

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

July 9, 2019

New Hempstead Planning 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: 5/14/2019

Date Review Received: 5/30/2019

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

Site plan for an accessory structure to an existing single-family dwelling with a shtiebel on .375 acres in a 2R-15 zoning district. The accessory structure will 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 Our October 2, 2018 GML review of the ZBA application required for the accessory structure recommended denial of the variances sought given that the applicant was in violation of conditions imposed in 2000. We reiterated these concerns in our May 28, 2019 review of the special permit application. 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.

The following comments address our additional concerns about this proposal.

2 The on-site parking requirement and a parking calculation must be indicated on the site plan. According to Section 290-62.A., religious uses require 0.50 parking spaces per occupant of the largest room according to the maximum occupancy permitted by the Fire Code. The square footage of the shtiebel must be provided so the on-site parking requirement can be verified. We believe 45 parking spaces are required for the stiebel plus two spaces for the residence. A parking variance appears to be required. This must be clarified. If a variance is need for parking, an updated application must be submitted to the ZBA and referred to this department.

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3 An earlier version of the project narrative noted 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 special permit application materials referred to this department on April 29, 2019 included letters from neighboring property owners agreeing to allow congregants to park in their driveways. Up to 26 parking spaces can be provided in nearby driveways. A full size copy of the "Title Page for Congregation Tefila Lemoshe" was provided in the current submission and calls out the lots where parking is offered. It is unclear how many parking spaces will be provided on the subject site. We recommend that the number of spaces to be offered on each lot, including the subject site, be indicated on the map, as well as a depiction of the equivalent number of cars in each driveway to verify achievability.

4 An updated review of the May 14, 2019 site plan shall be completed by the Rockland County Highway Department. In addition, the applicant must comply with the conditions of the 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 June 4, 2019.

6 The May 14, 2019 site plan shall be provided to the Rockland County Health Department for review. In addition, the applicant must comply with the conditions of the 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 The Town of Ramapo is one of the reasons this proposal was referred to this department for review. The municipal boundary is along Viola Road, approximately 460 feet south of the subject site. As required under Section 239nn of the State General Municipal Law, the Town of Ramapo must be given the opportunity to review the proposed site plan and provide any concerns related to the project to the Village of New Hempstead.

10 Water is a scarce resource in Rockland County; thus proper planning and phasing of this project are critical to supplying the current and future residents of the Villages, Towns, and County with an adequate supply of water. The water system must be evaluated to determine if the additional water supply demands of the proposed development can be met. Domestic and fire demands of the project must be determined by a Licensed Professional Engineer and provided to the supplier of water for analysis. Demand calculations and results of the analysis must be provided to the Rockland County Department of Health for review.

11 Prior to the start of construction or grading, all soil and erosion control measures must be in place for the site. These measures must meet the latest edition (November 2016) of the New York State Standards for Urban Erosion and Sediment Control.

12 There shall be no net increase in the peak rate of discharge from the site at all design points.

13 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.

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14 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. Schuletz
Acting Commissioner of Planning

cc: Mayor Abe Sicker, New Hempstead
Rockland County Department of Health
Rockland County Department of Highways
Rockland County Sewer District #1
New York State Department of State
Moleston/Hillcrest Fire District
Rockland County Office of Fire and Emergency Services

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

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.

