

The Zoning Board of Appeals of the Village of Montebello held a meeting on Thursday, December 19, 2024 at the Dr. Jeffrey Oppenheim Community Center, 350 Haverstraw Road, Montebello, NY. Chairman Gittens called the meeting to order at **7:00 p.m.** and led everyone in the Pledge of Allegiance.

PRESENT

Rodney Gittens, Chairman  
Ezra Bryan, Member  
Elizabeth Dugandzic, Member  
Janet Gigante, Member  
Rosana Millos, Ad Hoc

OTHERS

Alyse Terhune, Asst. Village Attorney  
Regina Rivera, Planning/Zoning Clerk

ABSENT

Carl Wanderman, Member

**Jacob Leitner**

**8 Henry Court – Public hearing continued**

Application of Jacob Leitner, 8 Henry Court, Montebello, NY which was submitted to the Village of Montebello Zoning Board of Appeals for variances for: Floor area ratio [max.0.20, proposed 0.22]; Side yard [required 20', proposed 9.5']; Parking spaces total for residence and RGP [required 7 spaces, proposed, 5 spaces]; Privacy fence height [max. 6', proposed 8'] As per Section 195-13, Use group q, and Sec. 195-19 of the zoning code of the Village of Montebello. The Parcel is located on the north side of Henry Court, approximately 310 feet north of the intersection of Zeck Court, and is shown on the Ramapo Tax Map as Section 48.10 Block 1 Lot 36 in the R-35 Zone.

Present was the applicant's attorney, Joseph Churgin, his expediter, Eliezer Brecher, and his engineer, Josip Medic. After Chairman Gittens read the application and submittals into the record, Mr. Churgin presented the application, noting that they were before the Board previously three times and that six months have passed since. During their first they asked for four variances, and have since reduced some and eliminated others at the behest of the Board: The side yard request was reduced from .7' to 9.5 ft. (required 20'), the fence height request was eliminated, and they are now asking only for five parking spaces (7 required). The latter has been a problem all along, he continued, due to the topographical restrictions of the property. He then asked the Board to close the public hearing so they could put the matter to a vote, adding that this is a religious use which should be given deference by land use boards.

Ms. Terhune noted, for the record, that while it has been six months since the application's first appearance, part of the delay was the fault of the Applicant and not solely attributable to this Board.

The Applicant Rabbi Leiter was then sworn in to explain a final time that this shul is vital to the community, serving only those that live nearby who will walk there on Shabbos and holidays.

No one from the public wishing to speak, Member Millos made a motion to close the public hearing. The motion was seconded by Member Dugandzic and upon vote, all were in favor.

Chairman Gittens, still not satisfied about the parking variance, asked to see the cost of providing the two extra spaces. Mr. Medic explained that the rear of the property would have to be regraded and, in order to support the weight of the cars, a five foot reinforced concrete retaining wall would need to be built. While Mr. Medic did not have those exact costs, he noted that the wall alone would cost a fortune. Ms. Terhune

asked what that would do to the FAR. Mr. Medic said it would cause an increase in the FAR variance. Mr. Churgin observed that they would be trading one variance for another.

Mr. Brecher, citing Village code, said that one parking space is required per five people. In this case, there are fifteen congregants, and extra parking spaces would be impractical and granting the variance would not solve anything. Ms. Terhune explained that the code is structured for the greater of five *or* maximum capacity, which in this case is twenty-eight, due to the size of the room. Mr. Churgin reminded the Board that the geography of the property severely hampers their ability to add two more spaces.

Chairman Gittens asked if they could guarantee there will never be more than fifteen people. Ms. Terhune said that was not practical and that the capacity is based on New York State Building code which is enforced by the state. Mr. Churgin offered that it could be a condition. Ms. Terhune countered that even if the Applicant accepted that condition, it would be impossible to enforce. It is a very severe restriction, she added, and one that could cause the Applicant trouble.

Member Bryan asked about other regulations for the use of the home as a Residential Gathering Place. Mr. Brecher said that they must next go to the Planning Board for a Special Permit. Ms. Terhune explained that a Residential Gathering Place is not a specific use, rather it refers to any type of gathering that takes place regularly at least twelve times per year. The law is predicated on protecting the neighborhood from any adverse effects of a given accessory use.

Member Bryan asked if this Board could make certain recommendations to the Planning Board, and Ms. Terhune said that was possible. Chairman Gittens asked if the Special Permit expired. Ms. Terhune said it did not but that the Planning Board has the authority to compel the Applicant to return for a renewal if warranted. Mr. Brecher noted that once they receive their special permit, there will be a fire inspection done every year to ensure compliance with all New York State building codes.

No one having further questions, Ms. Terhune turned to the GML review from Rockland County Planning dated June 24, 2024, specifically, comment #1 regarding the pre-existing non-conforming lot size. The building inspector should advise whether a variance is required, but we don't have anything in writing about this from him, she said, adding that this is a permitted accessory use for a single-family home and it's likely that a variance shouldn't be required for preexisting non-conformities. Even if the Building Inspector hasn't officially opined on the matter, this Board can craft the decision to override these concerns and leave the final verdict to him, and any other GML comments that discusses preexisting conditions can be overridden as part of your approval, she said.

Ms. Terhune then stated that, given the GML overrides and other conditions put forth at this meeting, she would like to draft an approval for review and adoption at the January meeting. There are also a couple of items in the bulk table that should be corrected before the resolution can be accepted, she added. The Board and the Applicant agreed with this course of action.

Chairman Gittens said the after all the discussions, five out of seven parking spaces seems reasonable and that, even though the FAR variances was not small, it was still reasonable. He asked about the mikvah and was reminded that it was included in the FAR but that it is not part of the application. Member Dugandzic and Member Millos both expressed their appreciation to the Applicant for working with the ZBA and their satisfaction with the results. Chairman Gittens then cycled through the criteria by which the Zoning Board grants variances and noted that this application will not have any adverse effects on the environment, neighborhood or community. The hardship was self-created, but there were difficulties given the landscape

and wetlands, and he acknowledged that the Applicant, with some success, did their best to reduce and eliminate some variances. He then asked the Board for a motion.

Member Millos made a motion to conditionally approve the application with the stated occupancy for Saturday and holiday use only. The Motion was seconded by Member Dugandzic and upon vote, the motion passes unanimously. Ms. Terhune stated that she will draft a resolution with all overrides and stated conditions for review at the next meeting.

**Minutes Approval**

Member Bryan made a motion to approve the minutes of the September 19, 2024 meeting, seconded by Member Dugandzic and upon vote, all were in favor.

Member Gigante made a motion to adjourn the meeting at 8:25 p.m. seconded by Member Bryan and upon vote all were in favor.