Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
Dr. Robert L. Yeager Health Center
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Pomona, New York 10970
Phone: (845) 364-3434 Fax: (845) 364-3435

Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

July 26, 2018

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: **Date Review Received:** 6/29/2018

Item: ***ATERES BAIS YAAKOV ACADEMY OF ROCKLAND/SPECIAL PERMIT RENEWAL (NH-69V)***

Renewal of a special permit to allow an interim school building use, consisting of a series of modular classrooms tied together to form a single structure of 14,700 SF, at the southern end of a 5.05 acre site in the 1R-50 zoning district. Construction of a permanent school will take place in the northern and eastern portions of the site.
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

1 Local Law No. 1 of 2017 was adopted on March 27, 2017. It allows for the establishment of certain interim school uses of limited duration, provided that such uses do not adversely affect adjacent properties, and provided that such uses are discontinued upon the expiration of a set time period. Interim school building uses shall be granted by Special Permit of the Village Board of Trustees and shall be governed by Section 6.9 of the Zoning Law. By definition, special permit uses are subject to a higher standard of review. The Village Board must be satisfied that the existing temporary modular classroom buildings are conforming to the applicable special permit standards in Section 6.9, particularly those listed in Section 6.9.4.1.

2 The applicant must continue to comply with the conditions of the Rockland County Sewer District #1's letter of March 10, 2017.

3 The existing temporary modular classroom buildings must continue to comply with all requirements of the New York State Uniform Fire Prevention and Building Code.

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4 A review must be completed by the Rockland County Office of Fire and Emergency Services, the Village of New Hempstead Fire Inspector, or the Moleston/Hillcrest Fire Department to ensure that there is sufficient maneuverability on site for fire trucks, and an adequate water supply for fire protection operations, in the event an emergency arises.

5 A review must be completed by the Rockland County Department of General Services, Division of Facilities Management, and their concerns, if any, satisfactorily addressed.

6 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.

7 Given the temporary nature of this special permit use, we recommend that a separate map note be required that specifies the initial one-year time frame, as well as the maximum of two permitted 12-month renewals. The initial and any renewal term dates must also be provided.

8 The GML referral form lists only three of the four parcels that comprise the site. All application materials must be consistent.. The public hearing notice must be reissued if it did not contain all of the tax lot numbers.

9 Pursuant to General Municipal Law (GML) Section 239-m and 239-n, if any of the conditions of this GML review are overridden by the board, then the local land use board must file a report with the County Commissioner of Planning of the final action taken. If the final action is contrary to the recommendation of the Commissioner, the local land use board must state the reasons for such action.

10 Pursuant to Executive Order 01-2017 signed by County Executive Day on May 22, 2017, County departments are prohibited from issuing a County permit, license, or approval until the report is filed with the County Commissioner of Planning. The applicant must provide to any County agency which has jurisdiction of the project: 1) a copy of the Commissioner report approving the proposed action; or 2) a copy of the Commissioner of Planning recommendations to modify or disapprove the proposed action, and a certified copy of the land use board statement overriding the recommendations to modify or disapprove, and the stated reasons for the land use board's override.

Douglas J. Schuetz,
Acting Commissioner of Planning

cc: Acting Mayor Abe Sicker, New Hempstead
Rockland County Department of General Services
United States Army Corps of Engineers
Rockland County Department of Health
Rockland County Sewer District #1
New York State Department of State
Rockland County Office of Fire and Emergency Services
Moleston/Hillcrest Fire District

Leonard Jackson Associates
Ira M. Emanuel, P.C.

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.*

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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.