

**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:** 50.09-1-38

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

**Map Date:**

**Date Review Received:** 4/29/2019

**Item:** *CONGREGATION TEFILA LEMOSHE/35 BROCKTON ROAD (NH-68B)*

Special permit application to allow a place of assembly in a portion of an existing single-family dwelling with a shtiebel on .375 acres in a 2R-15 zoning district. An accessory structure is proposed to house ritual baths and related facilities to be used by members of the Congregation.

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***

1 The April 17, 2019 Narrative Summary submitted with the special use permit application indicates that an accessory structure to the dwelling is to be utilized as a Place of Assembly. It further states that the accessory structure will house ritual baths and related facilities to be utilized by the members of Congregation Tefila Lemoshe exclusively for religious purposes, during the hours of prayer services. This department has been advised by the Village of New Hempstead that only a special permit application to allow the Place of Assembly is under consideration, and that the mikvah is not being considered. The current submission is confusing and deficient. The appropriate application materials must be provided to this department for review. This application is considered incomplete until we receive all corrected information.

2 Our October 2, 2018 GML review of the ZBA application required for the accessory structure recommended denial of variances sought given that the applicant was in violation of conditions imposed in 2000. The status of these violations is not addressed in the current application. We are not in favor of permitting any intensification of use at this site until the referenced violations are corrected.

**CONGREGATION TEFILA LEMOSHE/35 BROCKTON ROAD (NH-68B)**

3 The project narrative notes that up to 90 congregants are anticipated. The majority of people attending activities at the Place of Assembly are expected to walk to the premises. The application materials include a copy of the Local Law adding Places of Assembly as a new special permit use, as well as letters from neighboring property owners agreeing to allow congregants to park in their driveways. A letter-sized copy of the "Title Page for Congregation Tefila Lemoshe" is also included. It is not possible to evaluate this map as it is illegible. A full-size drawing shall be provided that clearly illustrates the site plan details for the subject parcel, as well as the proposed off-site parking locations. The map must include a bulk table and calculations for all requisite standards. Map notes must be provided that list all appropriate information including the district details. Until this information is provided, we consider this to be an incomplete application.

The following comments address our additional concerns about this proposal.

4 The applicant must comply with the conditions of the Rockland County Highway Department's letter of May 6, 2019.

5 The applicant must comply with the conditions of the Rockland County Sewer District #1's letter of May 6, 2019.

6 The applicant must comply with the conditions of the Rockland County Health Department's letter of May 17, 2019.

7 The existing residential building and the proposed accessory structure must comply with all requirements of the New York State Uniform Fire Prevention and Building Code.

8 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.

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.

  
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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  
Moleston/Hillcrest Fire District  
  
Anthony R. Celentano P.L.S.  
Town of Ramapo

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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.*

