Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

December 6, 2017

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

Tax Data: 41.18-2-22 41.18-2-11

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 10/11/2017 **Date Review Received:** 10/31/2017

Item: ***BAIS HAMEDRISH NETZACH YISROEL (R-1432Q)***

Variances for lot area, lot width (Forshay Road), front setback (Forshay Road and Orchard Hill Drive), front yard (Forshay Road and Orchard Hill Drive), side setback, maximum development coverage, buffer requirement and parking in the front yard to allow two adjacent parcels totaling 1.01 acres to be combined, with Lot 22 serving as additional parking for the existing house of worship on Lot 11. An existing single-family dwelling on Lot 22 will serve as the assistant Rabbi's residence. The parcels are located in the R-35 zoning district.

Southwest corner of Orchard Hill Drive and Forshay Road

Reason for Referral:

Forshay Road (CR 81), 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:

***Recommend the following modifications**

1 A review must be completed by the Rockland County Highway Department, and all required permits obtained.

2 As required by the Rockland County Stream Control Act, the subdivision plan must be reviewed and signed by the Chairman of the Rockland County Drainage Agency before the County Clerk can accept the plan to be filed.

3 A review must be done by the Rockland County Department of Health to ensure compliance with Article XIX (Mosquito Control) of the Rockland County Sanitary Code.

4 Permitting development that does not comply with the applicable bulk standards can set an undesirable land use precedent and result in the overutilization of individual sites. While the additional lot area results in the elimination of the variances required for floor area ratio and parking, and the reduction of the lot area variance, the extent of the development coverage has increased. The ability of the existing infrastructure to accommodate large houses of worship on undersized, non-conforming parcels is a countywide concern and must be evaluated. This evaluation must consider whether local roads will become more congested and the sewer system, stormwater management systems and the public water supply will be overburdened. The Town must consider the cumulative and regional impacts of permitting such development.

5 As noted above, a substantial development coverage variance is now required. The applicant is seeking a 55 percent increase over the maximum permitted development coverage. This variance is directly related to the additional parking proposed which exceeds the minimum requirement by more than 70 percent. While it is not stated in the application materials, the more than quadrupling of the number of parking spaces on Lot 11 seems to indicate that there is currently insufficient parking. The applicant must explore the use of pervious pavers or permeable concrete in the expanded parking area as a means of reducing the development coverage.

6 The Village of Wesley Hills is one of the reasons this proposal was referred to this department for review. The municipal boundary is approximately 215 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 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 Village of Wesley Hills must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

7 The NYS Department of State has determined that the Town is not administering or enforcing the State Uniform Fire Prevention and Building Code in accordance with minimum standards set forth in 19 NYCRR part 1203. Given the concerns about the Town's administration and enforcement of the State Uniform Fire Prevention and Building Code raised in the Executive Deputy Secretary of State's letter of July 15, 2016, the house of worship and residential building must be held to the requisite minimum standards and comply with all requirements of this code.

8 A review must be completed by the Rockland County Office of Fire and Emergency Services, the Town of Ramapo Fire Inspector, or the Monsey Fire Department to ensure that there is sufficient maneuverability on site for fire trucks, in the event an emergency arises.

9 The bulk table indicates that the proposal includes a mikvah but it is not shown on the plan. Clarification must be provided.

10 It will be difficult for sanitation workers to access the dumpster enclosure if vehicles are parked in space 25. The dumpster enclosure must be moved to a more accessible location.

11 Parking space 41 is located too close to the exit driveway. The potential for vehicular conflicts is great. The parking space shall be eliminated.

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12 A drop curb must be provided to the north of the handicapped spaces to ensure easy access to the walkway.

13 All proposed building entrances/exits and stairways must be delineated on the site plan demonstrating that they will not impact yard requirements and parking maneuverability for the site.

14 Several retaining walls are proposed or exist. Wall height information must be provided. Retaining walls that are over four (4) feet in vertical height shall be designed by a licensed New York State Professional Engineer and be in compliance with the NYS Fire Prevention and Building Code. Design plans shall be signed and sealed by the licensed NYS Professional Engineer.

15 An explanation must be provided as to the purpose of the stand-alone freezer since Map Note 20 specifies that no kitchen or outside catering are proposed.

16 The structure to the west of the residential building must be labeled.

17 An explanation must be provided for the sidewalk connection to Lot 4.18-2-12 which also appears to be owned by the applicant.

18 The road widths and designated street lines must be shown on the drawing.

19 The August 11, 2017 memorandum from the Town of Ramapo Building, Planning and Zoning Department specifies that the frame shed must be removed from the rear yard or a variance will be required. The final disposition of the frame shed must be clarified. If it is to remain, an additional variance must be obtained. The public hearing notice must be reissued if it did not include all required variances.

20 The October 24, 2017 project narrative indicates that variances are needed for parking in the front yard and the buffer requirement. These variances are not included in the August 11, 2017 memorandum from the Town of Ramapo Building, Planning and Zoning Department. All application materials must be consistent. The public hearing notice must be reissued if it did not include all required variances.

21 Map Note 8 must be corrected to indicate that the site is located in the East Ramapo School District.

22 Map Note 10 must be corrected to indicate that SUEZ is the water supplier.

23 The graphic scale on the planimetric plan is not to scale. This must be corrected.

24 The site plan required for this proposal is subject to a review by this department as mandated by the New York State General Municipal Law.

25 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.

26 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: Supervisor Yitzchok Ullman, Ramapo
Rockland County Department of Highways
Rockland County Drainage Agency
Rockland County Department of Health
Rockland County Sewer District #1
New York State Department of State
Rockland County Office of Fire and Emergency Services
Monsey Fire District
Rockland County Planning Board

Anthony R. Celentano P.L.S.
Village of Wesley Hills

Bais Hamedrish Netzach Yisroel

**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.