor.

