



Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING

Dr. Robert L. Yeager Health Center
50 Sanatorium Road, Building T
Pomona, New York 10970

Phone: (845) 364-3434 Fax: (845) 364-3435

Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

October 2, 2018

New Hempstead Zoning Board of Appeals
108 Old Schoolhouse Road
New City, NY 10956

Tax Data: 50.09-1-38

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

Map Date: 3/2/2018

Date Review Received: 8/7/2018

Item: *CONGREGATION TEFILA LEMOSHE (NH-68A)*

Variations for total side yards, rear yard and maximum building coverage/floor area ratio to allow the construction of a 22' x 40' accessory structure on .375 acres in a 2R-15 zoning district. It will contain a mikvah and be accessory to the existing single-family dwelling with a steibel.

West side of Brockton Road, 100 feet north of Bay Court

Reason for Referral:

Viola Road (CR 74), Town of Ramapo

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:

****Disapprove***

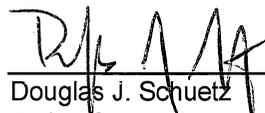
Variations were granted in 2000 to permit construction of a very large addition to the existing single-family residence. Five conditions were imposed. It is our understanding that the applicant is in violation of several of these conditions, and the interior layout does not conform to the approved plans. This department is unwilling to consider additional variations for a property that is not in conformance with existing ZBA conditions.

The following comments address our additional concerns about the proposal.

1 This department reviewed the variations required for the addition to the single-family residence in January of 2000. At that time, a floor area ratio (FAR) of .359 was proposed. The projected floor area of the structure was 5535.3 SF. It appears that the floor area on the current submission is understated. The FAR is not indicated on the bulk table. By our calculations, the FAR will be over .39 with the mikvah addition. The bulk table must include the proposed FAR. In addition, an FAR calculation must be provided.

CONGREGATION TEFILA LEMOSHE (NH-68A)

- 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. By our estimation, an FAR variance of almost 118 percent is required. The ability of the existing infrastructure to accommodate oversized structures requiring multiple variances 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, particularly given the violation history on this property.
- 3 A review must be completed by the Rockland County Health Department to ensure compliance with Article XIX (Mosquito Control) of the Rockland County Sanitary Code. An application for a backflow prevention device is required for the mikvah.
- 4 The proposed accessory structure and the existing residential building must comply with all requirements of the New York State Uniform Fire Prevention and Building Code.
- 5 A review must be completed by the Rockland County Office of Fire and Emergency Services, the Village of New Hempstead Fire Inspector, or the Hillcrest Fire District to ensure that there is sufficient maneuverability on site for fire trucks, in the event an emergency arises.
- 6 A parking calculation must be provided on the site plan. The parking requirement and proposed on-site parking must be indicated in the bulk table. The on-site parking must be shown on the map.
- 7 The site plan shall contain map notes that list all appropriate information, including the district details. A vicinity map shall also be provided.
- 8 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.
- 9 In addition, 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 Highways
Rockland County Department of Health
Rockland County Sewer District #1
New York State Department of State
Rockland County Office of Fire and Emergency Services
Hillcrest Fire District

Anthony R. Celentano P.L.S.
Town of Ramapo

CONGREGATION TEFILA LEMOSHE (NH-68A)

Congregation Tefila Lemoshe

Rockland County Planning Board Members

**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.

