



Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

July 26, 2018

Montebello Village Board
One Montebello Road
Suffern, NY 10901

Tax Data:

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

Map Date:

Date Review Received: 6/27/2018

Item: *VILLAGE OF MONTEBELLO - SPECIAL PERMIT STANDARDS (M-177)*

Zoning Code Amendments to standards for Special Permit approvals, Schools of General and Special Instruction and Dormitories, Residential Gathering Places, Neighborhood Places of Worship, Community Places of Worship, and Home occupations/home professional offices.

Throughout the Village

Reason for Referral:

State and County roads, Mahwah River, Town of Ramapo, Villages of Airmont, Suffern, and Wesley Hills, Rockland Community College, Harriman State Park, Kakiat Park

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 Section 195-69D(a) indicates that all special permit uses within residential zoning districts must be renewed every five years to ensure that all conditions of the special permit continue to be met. This requirement would presumably apply to existing special permit uses. The village must consider establishing a mechanism whereby property owners are notified of the upcoming expiration of their special permits and directed to apply for a renewal. Taking into consideration the lengthy time frames involved, and the possibility of changes in ownership or management of a property, this notification mechanism should be ongoing.

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2 Section 195-72A(1) establishes minimum lot areas for Schools of General or Special Instruction based on maximum enrollment capacity. The term "maximum enrollment capacity" is not defined and subject to interpretation. The examples provided appear to use a school's current enrollment for the lot size calculation. The maximum enrollment capacity of a school must be defined. In addition, public school districts are mandated to provide educational services to residents and may have very limited discretion over enrollment numbers at any given facility. Basing a minimum lot size on an enrollment figure that cannot be fully controlled, and may lack long-term predictability, could result in schools becoming non-conforming with the bulk requirements. For this reason, we recommend not using a school's current enrollment as the basis for establishing a minimum lot size.

3 Proximity to the Town of Ramapo and the Villages of Airmont, Suffern, and Wesley Hills is one of the reasons this proposal was referred to this department for review. As required under Section 239nn of the State General Municipal Law, these municipalities must be given the opportunity to review the proposed zoning amendments and provide any concerns related to them to the Village of Montebello.

4 The village must comply with all comments made by the Rockland County Sewer District No. 1 in their letter of July 2, 2018.

5 Standards for outdoor lighting are given for several special permit uses. These sections must restrict fields of illumination to less than 0.1 footcandles at the property boundary.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Mayor Lance Millman, Montebello
Rockland County Sewer District #1

Villages of Airmont, Suffern, Wesley Hills
Town of Ramapo

**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.