

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

August 5, 2019

Airmont Zoning Board of Appeals
251 Cherry Lane
P.O. Box 578
Tallman, NY 10982

Tax Data: 56.14-2-3

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M

Map Date: 6/4/2018

Date Review Received: 7/10/2019

Item: *CONGREGATION TIFERETH ISRAEL (A-104F)*

A variance application to re-approve previously granted variances, which have expired, to allow a Residential Place of Worship on 0.26 acres in the R-15 zoning district. The applicant proposes to lease 0.11 acres from the New York State Thruway Authority in order to provide required parking. Variances are required for lot area, front yard, side setback, total side setback, side yard, rear setback, development coverage, floor area ratio, and parking in the front yard. A previously approved site plan application is still valid.

The southern side of Monsey Heights Road, approximately 100 feet west of Besen Parkway.

Reason for Referral:

Town of Ramapo, NYS Route 59, NYS Thruway (I-87/287)

The County of Rockland Department of Planning has reviewed the above item. Acting under the terms of the above GML powers and those vested by the County of Rockland Charter, I, the Commissioner of Planning, hereby:

****Recommend the following modifications***

1 This application is for the re-approval of previously granted variances for a Residential Place of Worship, which were granted prior to several changes to the Village of Airmont's zoning regulations. Among those changes were the removal of Residential Places of Worship as an allowed use, and the creation of Residential Places of Assembly. Although these two uses are similar in several respects, they are two distinct uses. The Residential Place of Assembly has different development coverage and floor area ratio requirements, and is allowed only by Special Permit. Most importantly, the Residential Place of Worship is no longer an allowed use.

It is this department's opinion that because an approved site plan for a Residential Place of Worship is still valid, the applicant may continue the approval process for this use. However, the applicant and Village must be cognizant of the fact that this use must be considered a legally non-conforming use. As such, it is subject to all the provisions for non-conforming uses found in Article XIII of the Village's zoning regulations, including the restrictions on extensions or enlargements found in section 210-133.

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Should the applicant wish to establish a Residential Place of Assembly, and avoid the restrictions placed on non-conforming uses, the applicant must comply with all requirements of said use found in section 210-12.1 of the zoning regulations, and obtain a new site plan and special permit approval.

2 Permitting development that does not comply with the applicable bulk standards can set an undesirable land use precedent and result in the overutilization of individual sites. The parcel's lot area is 77% of the required minimum. The side, total side, and rear setbacks are deficient by 26%, 25%, and 39%, respectively. The front yard is reduced to zero feet and the side yard is deficient by half. The floor area ratio exceeds the maximum limit by 105%. The ability of the existing infrastructure to accommodate increased residential density on undersized parcels is a countywide concern and must be evaluated. This evaluation must consider whether local roads will become more congested and the sewer system, stormwater management systems and the public water supply will be overburdened. The Village must consider the cumulative and regional impacts of permitting such development.

3 An updated review must be completed by the New York State Thruway Authority and all required permits obtained from them.

4 The applicant proposes to use the adjacent New York State Thruway Authority's right-of-way for parking. The most recent correspondence from the Authority received by this department is the January 26, 2015 letter, which notes that an occupancy permit has not been issued as of that date. The applicant must obtain an Occupancy Permit from the Authority prior to any approvals, site work, or issuance of building permits. A copy of the Occupancy Permit must be submitted to this department for our records.

5 An updated review must be completed by the Rockland County Department of Health to ensure compliance with Article XIX (Mosquito Control) of the Rockland County Sanitary Code.

6 An updated review must be completed by the County of Rockland Sewer District No. 1 and all required permits obtained from them.

7 An updated review shall be completed by the New York State Department of Transportation and any required permits obtained.

8 A review must be completed by the Rockland County Office of Fire and Emergency Services, the Village of Airmont Fire Inspector, or the Tallman Fire Department to ensure that there is sufficient maneuverability on site for fire trucks, in the event an emergency arises. In addition, the fire lanes as depicted are not clear as to their location of the plans. To ensure adequate access, the fire lanes must be clearly identified on the plans. They cannot interfere with parking spaces or access into or out of the site.

9 The Town of Ramapo is one of the reasons this proposal was referred to this department for review. The municipal boundary is approximately 110 feet northeast of the parcel. As required under Section 239nn of the State General Municipal Law, the Town of Ramapo must be given the opportunity to review the proposal and provide any concerns related to the project to the Village of Airmont.

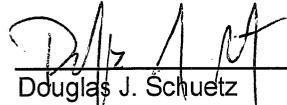
10 Map notes 9 and 10 must be corrected to Suez.

11 To reduce the extent of the maximum development coverage variance, pervious pavers must be used.

12 Pursuant to General Municipal Law (GML) Section 239-m and 239-n, if any of the conditions of this GML review are overridden by the board, then the local land use board must file a report with the County Commissioner of Planning of the final action taken. If the final action is contrary to the recommendation of the Commissioner, the local land use board must state the reasons for such action.

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13 In addition, pursuant to Executive Order 01-2017 signed by County Executive Day on May 22, 2017, County departments are prohibited from issuing a County permit, license, or approval until the report is filed with the County Commissioner of Planning. The applicant must provide to any County agency which has jurisdiction of the project: 1) a copy of the Commissioner report approving the proposed action; or 2) a copy of the Commissioner of Planning recommendations to modify or disapprove the proposed action, and a certified copy of the land use board statement overriding the recommendations to modify or disapprove, and the stated reasons for the land use board's override.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Mayor Nathan Bubel, Airmont
Rockland County Department of Health
Rockland County Sewer District #1
Rockland County Office of Fire and Emergency Services
New York State Department of Transportation
New York State Thruway Authority
Tallman Fire District

Anthony R. Celentano P.E.
Town of Ramapo Planning Board

**NYS General Municipal Law Section 239 requires a vote of a 'majority plus one' of your agency to act contrary to the above findings.*

The review undertaken by the Rockland County Planning Department is pursuant to, and follows the mandates of Article 12-B of the New York General Municipal Law. Under Article 12-B the County of Rockland does not render opinions, nor does it make determinations, whether the item reviewed implicates the Religious Land Use and Institutionalized Persons Act. The Rockland County Planning Department defers to the municipality forwarding the item reviewed to render such opinions and make such determinations if appropriate under the circumstances.

In this respect, municipalities are advised that under the Religious Land Use and Institutionalized Persons Act, the preemptive force of any provision of the Act may be avoided (1) by changing a policy or practice that may result in a substantial burden on religious exercise, (2) by retaining a policy or practice and exempting the substantially burdened religious exercise, (3) by providing exemptions from a policy or practice for applications that substantially burden religious exercise, or (4) by any other means that eliminates the substantial burden.

Proponents of projects are advised to apply for variances, special permits or exceptions, hardship approval or other relief.

Pursuant to New York State General Municipal Law §239-m(6), the referring body shall file a report of final action it has taken with the Rockland County Department of Planning within thirty (30) days after final action. A referring body which acts contrary to a recommendation of modification or disapproval of a proposed action shall set forth the reasons for the contrary action in such report.

