



Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

November 25, 2019

Chestnut Ridge Zoning Board of Appeals
277 Old Nyack Turnpike
Chestnut Ridge, NY 10977

Tax Data: 67.08-1-73

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 10/25/2019

Date Review Received: 10/31/2019

Item: CONGREGATION AHAVAS YISRAEL (CR-241A)

A variance application to allow the change in use of an existing house of worship with accessory classrooms to a school for general education located on 1.65 acres in the R-25 zoning district. No changes to the structure are proposed. Bulk variances are required due to the change in requirements for the proposed use. Variances are requested for lot area, lot width, front setback, front yard, side setback, total side setback, side yard, rear setback, rear yard, development coverage, and floor area ratio. A waiver of required parking by the Planning Board is also requested.

Southeast side of Chestnut Ridge Road, opposite Haller Crescent

Reason for Referral:

Chestnut Ridge Road (NYS Route 45)

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:

***Disapprove**

1 The applicant is proposing to change the use to one that is more intense than what is currently existing. This is evidenced by the magnitude of bulk standards required between the house of worship and a school for general education uses. A house of worship use only requires a parcel size of 25,000 SF, or approximately 0.57 acres. However, a school for general education use requires 10 acres, more than 17 times greater than the existing use. Though the parcel exceeds the lot area standard for the house of worship, it is a grossly undersized parcel for the proposed school use, with only 1.65 acres being provided for this use. While the house of worship use also exceeds the requirements for lot width, front setback, front yard, and rear setback, these standards are nearly tripled for a school use. Total side setback standards increase by a factor of four, while side setback increases by a factor of five, and side yard by 10. The maximum development coverage is also reduced from 50% to 30%. The building and parking on site cannot meet the changes in standards associated with this change of use.

Besides the bulk standard contrasts, the intensity of use must also be examined. A house of worship is often only used two days a week, and with more limited hours of operation, whereas a school will be used five to six days a

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week, more than double the amount, and with longer hours of operation. This does not include other extracurricular activities, events, parent/teacher conferences, etc. Given the extent and number of variances required, the new use must not be permitted.

2 A school is a use by special permit, granted by the Village Board, and has specific criteria that must be met in order to permit this use. The R-25 zoning district was designed for low-density residential uses, with a majority of the surrounding area conforming to this. The Board must consider how the character of the neighborhood will be altered by permitting the severe overdevelopment of this site, and review the special permit requirements to ensure that all criteria are met.

3 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 lot area and lot width are deficient by 83.5% and 25%, respectively. The front yard and front setback are both only 53% of the required amount, while the side setback and total side setback are only 34% and 66% compliant. In addition, the side yard is deficient by 95% while the rear yard is by 77%. The maximum development coverage is exceeded by 110%, and the floor area ratio by 35%. The ability of the existing infrastructure to accommodate more intense uses 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. Because of the precedent set by the severity of the required variances, the change of use shall not be permitted.

The following comments address our additional concerns:

4 A review must be completed by the New York State Department of Transportation, and all required permits obtained.

5 As per the August 30, 2019 letter from the Rockland County Department of Health, a Food Service Establishment Permit will be required from them if a kitchen is proposed for the school.

6 The applicant must comply with all comments made by the Rockland County Sewer District No. 1 in their letter of August 21, 2019.

7 A review must be completed by the Rockland County Office of Fire and Emergency Services, the Village of Chestnut Ridge Fire Inspector, or the South Spring Valley Fire Department to ensure that there is sufficient maneuverability on site for fire trucks, in the event an emergency arises.

8 It will be difficult for a vehicle parked in the space in the southeast corner of the parking lot to maneuver out of the space without a turnaround area. Since the proposal requires a waiver of the required number of parking spaces, a turnaround area must be provided so that vehicles may safely back out.

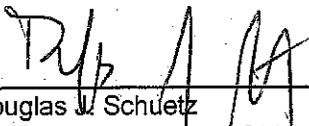
9 The two leftmost parking spots in the parking area located at the southwest corner of the multi-level masonry building conflict with the concrete ramp. This raises concerns of safety for pedestrians using the ramp. The ramp must be altered so that it does not extend into the parking area or the parking spaces must be moved to a new location. As noted in the previous comment, the proposal requires a parking waiver, and, therefore, cannot afford the loss of these two spaces.

10 Schools of General and Religious Instruction are permitted by special permit of the Village Board. We request the opportunity to review the special permit application as required by General Municipal Law.

11 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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12 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 Rosario Presti, Jr., Chestnut Ridge
New York State Department of Transportation
Rockland County Department of Health
Rockland County Office of Fire and Emergency Services
Rockland County Sewer District #1
South Spring Valley Fire District
Civil Tec Engineering & Surveying PC

Rockland County Planning Board Members

**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.