

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

May 28, 2019

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

Tax Data: 42.06-1-1.4

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

Map Date:

Date Review Received: 4/26/2019

Item: *ATERES BAIS YAAKOV OF ROCKLAND/PERMANENT SCHOOL SPECIAL PERMIT (NH-69Y)*

Application for renewal of a special permit to allow the completion of construction of a two-story, 47,149 SF permanent school building with a basement on 5.05 gross acres (3.91 net acres) in a 1R-50 zoning district. Bulk variances were previously granted for lot area, front yard, floor area ratio, impervious coverage ratio and parking. The subdivision and site plan were approved, and the buffer requirement was waived by the Planning Board.

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 By definition, special permit uses are subject to a higher standard of review. The Village Board shall be satisfied that the current proposal complies with the standards in Section 290-42, all of which are related to the impact of the special permit use on the surrounding land uses. Since the on-site parking is deficient by 80 percent, off-street parking arrangements must be in place for special events, including parent-teacher conferences and assemblies.
- 2 With regard to the Special Standards for Schools, the minimum lot area deficiency of more than 60 percent is a significant non-conformity. As recommended in our GML review of the ZBA application, a larger assemblage of land is required to develop a school that more closely complies with the 1R-50 bulk standards. A smaller building footprint will reduce the extent of the yard and setback non-conformities. The Village Board must evaluate the affect of these non-conformities on the surrounding residential neighborhood.
- 3 A review must be completed by the Rockland County Department of General Services, Division of Facilities Management, and any raised comments or concerns addressed.

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- 4 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.
- 5 The applicant must comply with the conditions of the Rockland County Sewer District # 1's letter of May 6, 2019.
- 6 An updated review of the most current site plan must be completed by the Rockland County Drainage Agency. In addition, the applicant must comply with the conditions of Drainage Agency's letter of March 24, 2016.
- 7 The proposed permanent school building must comply with all requirements of the New York State Uniform Fire Prevention and Building Code.
- 8 An updated review of the most current site plan must be completed by the County of Rockland Office of Fire and Emergency Services, the Village Fire Inspector or the Moleston-Hillcrest Fire Department to ensure that there is sufficient maneuverability on-site for emergency vehicles.
- 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 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 General Services
United States Army Corps of Engineers
Rockland County Department of Health
Rockland County Sewer District #1
Rockland County Drainage Agency
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. 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.*

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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.

