

DEPARTMENT OF PLANNING

Dr. Robert L. Yeager Health Center
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

July 13, 2016

Clarkstown Town Board
10 Maple Avenue
New City, NY 10956

Tax Data: 43.19-2-76

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

Map Date: 5/18/2016

Date Review Received: 6/13/2016

Item: ***BENIM SCHOLASTIC ACADEMY (C-916E)***

Special permit application to permit a child day-care center in a portion of the old St. Augustine School, located on 2.61 acres in the H2 and H4 zoning districts.

East side of S. Main Street, north side of Third Street, south side of Second Street, and west side of Maple Avenue

Reason for Referral:

NYS Route 304

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 The Town Board must be satisfied that all conditions of Section 290-17Z for the special permit use for a child day-care center facility are met. The information provided indicates that a floor plan is attached as Exhibit "B", as required under Section 290-17Z(3), but it was not included in our packet.
- 2 The resolution and the petition for the application to the Town Board cites Tax Map 43.19-2-24 as the Section, Block, and Lot for this parcel. This is incorrect as the lot is "76". This must be corrected, and the Town Board must verify that the correct Tax Map number is provided on the Public Hearing Notice, or it will have to be re-issued.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor George Hoehmann, Clarkstown
New York State Department of Transportation

BENIM SCHOLASTIC ACADEMY (C-916E)

Jay A. Greenwell, PLS, LLC

Attention Pat McDonald, Town Attorney's Office

Justin Sweet, Town Clerk

Clarkstown Planning Board, Attention Joe Simoes

**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.