

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

August 29, 2019

Chestnut Ridge Planning Board
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: 7/16/2019

Date Review Received: 7/31/2019

Item: *CONGREGATION AHAVAS YISRAEL (CR-241)*

Site plan for 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. The building and parking lot will not be changed. Variances 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 will be required. A parking waiver 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 week, more than double the amount, and with longer hours of operation. This does not include other

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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 the character of the neighborhood, how it 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. The change of use shall not be permitted.

The following comments address our additional concerns:

4 Schools of General and Religious Instruction are special permit uses in the R-25 zoning district subject to the general conditions outlined in Article XII as well as the bulk standards for Use Group f. A special permit, and the required variance application, must be submitted for our review as mandated in Section 239-m.3.(a)(iii) of the New York State General Municipal Law. As indicated above, all of the criteria of the special permit requirements must be satisfied to allow this use.

5 The bulk table on the site plan indicates a variance for floor area ratio is required. The site plan also states only 89% of the required parking spaces are provided, resulting in the need for a parking waiver. These two items do not appear in the project narrative, and must be included so all materials remain consistent. In addition, the bulk table does not show a variance is required for lot area or lot width. This must also be corrected. A new public hearing notice must be issued if it contained incorrect information.

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

7 A review must be completed by the County of Rockland Department of Health, all comments or concerns addressed, and required permits obtained.

8 A review must be completed by the County of Rockland Sewer District #1 and any required permits obtained.

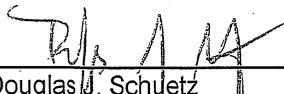
9 A review must be completed by the Rockland County Office of Fire and Emergency Services, the Village of Chestnut Ridge Fire Inspector, or the South Spring Valley Fire Department to ensure that there is sufficient maneuverability on site for fire trucks, in the event an emergency arises.

10 Fire lanes must be delineated on the site plan.

11 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. A turnaround area must be provided so that vehicles may safely back out.

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- 12 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.
- 13 A parking space is labelled "dumpster," but no dumpster or enclosure is shown. The site plan must be amended to include a dumpster enclosure that complies with all required yards, and does not impede the maneuverability of vehicles. It must also be accessible to sanitation workers.
- 14 Areas designated for snow removal must be clearly delineated on the site plan so that the plow drivers will know where to place the snow piles. In addition, providing specific locations on the site for the snow piles will reduce the loss of available parking spaces meant to be used by staff and parents of students.
- 15 The proposed play area, located in the northeast corner of the site, is located beyond the parking lot from the building. No route of access to the play area is provided on the site plan. A crosswalk must be provided and at least one parking space shall be moved so children can safely access the play area.
- 16 General Note #1 incorrectly lists the parcel as 56.20-1-2. This should be corrected to 67.08-1-73.
- 17 A lighting plan shall be provided that shows fields of illumination. This plan must demonstrate that the intensity of the candle lumens is less than 0.1 at the property line.
- 18 A landscaping plan shall be provided which has low evergreen landscaping supplementing the area along the property lines to block the headlights of parked cars from shining into neighboring properties.
- 19 All proposed signage must conform to the Village's requirements. In addition, the monument sign shall be delineated on the site plan.
- 20 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.
- 21 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
Rockland County Department of Health
New York State Department of Transportation
Rockland County Sewer District #1
Rockland County Office of Fire and Emergency Services
South Spring Valley Fire District
Civil Tec Engineering & Surveying PC

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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.