

THE REGULAR MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF MONTEBELLO WAS HELD ON THURSDAY, SEPTEMBER 1, 2016 AT THE MONTEBELLO VILLAGE HALL. THE MEETING WAS CALLED TO ORDER AT 7:50 P.M. FOLLOWED BY THE PLEDGE OF ALLEGIANCE.

Present:	Rodney Gittens	Chairman
	Janet Gigante	Member
	Scott Goldstein	Member
	Jack Barbera	Member
	Carl Wanderman	Member
Others Present:	Robert Magrino	Assistant Village Attorney
	Regina Rivera	Planning & Zoning Clerk
Absent:	Richard Bernstein,	Member

Member Barbera made a motion to approve the minutes of July 28, 2016 seconded by Member Gigante. Upon vote, the motion carried unanimously.

1. Russell Fawkes  
2 Golf Court Drive, Montebello, NY  
48.20-1-74  
Public Hearing

**Application of Mr. Russell Fawkes, 2 Golf Course Drive, Montebello, New York 10901, for Area Variance from the requirement of the provisions of Section 195-Attachment 2, Table of Bulk Requirements, and Section 195-13 Bulk Table, use group m, column 14 (Floor Area Ratio) of the Zoning Local Law of the Village of Montebello to permit the construction, maintenance and use of an addition to an existing single-family dwelling with an increased Floor Area Ratio of 23.8%. The subject property is located on the South side of Golf Course Drive approximately 0 feet from the intersection of Senator Levy Drive in the Village of Montebello, which is known and designated on the Ramapo Tax Map as Section 48.20, Block 1, Lot 74 in an RR-50 Zone.**

In attendance were Mr. & Mrs. Fawkes, the Applicant's representative Ms. Amy Mele, Esq., and the Applicant's engineer, Mr. David Garval.

Ms. Mele reminded the Board that she submitted two letters from abutting neighbors stating that they had no problem with the addition (copies on file). The Board confirmed receipt of the letters. Ms. Mele then explained that she reviewed a similar application to the Zoning Board for a FAR variance from 2004 for 12 Senator Levy Drive that was not approved. She noted that that parcel was not as screened off from the neighborhood and that the proposed bump-out would have been substantial and obvious. She explained that her client's property is distinguished by virtue of the architectural plans and by the fact that the majority of the bump-out will be in the rear of the house and not visible from the street, and asked the Board to judge this application on its own merits.

Before continuing, Ms. Mele noted that all comments from the Village Engineer, Martin Spence, in his memo dated July 26, 2016 were addressed at the previous Zoning Board meeting by the applicant's architect, Mr. Jordan Rosenberg. She then stated that their discussion at the last

meeting was detailed and that they presented the project sufficiently, but said that if the Board had any questions she would be happy to discuss the application further.

The Board agreed that Ms. Mele and her team gave a thorough presentation during the last Zoning Board meeting and that they had no further questions. Chairman Gittens then polled the board on their thoughts about the application.

Member Wanderman noted that the applicant was not looking for any side or rear setback variances, and that this FAR increase did not seem burdensome.

Member Goldstein agreed with Ms. Mele that each application should be judged on a case-by-case basis, and said that he had no issue with this application, especially given the privacy of the parcel.

Janet Gigante said she too had no problem with this proposal, noting that the applicant and his architect and engineer adhered to the existing footprint of the house to cause as little disruption as possible.

Member Barbera agreed with Member Goldstein and Ms. Mele, adding that the decision to grant a variance should not be influenced by previous applications such as that of 12 Senator Levy Drive.

Chairman Gittens said that he still had reservations with the amount of the increase of the FAR, reiterating his feelings from the last meeting that the need for the larger space was self-created and said that more space could be achieved in other ways. Acknowledging that there will be minimal visual impact, he stated firmly that nonetheless he does not want to set any kind of precedent.

Ms. Mele said that the FAR increase was not something the applicant created, reminding the Chairman that this was a cluster development and that the home was already over the FAR allowance due to the average density of the subdivision. Even if they wanted to increase the FAR by just one foot, she said, they would need a variance.

Chairman Gittens noted that fact but maintained he felt the FAR increase here was too high. He then asked the Board if they felt they had enough information to grant a decision. The Board agreed that they did.

Member Goldstein made a motion to approve the application, seconded by Member Wanderman. Members Goldstein, Gigante, Barbera, and Wanderman voted in favor of the motion to approve the variance; Chairman Gittens voted against the motion citing the floor area ratio as the problem and his concern over setting a precedent.

No one wishing to comment, Member Wanderman made a motion to close the Public Hearing, seconded by Member Goldstein. Upon vote, the motion carried unanimously.

Mr. Magrino, Assistant Village Attorney, read the Resolution into the record:

**VILLAGE OF MONTEBELLO  
ZONING BOARD OF APPEALS**

IN RE: APPLICATION OF RUSSELL FAWKES, 2 Golf Course Drive, Montebello, NY  
CALENDAR CASE NO. 1166

Before the Board of Appeals of the Village of Montebello, at a public hearing held at Montebello Village Hall, Montebello, New York, on July 28, 2016 and September 1, 2016, for variances from the provisions of Section 195-15-Attachment 2, Table of Bulk Requirements, and Section 195-13 Bulk table, Use Group m, Column 14, of the Zoning Local Law of the Village of Montebello to permit the construction, maintenance, and use of an addition to an existing single family dwelling with an increased Floor Area Ratio from the provided 0.15 to the proposed 0.238.

The premises which are the subject of this application are located at 2 Golf Course Drive, which is on the south side of Golf Course Drive, and approximately zero feet from the intersection of Senator Levy Drive in the Village of Montebello, and which is known and designated on the Ramapo Tax Map as Section 48.20, Block 1, Lot 74 in a RR-50 Zoning District.

The Board, upon motion duly made by SCOTT GOLDSTEIN, and seconded by CARL WANDERMAN, resolved:

WHEREAS, the applicant was represented by Amy Mele, Esq., and the following documents were placed into the record and duly considered:

Application; Narrative by Amy Mele, Esq. dated June 28, 2016 and supplemented by letter dated August 24, 2016; Short Environmental Assessment Form; Building Inspector's Denial Letter dated June 26, 2014 by Larry Picarello; Plot plan dated June 1, 2016 prepared by Azzolina and Feury Engineering; Revised plot plan dated August 23, 2016 by Azzolina and Feury Engineering; set of architectural drawings last revised July 1, 2016 prepared by Jordan Rosenberg, Architect; Review letter dated July 26, 2016 by Martin K. Spence, PE, Village Engineer, and updated Review letter by Martin K. Spence, PE Village Engineer dated August 31, 2016; Letter dated July 27, 2016 from Marc Greenbaum residing at 1 Golf Course Drive in support of the application; Letter dated July 27, 2016 from Lee Fleischer residing at 4 Golf Course Drive in support of the application.

WHEREAS, the proposed action is a Type II action under the regulations promulgated pursuant to the New York State Environmental Quality Review Act; and

WHEREAS, a public hearing was held on July 28, 2016 and September 1, 2016, and the testimony of the following persons was duly considered: Amy Mele, Esq.; Jordan Rosenberg, architect, Russell Fawkes (applicant), Rochelle Fawkes, Lee Fleisher, 4 Golf Course Drive, Montebello;

WHEREAS, all the evidence and testimony was carefully considered and the Zoning Board of Appeals has made the following findings of fact:

-The applicant is seeking one variance as follows:

Floor Area Ratio: Provided 0.15 - Proposed: 0.238

-The applicant is the owner of the subject premises which is located on the south side of Golf Course Drive, abutting Senator Levy Drive.

-The parcel was part of the Schwartz (Montebello Pines) Subdivision which was approved as a cluster subdivision pursuant to MY Village Law §7-738 and Montebello Zoning Law §195-15, average density.

-The property is 42,196 SF or .97 acres and is located in the RR-50 Zone and contains a single family dwelling.

-The adjacent properties are generally of similar size and contain single family dwellings.

-The proposed construction is in the rear portion of the dwelling and includes a proposed covered porch, a raised patio, localized retaining walls and a paver walk. A smaller addition is also proposed at the front entry area.

-The maximum Floor Area Ratio (FAR) is 6,329 SF (0.15), existing FAR is 7,853 (0.186) and the proposed FAR is 9,980 (0.2365).

-Lot coverage is proposed to increase from 7,259 SF to 8,436 SF which would be the maximum development coverage permitted in the zone of 20%.

-The FAR calculation includes a large basement of 2,219 SF that is considered habitable space and only one variance is requested.

-The plans call for an expansion of the dining room in the front of the house, a 15 foot rear addition which will mimic the shape of the existing house. The bulk of the proposed addition is in the rear of the house that is currently screened by evergreens and deciduous trees. The aesthetic of the house as viewed from the street would be primarily identical to the existing structure.

-The Fawkes moved from Australia to the subject property approximately 3 and ½ years ago, entertain friends and family from around the world and have four children and desire to have each child to have a bedroom on the second floor.

WHEREAS, this Board has examined the written documentation and reviewed the testimony of the witnesses with respect to the applicant's request for a variance, and, pursuant to the requirements of section 7-712-b(3) of the Village Law, has made the following determinations:

(1) "whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance":

The proposed expansion seeks only one variance. Although the requested variance is substantial, the majority of the expansion will resemble the existing house. The nearby homes are also large homes. The proposed addition will not be visible from Golf Course Drive and goes out the back of the residence. A neighboring property owner had no objection to the proposed variance since the hedges are comprised of a lush 30 foot high wall of foliage and the addition would conform to the shape and aesthetic of the existing house. On the basis of the foregoing, it is apparent that

the variance will NOT create an undesirable change in the character of the neighborhood nor a detriment to nearby properties.

(2) “whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance”:

The existing house already exceeds the permitted FAR. The applicant is seeking the benefit of a larger house to accommodate their family needs and may be able to achieve that with only one variance. Any proposed addition would require a variance, so the benefit that is sought could not be achieved by another method.

(3) “whether the requested area variance is substantial”:

The proposed variance could be considered substantial, but the applicant only seeks one variance and but for the fact that the FAR includes the entire basement, a variance would not be necessary for this project.

(4) “whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district”:

Based upon the fact that the bump out is in the back of the house, is approximately 15 feet, mimics the shape of the existing house, and there is significant screening, the variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

(5) “whether the alleged difficulty was self-created”:

The need for the variance, as in most instances, is self-created to the extent that the alternative would be not to pursue expansion of the house. Under the circumstances presented here, the fact that the need for variances is self-created does not standing alone operate to balance against the granting of the variance.

NOW, THEREFORE, BE IT RESOLVED, that the application of Russell Fawkes for variances from the provisions of Section 195-Attachment 2, Table of Bulk Requirements, and Section 195-13 Bulk Table, Use Group m, Column 14, of the Zoning Local Law of the Village of Montebello from the Required Floor Area Ratio (FAR) of 0.15 to the proposed 0.238 (FAR), to permit the construction, maintenance, and use of an addition to an existing single family dwelling as set forth in the application submitted herein, is hereby APPROVED, Subject to the following conditions:

1. Completion of an interior and exterior inspection, and a records search, by the Building Inspector for any violations of the Code of the Village of Montebello and of the New York State Uniform Fire Prevention and Building Code Act and its implementing regulations, and the cure or removal of any violations found by such inspection;

2. The applicant shall provide subsurface detention (drainage improvements) for the increase in runoff from the site due to the improvements and new impervious areas. This is typically achieved by use of seepage pits or other subsurface storage and inlets. Any such subsurface detention plans shall be reviewed and approved by the Village Engineer and/or Building Inspector prior to the issuance of a building permit. The Plot Plan Seepage Detail title should state “6” Seepage Pit Detail. The detail provides for a 6’ x 6’ Seepage Pit Detail which is acceptable.

3. Soil erosion and sediment control measure notes and details shall be provided on any subsequent plans.

4. Adequate screening as currently exists at the property (evergreen and deciduous trees) shall remain in place and not be removed and replaced if damaged or destroyed. Routine maintenance and trimming shall be permitted.

And the Building Inspector is hereby directed to issue a Building Permit and Certificate of Occupancy to the applicant upon compliance with the terms and conditions of this resolution and with all other applicable laws, rules and regulations as determined by the Building Inspector and Village Engineer.

MEMBERS PRESENT:	<u>YEA or NAY</u>
Rodney Gittens, Chairman	NAY
Jack Barbera	YEA
Janet Gigante	YEA
Scott Goldstein	YEA
Carl Wanderman	YEA

MEMBERS ABSENT:  
Richard Bernstein

The Chairman declared the resolution approved and the application approved.

Member Gigante made a motion to adjourn the meeting, seconded by Member Goldstein. Upon vote, the motion carried unanimously. The meeting adjourned at 8:30 p.m.