



# Rockland County

Ed Day, Rockland County Executive

## 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*

October 29, 2019

New Square Zoning Board of Appeals

37 Reagan Road

New Square, NY 10977

**Tax Data:** 50.07-1-89

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

**Map Date:** 9/26/2019

**Date Review Received:** 10/10/2019

**Item:** *MADANIM KOSHER (NS-43)*

Variations to permit a 3,261 SF addition to an existing 5,137 SF grocery store located on 0.29 acres in the R-1 zoning district. The front portion of the building will be demolished in order to achieve this. The variations requested include back yard, back yard clear, and less than required parking.

South side of Washington Avenue, approximately 344 feet east of North Main Street

### **Reason for Referral:**

North Main Street (NYS Route 45), Village of New Hempstead

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 A review must be completed by the New York State Department of Transportation, any comments or concerns addressed, and any required permits obtained.
- 2 As per the October 17, 2019 letter from the Rockland County Department of Health, an application must be made to them for compliance with the County Mosquito Code, should the Village require a stormwater management system.
- 3 The applicant must comply with the conditions made by the Rockland County Sewer District No. 1 in their letter of October 16, 2019.

### **MADANIM KOSHER (NS-43)**

4 The Village of New Hempstead is one of the reasons this proposal was referred to this department for review. The municipal boundary is approximately 344 feet west 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 county-wide 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 which is supportive of the goals and objectives of the general area.

The Village of New Hempstead 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 Village of New Hempstead must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

5 The proposed grocery store addition must comply with all requirements of the New York State Uniform Fire Prevention and Building Code.

6 The Application Review Form does not include the back yard or back yard clear standards, for which variances are required. These must be included and, if the public hearing notice was issued with incorrect information, it must be reissued with all required variances included.

7 The site plan prepared by Anthony R. Celentano P.E. indicates the building is one story. However, the bulk table and the plans prepared by Off the Wall Company, LLC show there are to be two floors, and the parking calculation refers to two stories. It must be clarified how many stories the building will be, and illustrated on the site plan, so that all information remains consistent.

8 Parking spaces #1 and #7 are partially located over the property line. The parking area must be redesigned so that these spaces are fully contained on the site.

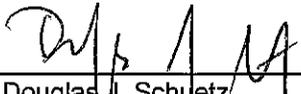
9 During a recent site visit, it was observed that cars and trucks were parked all over the front of the site. The parking area must be painted and adhered to, especially given that less than the required number of spaces are to be provided.

10 Map note #8 on the site plan must be revised to state Section 239l&m of the General Municipal Law, rather than Section 239n.

11 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.

12 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.

**MADANIM KOSHER (NS-43)**

  
\_\_\_\_\_  
Douglas J. Schuetz  
Acting Commissioner of Planning

cc: Mayor Israel Spitzer, New Square  
Rockland County Department of Health  
Rockland County Sewer District #1  
New York State Department of Transportation

Anthony R. Celentano P.E.  
Village of New Hempstead  
Off the Wall Company, LLC

BlueLine USA Inc.

*\*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.*

