

DEPARTMENT OF PLANNING

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

Arlene R. Miller
Deputy Commissioner

May 23, 2016

New Hempstead Village Board
108 Old Schoolhouse Road
New City, NY 10956

Tax Data: 42.06-1-1.5 42.06-1-1.4 42.06-1-1.3 42.06-1-1.2

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

Map Date: 4/7/2016

Date Review Received: 4/12/2016

Item: *ATERES BAIS YAAKOV (NH-69R)*

Special permit application to allow the construction, maintenance and use of a two-story, 47,149 SF religious school with a basement on 5.05 gross acres (3.91 net acres) in a 1R-50 zoning district. Bulk variances are required for this proposal. The applicant is also seeking a waiver of the buffer requirement from the Planning Board.

East side of Summit Park Road, 30 feet south of David Drive

Reason for Referral:

Dr. Robert L. Yeager Health Complex, Federal Wetlands

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***

Based on the narrative summary submitted with this application, it is our understanding that the revised site plan was designed in conjunction with the Village's Community Development Committee. The proposed school building has been shifted from the south side of the site to the east side. The parking area is now shown on the south side of the site. The magnitude of some variances has changed as a result of these site plan revisions and amendments to the Zoning Code. Most notably, the minimum lot area requirement for schools has increased from five acres to ten acres resulting in the need for a variance of more than 60 percent.

We offer the following recommendations on the special permit application.

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1 Our reason for reviewing this proposal under the NYS General Municipal Law is that the site is within 500 feet of the Dr. Robert L. Yeager Health Complex. While we do not believe that granting a special permit to allow the school use will impact the county facility, we note that the proposal does not strictly comply with certain special permit standards.

The narrative submitted with this application lists the conditions which must be met for special permit schools as outlined in Section 6.9.9 of the Village of New Hempstead's Zoning Law. It should be noted that the proposed school site has a net lot area of 3.91 acres, 60.9% less than the minimum required. The site is located on a collector road. It is our understanding that Ateres Bais Yaakov is chartered by the New York State Board of Regents and that its general studies curriculum meets or exceeds the New York State Department of Education's requirements. The narrative contends that the proposed school, especially in its reduced configuration, complies with the general standards for special permits in Section 6.5 of the Zoning Law. The Village shall be satisfied that the current submission does comply with the standards in Section 6.5.1 through Section 6.5.5, all of which are related to the impact of the special permit use on the surrounding land uses. Since the on-site parking is deficient by 80 percent, off-street parking arrangements must be in place for special events including parent-teacher conferences and assemblies.

With regard to the Special Standards for Schools, the minimum lot area deficiency of more than 60 percent is a significant non-conformity. As recommended in our GML review of the ZBA application, a larger assemblage of land is required to develop a school that more closely complies with the 1R-50 bulk standards. A smaller building footprint will reduce the extent of the yard and setback non-conformities. Since special permit uses are by definition subject to a higher standard of review, the Village Board must evaluate the affect of these non-conformities on the surrounding residential neighborhood.

2 A review must be completed by the Rockland County Department of General Services, Division of Facilities Management, and any raised comments or concerns addressed.

3 If there is any encroachment into the Federal wetlands, a review must be completed by the United States Army Corps of Engineers and all required permits obtained.

4 The applicant must comply with the conditions of the Rockland County Health Department's letter of March 1, 2016.

5 The applicant must comply with the conditions of the Rockland County Sewer District No. 1's letter of April 22, 2016.

6 The applicant must comply with the conditions of the Rockland County Drainage Agency's letter of March 24, 2016.

7 The proposed school building must comply with all requirements of the New York State Uniform Fire Prevention and Building Code.

8 A review must be completed by the County of Rockland Office of Fire and Emergency Services, the Village Fire Inspector or the Hillcrest Fire Department to ensure that there is sufficient maneuverability on-site for emergency vehicles.

9 The Layout Plan submitted with this application was last revised on April 7, 2016; the GML referral form specifies a map date of December 24, 2015. All application materials must be consistent.

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10 The three parcels and the undedicated right-of-way (shown as Lot 42.06-1-1.5 on the Rockland County Tax Maps) must be legally consolidated into one parcel, so that the building does not straddle multiple properties, especially since they are in different ownership. This may need to be done as a re-subdivision or a lot line waiver.

11 The GML referral form does not include Lot 42.06-1-1.5. All application materials must be consistent.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Mayor Fred Brinn, New Hempstead
Rockland County Department of General Services,
Division of Facilities Management
United States Army Corps of Engineers
Rockland County Department of Health
Rockland County Sewer District #1
Rockland County Drainage Agency
New York State Department of State,
Division of Code Enforcement & Administration
Rockland County Office of Fire and Emergency Services
Hillcrest Fire District

Leonard Jackson Associates

Aaron Fink

**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.

