

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

August 20, 2019

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

Tax Data: 41.20-2-41

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

Map Date: 6/18/2019

Date Review Received: 7/15/2019

Item: *BAIS MALKA (NH-112J)*

Special permit application to allow a temporary modular building to be converted to a permanent building for use as additional classroom space on a 15.91-acre campus of two existing schools in a 1R-25 zoning district. A one-year extension of the original special permit to allow the installation of the temporary trailer is currently in place.

South side of Grandview Avenue, opposite Sansberry Lane

Reason for Referral:

Grandview Avenue (CR 80), Town of Ramapo, Village of Wesley Hills

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***

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 290-51.1 of the Zoning Law. The placement of temporary structures is dictated by the future location of the permanent school building. Section 290-51.1 H. recognizes that the siting of allowable structures will likely be outside of the building envelope(s) of the approved site plan for the permanent school building(s). It allows for the Planning Board to determine the placement of allowable structures (including setbacks, associated parking, ingress and egress, height, size, location of equipment, location and proposed buffering of air-conditioning units, stockpiling and storage of materials, and open spaces, including buffer areas and other yards) on the temporary school area or lot, so as to protect the health, safety and welfare of the surrounding residents. As a result, the interim building may not be in an ideal location on the site. The subject structure is situated over two stormwater drywells, an existing interior road, and within 23 feet of the existing two-story school. It is unclear whether it complies with building separation standards. This is not a suitable location for a permanent structure. The above referenced local law was enacted in response to concerns about temporary structures remaining on school sites indefinitely.

BAIS MALKA (NH-112J)

The Village must enforce its own law; the temporary modular building shall not be converted to a permanent structure.

2 Section 290-51.1 O states that "no building permit for an allowable structure shall be issued unless a building permit for the permanent school building, on the same parcel, has first been issued and construction on the permanent school building has commenced." It appears that a building permit was issued prematurely for the existing modular building as construction of the permanent school building has not begun. The special permit extension to allow the temporary use of the modular building to continue was granted as the applicant sought to have revised plans approved and to raise funds to construct the permanent school. The Village must provide an explanation as to why these inconsistencies with Local Law No.1 of 2017 have been allowed.

3 The status of the permanent school building is not addressed in the current application. Additional information shall be provided. It must be clarified whether the applicant is proceeding with this phase of the proposal. Local Law No. 1 of 2017 allows for a second 12-month extension for good cause. As per Section 290-51.1 "Good cause" shall include, but not be limited to, continued construction of the permanent school building. This is the appropriate avenue if the applicant still plans to construct the permanent structure.

The following comments address our additional concerns about this proposal.

4 The future permanent school building must be labeled as "proposed" if the applicant is proceeding with its construction.

5 Paragraphs 6, 7 and 8 on page 2 of the June 20, 2019 special permit narrative are confusing. They alternately reference the permanent and temporary classroom building so that it is unclear which proposed "permanent" structure is being discussed. The project narrative must be revised to explain if the applicant is seeking to construct the permanent school building in addition to converting the temporary structure to a permanent one.

6 An updated review of the June 18, 2019 site plan must be completed by the Rockland County Highway Department. The applicant must comply with the conditions of the Highway Department's letters of April 20, 2017 and June 28, 2017.

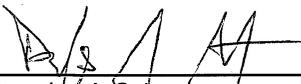
7 The Town of Ramapo and the Village of Wesley Hills are two of the reasons this proposal was referred to this department for review. The Ramapo municipal boundary is approximately 161 feet north of the site. The Wesley Hills municipal boundary is along Grandview Avenue approximately 52 feet north of 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 and the Village of Wesley Hills 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 and the Village of Wesley Hills must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

8 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.

BAIS MALKA (NH-112J)

- 9 The applicant must comply with the conditions of the Rockland County Sewer District #1's letter of August 6 2019.
- 10 An updated review of the June 18, 2019 site plan must be completed by the Rockland County Drainage Agency. The applicant must comply with the conditions of the Drainage Agency's letter of April 18, 2017.
- 11 The applicant must comply with the conditions of the New York State Department of Environmental Conservation's letter of June 21, 2017.
- 12 All structures must comply with all requirements of the New York State Uniform Fire Prevention and Building Code.
- 13 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 District to ensure that there is sufficient maneuverability on site for fire trucks, in the event an emergency arises.
- 14 A bulk table must be provided on the site plan. It is not possible to evaluate whether this proposal conforms to the applicable bulk standards if they are not indicated on the drawing.
- 15 A parking calculation must be provided so that the minimum on-site parking requirement is clarified.
- 16 The Village Board shall be satisfied that the permanent school complies with the special permit standards outlined in Section 290-51.
- 17 The site plan shall contain map notes that list all appropriate information, including the district details.
- 18 A vicinity map must be provided. It shall contain a north arrow and a scale.
- 19 A revision table shall be provided with the revision dates listed chronologically.
- 20 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.
- 21 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: Mayor Abe Sicker, New Hempstead
Rockland County Department of Highways
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

BAIS MALKA (NH-112J)

Moleston Fire District

Anthony R. Celentano P.E.
Town of Ramapo, Village of Wesley Hills
Savad Churgin, LLP

Aaron Grossman, Bais Malka Hasc, LLC

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.