



COUNTY OF ROCKLAND
DEPARTMENT OF PLANNING

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EDWIN J. DAY
County Executive

DOUGLAS J. SCHUETZ
Acting Commissioner

July 30, 2014

ARLENE R. MILLER
Deputy Commissioner

New Hempstead Zoning Board of Appeals
108 Old Schoolhouse Road
New City, NY 10956

Tax Data: 42.13-2-40

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

Map Date: 6/25/2014

Date Review Received: 7/8/2014

Item: *YESHIVA OF GREATER MONSEY (NH-81J)*

Variances to allow the proposed construction of a 54,735 sq. ft. religious school on 4.89 acres in the 1R-40 zoning district. Required variances include: lot area, side yard, impervious cover, floor area ratio, parking within the front yard, and number of parking spaces within the front yard. A waiver from the special standards for schools, Section 6.9.4, is also being requested.

South side of New Hempstead Road, opposite Ellington Way

Reason for Referral:

New Hempstead Road (CR 80)

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***

Despite the fact that the building size has been reduced considerably from the previous submission in 2004, there are still several significant variances required in order to develop the parcel as proposed. Arguments for some of the variances use the rationale that in order to provide all of the required amenities for the school, yard variances and parking in the required front yard must be compromised. In order to minimize the need for the variances, the school must be reduced in size so that the special permit use can comply with the zoning ordinance. Specifically, we offer the following reasons to support our disapproval:

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1 The applicant repeatedly states that since the subject property is adjacent to a local park and lands owned by United Water New York and used as a water supply area, that the subject property should be exempt from some of the yard requirements. It is further indicated that these lands can serve as a buffer for the proposed school from the nearby individual homes. As a condition of the special standards for schools when adjacent to residential lot lines, at least twice the minimum yard requirement is needed, to help buffer the use. Ironically, it is because of these two land uses that we believe that this required doubling of yard set backs should be enforced. Parkland is public land that is there for the enjoyment of the community and neighborhood, and should have as much protection from development encroachment as a residential use. We normally request a minimum of a twenty-foot undisturbed, vegetated buffer area for any development project that abuts a State or County park so that not only is the visual integrity of the park preserved, but to also help to protect the existing vegetation and root systems from damage due to adjacent construction/on-site activities. Though this is a town park, we believe that the buffer area, or the doubling of the yard requirement would be beneficial so that the existing vegetation within the parkland is not disturbed or impacted.

In addition, the adjacent wells are on land that is there for the benefit of the public, and in fact, a well protection zone is located on the subject property, as a means to help protect these wellheads from contaminants. A wall is proposed directly adjacent to the United Water property line, and stairs and another wall are proposed less than five feet from the United Water property boundary; a basketball court, and a portion of the building are less than 30 feet from the property line also adjacent to the United Water property.

Not only is the applicant requesting a waiver from Section 6.9.4, Special Standards for Schools, which requires at least twice the minimum yard requirement for residential buildings in said district, the proposal does not conform to the existing standards for side and total side yards. We recommend that the Village consider these adjacent uses not as a buffer to serve the proposed school use, but rather as public uses that need to be better protected. The required doubling of yard standards must be enforced for this use, and the side and total side yard variances denied.

Lastly, the narrative on page 9 indicates that a variance for total side yard is required, yet the bulk table and variance lists on pages 6 and 7 do not specify this as a required variance. It must be clarified if a total side yard variance is in fact required.

2 The application requires a parking variance to allow parking in the front yard because 26 parking spaces are proposed, and only 65 feet of front yard is provided. The argument is given that the 26 parking spaces are required to be placed in the front yard in order to provide play fields for students. The 65-foot front yard measurements for the parking spaces is taken from the property line, and not from the designated street line. Applying the yard measurement from the designated street line further exacerbates the parking variance. In addition, in order to meet the required parking standards, 37 spaces are proposed to be stacked. As indicated above, the school needs to be reduced in size to meet the zoning standards for this special permit use. A reduced school would allow for both the play fields and parking to be placed outside of the required yards.

3 The proposed impervious coverage ratio is 129.5% greater than permitted. This site is located next to parkland and water supply wells, and every effort should be made to reduce the impervious coverage by decreasing the size of the building or by utilizing pavers or other porous material on site, such as for the basketball court, pavement, or sidewalks. In addition, drainage run-off for this site is being directed towards the adjacent town park. Before this drainage can be funneled towards the town park, the Town of Ramapo Department of Parks & Recreation must review and approve of the proposed drainage being dispersed into their parklands.

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4 While the lot area is only 2.4% less than the minimum required, the floor area ratio is 157.5% greater than the maximum allowed for this special permit use. The site is too small to accommodate a school of this size. This is evidenced by the other required variances needed to implement the site plan as proposed. Retaining walls are being constructed on the property line, or within only a few feet, and stacked parking is required in order to meet the required number of parking spaces.

All of these reasons listed above indicate that the proposed school is an overutilization of the site and it must be scaled back to reduce the intensity and number of variances needed to implement the project.



Douglas J. Schuetz
Acting Commissioner of Planning

- cc: Mayor Fred Brinn, New Hempstead
Rockland County Department of Highways
Rockland County Office of Fire and Emergency Services
Rockland County Department of Health
Rockland County Sewer District #1
Rockland County Planning Board
Moleston Fire District
United Water of New York
Leonard Jackson Associates
Town of Ramapo Parks & Recreation
New York State Department of State,
Division of Code Enforcement and Administration

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.

