

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

January 9, 2017

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

Tax Data:

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

Map Date:

Date Review Received: 12/1/2016

Item: *VILLAGE OF NEW HEMPSTEAD/PLACE OF ASSEMBLY (NH-119B)*

Proposed amendments to Local Law 2 of 2015. A Local House of Worship is to be renamed "Place of Assembly."

Residential zones in the Village of New Hempstead

Reason for Referral:

State and County roads, County parks and facilities, and adjacent municipalities

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***

In July of 2015, the Village of New Hempstead decided to address the need for additional flexibility in managing residential properties for religious uses. Gathering Places and Local Houses of Worship were both proposed to be added as new special permit uses in the Village. This department first issued comments on Gathering Places on July 21, 2015 and on Local Houses of Worship on August 4, 2015. Subsequent reviews were issued for Gathering Places on November 17, 2016 and for Local Houses of Worship on November 21, 2016.

Although we concurred with the Village's intent to preserve the character of its residential neighborhoods while allowing small religious gatherings or local houses of worship in single-family residences, we expressed concern about the effect of increased traffic and potentially inadequate off-street parking on state and county roads, as well as adjacent municipalities. We offered several recommendations on each amendment.

The current amendment recommends that local houses of worship be renamed; the term "Place of Assembly" is proposed. This more generic term encompasses a wide range of gatherings of up to 40 or more adults. It is unclear why religious gatherings are no longer the focus given the initial intent of these amendments. It is also not clear whether "Place of Assembly" will be used instead

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of "Gathering Place." These issues must be clarified.

The comments below address our additional concerns about the proposed amendment.

- 1 The definition of "Place of Assembly" must specify the percentage of the square footage of the residence that shall be occupied by this use, as in the Gathering Place definition.
- 2 This amendment does not include a separate Bulk Requirements section. As stated in previous reviews, this is a major deficiency. A new special permit use must have appropriate bulk standards attached to it.
- 3 Previous versions of the amendment included language about shielding neighboring property owners from noise and glare from headlights with regard to parking spaces. This was included in the Bulk Requirements section which has been eliminated. As recommended in our previous review, to help protect the adjacent residential properties, requirements must be provided for the provision of landscaping on site. Such provisions should require that low evergreen landscaping or a berm be provided to help shield the headlights of vehicles from shining into the adjacent property.
- 4 Existing and proposed Places of Assembly must comply with all requirements of the New York State Uniform Fire Prevention and Building Code.
- 5 Sight distance must be evaluated for all proposals for Places of Assembly to ensure that parking along the minor roads will not create unsafe conditions. Signage requirements for "no parking zones" should be considered in the Local Law.
- 6 The adequacy of the off-street parking agreements with property owners within 500 feet of the subject site must be closely monitored. If these driveway spaces prove insufficient, the conditions of the special permit must be reevaluated. The maximum number of attendees must be reduced if numerous vehicles are parked along the street, particularly if the Place of Assembly is located in close proximity to an adjacent municipality. Under no circumstances can vehicles park within the right-of-way of a state or county highway.
- 7 Change of ownership must be addressed in the parking requirements section. If the ownership of a property within 500 feet of the gathering place changes, a new letter of authorization must be obtained to use their driveway for parking.
- 8 We question the decision to allow stacked parking and waive driveway aisle and car turnaround requirements. This will create an unsafe condition as vehicles reverse into state, county or local roads. The potential for vehicular and pedestrian conflicts is great. This must not be permitted.
- 9 Specific sign requirements must be provided, particularly for sign area, height, and setback.
- 10 The comments in the December 7, 2016 letter from the Rockland County Department of Health must be addressed.
- 11 The conditions of the August 7, 2015 letter from the Rockland County Sewer District #1 must be satisfactorily addressed.
- 12 There are several municipalities that border the Village of New Hempstead, which could be affected by an adjacent property becoming a Place of Assembly. As required under Section 239nn of the State General Municipal Law, these municipalities must be given the opportunity to review the proposed Local Law amendment and provide any concerns related to the zoning ordinance changes to the Village of New Hempstead.

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13 Number 12 does not require a site plan review by the Village Planning Board for existing Places of Assembly if a special permit is applied for within 60 days of the filing of the subject Local Law. This is a major deficiency. Village Board members are not required to be certified by the Rockland Municipal Planning Federation (RMPF), or subject to the New York State training requirements. Planning Board members must attend nine hours of training to be certified by the RMPF, in addition to a four-hour annual NYS training requirement. We believe a site plan review by the Planning Board is appropriate and must be required. The Planning Board is the more suitable board to undertake site plan reviews.

14 The Procedures section must be revised to require site plan approval by the Planning Board rather than the Village Board. As noted above, this is a major deficiency since the Planning Board is the more suitable board to undertake site plan reviews.

15 The special permit applications required for future Places of Assembly proposals are subject to a review by this department as mandated by the New York State General Municipal Law.

16 The site plan applications required for future Places of Assembly proposals are subject to a review by this department as mandated by the New York State General Municipal Law.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Mayor Fred Brinn, New Hempstead
New York State Department of Transportation
Rockland County Department of Highways
Rockland County Department of General Services
New York State Department of State
Rockland County Department of Health
Rockland County Sewer District #1

Rarunpo
Pomona, Wesley Hills, Spring Valley, New Square

Carole Vazquez, Village Clerk-Treasurer

**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.

