

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

September 28, 2016

New Hempstead Zoning Board of Appeals
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: 9/8/2016

Date Review Received: 9/21/2016

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

Variations for lot area, front yard/setback, maximum building coverage/Floor Area Ratio and parking 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 has been demolished; the partially constructed church building will be "mothballed." Three units of temporary modular classrooms will be installed on the site. A total of 48 parking spaces will be provided.

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***

On August 22, 2016, this department received revised plans for this proposal dated August 18, 2016. The submission also included the application form and project narrative. On September 21, 2016, we received a set of drawings dated September 8, 2016, as well as related reports and the engineer's responses to several agencies' comments on the proposal. The Planning Board meeting was rescheduled to September 27, 2016, or six days after our receipt of the GML referral. The Zoning Board meeting is September 28, 2016, or seven days after our receipt of the GML referral. We remind the Village that the New York State GML mandates a review period of up to 30 days. This department cannot accommodate requests to review development proposals in less than 30 days.

Given the fact that the proposal has changed since our August 22, 2016 GML review, we offer the following comments.

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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 It is unclear whether temporary modular classrooms are permitted in the Village Zoning Code. This must be clarified. In addition, the temporary time frame must be specified. Three years is considerably longer than the time frame permitted in other municipalities. A shorter time frame with a limited number of extensions is a more appropriate regulatory mechanism.

4 A review shall be completed by the New York State Department of Transportation and all required permits obtained. The need for a traffic study must be determined given the significant traffic generated by a school site that is also in close proximity to an active medical office complex and Town park.

5 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.

This department is in receipt of several letters from tenants of the medical office complex opposing the project due to concerns about traffic. Given that this complex is located within the Town of Ramapo, these concerns must be satisfactorily addressed.

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- 6 The applicant must comply with the conditions of the Rockland County Health Department's letter of August 26, 2016.
- 7 The applicant must comply with the conditions of the Rockland County Sewer District #1's letter of August 22, 2016.
- 8 The wetland boundaries and total area have changed from the July 18, 2016 drawings to the September 8, 2016 plans currently under review. An explanation must be provided as to why the boundaries and total area have changed. The net lot area calculation has not been updated accordingly. This must be corrected and all related calculations also updated.
- 9 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. Stormwater detention basins are now shown within the revised wetland area. Are these basins considered encroachment?
- 10 The floor area ratio calculation does not include the square footage of the existing building. While it is proposed to be "mothballed," it does exist and is currently being used for storage by the Town of Ramapo, in violation of the Village of New Hempstead's Zoning Ordinance. The Village must determine whether the square footage must be included in the floor area ratio calculation, and whether two uses are allowed on the same site.
- 11 The proposed temporary modular classrooms must comply with all requirements of the New York State Uniform Fire Prevention and Building Code.
- 12 A review of Drawing Number 7 (Tallman Fire Truck Turn) 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. It must be noted that the site is not within the Tallman Fire District.
- 13 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.
- 14 The map notes on Drawing Number 1 are out of sequence and include two Number 19s. It appears that the first Number 19 should be Number 10. Number 9 does not include any information. Numbers 21 and 22 contain identical information. One shall be eliminated and the following notes renumbered.
- 15 Any and all future site plan revisions, as well as additional variances, are subject to a review by this department as mandated under the NYS General Municipal Law.



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 Drainage Agency
New York State Department of State,

TEMPORARY SITE FOR ATERES BAIS YAAKOV ACADEMY OF ROCKLAND (NH-48N)

Division of Code Enforcement & Administration
Rockland County Office of Fire and Emergency Services
Moleston Fire District
Hillcrest Fire District
Rockland County Sewer District #1

Leonard Jackson Associates
Town of Ramapo

Rabbi 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.