Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

August 22, 2016

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

Tax Data: 33.19-1-2

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 7/18/2016 **Date Review Received:** 7/25/2016

Item: ***TEMPORARY SITE FOR ATERES BAIS YAAKOV ACADEMY OF ROCKLAND (NH-48K)***

Site plan application to allow the temporary use of 5.08 gross acres (3.459 net acres) in a 1R-50 zoning district as a school site for a maximum of three years. A permanent school has been approved and will be constructed on another site within the Village. The subject parcel was previously approved for use as a church. The original church building will be demolished; the partially constructed church building will be "mothballed." Three units of temporary modular classrooms (trailers) will be installed on the site. A total of 48 parking spaces will be provided. Bulk variances will be required.

West side of Route 45, 1150 feet north of Sanatorium Road

Reason for Referral:

NYS Route 45, Town of Ramapo, 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

1 Special permit uses are, by definition, subject to a higher standard of review. This proposal is deficient in meeting the parking requirement in contradiction of Section 6.5.4. In addition, it is an undersized parcel that does not meet the minimum lot area standard of 10 acres specified in Section 6.9.4a. The buffer requirements set forth in Section 6.9.4b. are also not achieved. Lastly, several variances are needed from the 1R-50 bulk standards for this use. The Village must evaluate whether the temporary nature of this use warrants these deviations from the special permit standards for schools. If not, the proposal must be scaled back and fewer trailers permitted.

2 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 applicant is seeking a 65 percent variance for minimum lot area and a 72 percent reduction in the on-site parking requirement. The ability of the existing infrastructure to accommodate educational facilities on undersized, environmentally constrained 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

3 An existing well is shown on the east side of the parking area, and labeled "to be protected during construction" on Drawings 1 and 2. On Drawing 3, the notations indicate that the well is to be protected and to be decommissioned. The final disposition of the well must be clarified. If it is to be decommissioned, then it must be done in compliance with Article II of the Rockland County Sanitary Code. Furthermore, approval must be obtained from the Rockland County Department of Health prior to initiating any decommissioning activity.

4 It will be difficult for sanitation workers to access the dumpster enclosure in its proposed location at the western end of the parking area. Vehicles parked in the westernmost spaces will be unable to exit while the dumpster is being emptied. The dumpster enclosure must be moved to a more accessible location.

5 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. This will help to protect the proposed landscaping from damage due to the weight of the snow and salt intrusion. In addition, providing specific locations on the site for the snow piles will reduce the use of parking spaces for this purpose, especially since only 28 percent of the minimum on-site parking requirement is achieved.

6 The GML referral form includes the incorrect section, block and lot number. This must be corrected. The public hearing notice will have to be reissued if it indicated the wrong tax lot designation for this parcel.

7 Drawing 6 (Bus Turn) shows bus movements extending beyond paved areas, both along the easternmost parking area and the driveway access to the site. In addition, some areas have been reduced in width to "squeeze" in bus movement. The bus shown to be entering the site appears to be traveling south in the northbound lane; the exiting bus seems to be in the oncoming lane as well. All bus movements must be contained within the paved sections of the site. The Route 45 centerline must be shown on the drawing.

8 The applicant must comply with the conditions of the Rockland County Health Department's letter of July 28, 2016.

9 The applicant must comply with the conditions of the Rockland County Sewer District #1's letter of August 22, 2016.

10 A review shall be completed by the New York State Department of Transportation and all required permits obtained.

11 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.

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12 The Town of Ramapo is one of the reasons this proposal was referred to this department for review. The municipal boundary is along NYS Route 45 immediately east of the site. New York State General Municipal Law states that the purposes of Sections 239-l, 239-m and 239-n shall be to bring pertinent inter-community and countywide planning, zoning, site plan and subdivision considerations to the attention of neighboring municipalities and agencies having jurisdiction. Such review may include inter-community and county-wide considerations in respect to the compatibility of various land uses with one another; traffic generating characteristics of various land uses in relation to the effect of such traffic on other land uses and to the adequacy of existing and proposed thoroughfare facilities; and the protection of community character as regards predominant land uses, population density, and the relation between residential and nonresidential areas. In addition, Section 239-nn was enacted to encourage the coordination of land use development and regulation among adjacent municipalities, and as a result development occurs in a manner that is supportive of the goals and objectives of the general area.

The Town of Ramapo must be given the opportunity to review the proposal and its impact on community character, traffic, water quantity and quality, drainage, stormwater runoff and sanitary sewer service. The areas of countywide concern noted above that directly impact the Town of Ramapo must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

13 The proposed temporary trailers must comply with all requirements of the New York State Uniform Fire Prevention and Building Code.

14 A review must be completed by the County of Rockland Office of Fire and Emergency Services, the Village Fire Inspector or the Moleston/Hillcrest Fire District to ensure that there is sufficient maneuverability on site for emergency vehicles. This is particularly important given that there seems to be some tight turning radii within the site that will be difficult for a shorter bus to maneuver.

15 Water is a scarce resource in Rockland County; thus proper planning and phasing of this project are critical to supplying the current and future residents of the Villages, Towns, and County with an adequate supply of water. If any public water supply improvements are required, engineering plans and specifications for these improvements shall be reviewed and approved by the Rockland County Department of Health prior to construction in order to ensure compliance with Article II (Drinking Water Supplies) of the Rockland County Sanitary Code and Part 5 of the New York State Sanitary Code.

16 A landscaping plan must be submitted for our review. Low evergreen landscaping shall be provided in front of the parking spaces facing the State highway to prevent headlights from shining into vehicles traveling along Route 45.

17 A lighting plan shall be submitted for our review. Fields of illumination for the lighting must be provided, and no luminaires shall shine beyond the property line or into the State highway.

18 All proposed signage shall be shown on the site plan and conform to the Village's sign standards.

19 There shall be no net increase in the peak rate of discharge from the site at all design points.

20 Prior to the start of construction or grading, a soil and erosion control plan shall be developed and in place for the entire site that meets the latest edition of the New York State Guidelines for Urban Erosion and Sediment Control.

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21 Recent field observations indicate that clearing and grading of the site is ongoing. Since this proposal has not yet been approved, permits have not been issued. Therefore, no construction activity should be occurring. The Village must issue a stop work order if the current activity is not allowed.

Douglas J. Schuetz
Acting Commissioner of Planning

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

Leonard Jackson Associates
Town of Ramapo

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.