# Rockland County

Ed Day, Rockland County Executive

**DEPARTMENT OF PLANNING**
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**Douglas J. Schuetz**
*Acting Commissioner*

**Arlene R. Miller**
*Deputy Commissioner*

January 25, 2017

Ramapo Zoning Board of Appeals
237 Route 59
Suffern, NY 10901

**Tax Data:** 49.17-2-56

**Re: GENERAL MUNICIPAL LAW REVIEW:** Section 239 L and M
**Map Date:** **Date Review Received:** 12/19/2016

**Item:** ***86 HIGHVIEW ROAD/APPEAL OF BUILDING INSPECTOR'S DECISION (R-2534C)***

Revocation of building permit for construction of foundations for nine trailers to be used as a temporary school on a 1.15 acre site in the R-35 zoning district. The neighbors contend that the issuance of the building permit is in violation of Town Law because a special permit is required for schools of general or religious instruction. The rescission of the Negative Declaration issued by the Director of Building, Planning and Zoning is also sought. The appellants are demanding that all plans be subject to a GML review, a fire safety review and a SEQRA review, and that a Stop Work Order be issued.

Northwest corner of Highview Road and Pine Road, opposite Dalewood Drive

**Reason for Referral:**

Highview Road (CR 64)

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***

Schools of general or religious instruction require a special use permit in the R-35 zoning district. By definition, special permit uses are subject to a higher standard of review. These standards are outlined in Article XII of the Town of Ramapo Zoning Law. In additon to general conditions of Section 376-120, schools must comply with the standards listed in Section 376-1216.

This department issued comments on the special permit and site plan applications for a permanent school at 86 Highview Road on November 20, 2015. A GML review was issued for bulk variances for a ZBA application on March 23, 2016. It is our understanding that a special permit has not yet been issued for the school use and site plan approval has not been obtained for the permanent school. It is our opinion that trailers cannot be installed for use as a temporary school if a special permit has not be issued to allow the school use. The temporary school must be held to the same higher standard of review.

**86 HIGHVIEW ROAD/APPEAL OF BUILDING INSPECTOR'S DECISION (R-2534C)**

In our January 25, 2012, this department commented on a proposed Local Law allowing modular units to be used as schools on a temporary basis. We recommended that "site plans for proposed modular units, in addition to, or as part of the site plan for a permanent school, must be submitted to this department for review for all sites that fall within our purview under General Municipal Law Section 239." That recommendation is still valid. Temporary schools must be subject to the same standard of review as permanent schools.

Based on the language in Section 376-67, it is not clear that the Director of Building, Planning and Zoning is required to impose the conditions of the Community Design Review Committee. At a minimum, the Local Law should have included that degree of oversight. The siting of the proposed school at 86 Highview Road has drawn criticism from the Tallman Fire District, elected officials, adjacent municipalities and residents of the surrounding neighborhood. This level of controversy warrants a thorough analysis of both the temporary and permanent school proposals. We concur with the arguments presented by the attorney for the neighboring property owners. The applicant must obtain a special permit to allow the school use, as well as site plan approval for the modular structures to be used as a temporary school and the permanent school structure. The temporary and permanent uses are both subject to review under the New York State Environmental Quality Review Act. A Stop Work Order is appropriate until these outstanding issues are resolved.

Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor Christopher St. Lawrence, Ramapo
Rockland County Department of Highways
Rockland County Department of Health
Rockland County Drainage Agency
Rockland County Sewer District #1
New York State Department of State
Rockland County Office of Fire and Emergency Services
Tallman Fire District

Jack Schloss, Esq.

**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.*