

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
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August 3, 2020

New Hempstead Planning 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: 5/13/2020

Date Review Received: 7/21/2020

Item: *BAIS MALKA/46-48 GRANDVIEW AVENUE (NH-112L)*

Revised site plan for the conversion of a temporary modular building 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 was previously granted on August 16, 2018.

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

BAIS MALKA/46-48 GRANDVIEW AVENUE (NH-112L)

structure.

2 Originally, the temporary school building was installed while a new, permanent structure was approved to be constructed to the west of the parking lot. Since we previously reviewed an application on August 22, 2019 to convert the temporary structure into a permanent one, the proposed permanent structure has been removed from the site plan. It must be clarified if this structure is no longer to be built. Because temporary structures are only permitted in the interim while the permanent structure is being constructed, if the permanent structure is no longer planned, the temporary structure must be removed. If the applicant wishes to establish a new school building, a new site plan must be submitted that conforms to all Village requirements.

3 As per Section 290-51.1F., the special permit for temporary school building may only last one year. Two twelve-month extensions may be permitted, so long as good cause is shown upon a written request, and submitted at least 30 days prior to expiration of the special permit. On August 16, 2018, the Village Board of Trustees approved the applicant's first request for an extension. Since then, we have not received an application to extend the special permit a second time, nor has any information been provided in the narrative or on the site plan as to the status of a second one. Due to this, it is assumed that the extension of the special permit has elapsed, and the special permit is no longer valid. As stated above, the Village must enforce its own law; the temporary structure shall not be converted to a permanent structure, and must be removed from the site.

The following comments address our additional concerns about this proposal:

4 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.

5 The applicant must comply with the comments made by the Rockland County Highway Department in their letter of July 31, 2020.

6 An updated review must be completed by the Rockland County Department of Health, any comments or concerns addressed, and all required permits obtained. In addition, the applicant must comply with the conditions of their letter of August 20, 2019.

7 An updated review must be completed by the Rockland County Sewer District No. 1, any comments or concerns addressed, and all required permits obtained. In addition, the applicant must comply with the conditions of their letter of August 8, 2019.

8 An updated review of the May 13, 2020 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.

BAIS MALKA/46-48 GRANDVIEW AVENUE (NH-112L)

9 The applicant must comply with the conditions of the New York State Department of Environmental Conservation's letter of June 21, 2017.

10 All structures must comply with all requirements of the New York State Uniform Fire Prevention and Building Code.

11 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.

12 In our August 22, 2019 review, we asked that a parking calculation be provided so that the minimum on-site parking requirement could be clarified. The project narrative indicates that this is irrelevant since the site will be used in the same manner it was used as when installed in 2017. However, when the special permit to install the temporary structure was originally submitted in 2017, no parking calculation was submitted. The addition of twelve classrooms means more students and more faculty. This will result in more traffic to and from the site, and more cars parked on the site. It is unclear whether the structure complied with parking requirements when it was first approved in 2017. Therefore, a parking calculation must be provided. A variance may be required if parking requirements are not met.

13 Aerial imagery available to our department indicates busses park in the play area to the west of the existing two-story structure. If this area is to continue to be used as a play area, busses must not be allowed to park here as it creates dangerous conditions for children when using the area. In addition, two parking spaces are shown to be proposed for this area. For the same reason, these parking spaces must be removed or relocated. If this area is to no longer be used as a play area, it must be indicated as such on the site plan, and a replacement for the play area delineated.

14 Crosswalks must be provided across the interior roadways to ensure the safe passage of people walking from the parking area to the building.

15 The site plan indicates three containers are located next to the temporary structure. Their intended use must be clarified. The containers must be removed if not permitted.

16 A lighting plan shall be provided that shows fields of illumination. This plan must demonstrate that the intensity of the candle lumens is less than 0.1 at the property line.

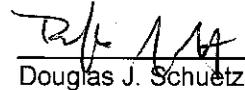
17 A landscaping plan shall be provided which has low evergreen landscaping supplementing the area along the southern, western, and eastern property lines to buffer the adjacent properties as this building constitutes a more intensive use.

18 Since our previous review of the June 18, 2019 site plan, a revision table has been added. However, only revisions made since January 1, 2020 have been included. All revisions from prior must also be included in this table.

19 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.

BAIS MALKA/46-48 GRANDVIEW AVENUE (NH-112L)

20 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: Mayor Abe Sicker, New Hempstead
Moleston Fire District
New York State Department of State
Rockland County Department of Health
Rockland County Department of Highways
Rockland County Drainage Agency
Rockland County Office of Fire and Emergency Services
Rockland County Sewer District #1
New York State Department of Environmental Conservation

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