Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

May 4, 2017

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

Tax Data: 56.06-1-14

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 12/15/2016 **Date Review Received:** 4/5/2017

Item: ***CONGREGATION KAHAL BAIS USHER (R-2285E)***

Street frontage variance to permit the continued use and maintenance of an existing local house of worship with a Rabbi's residence on .6017 acres in an R-25 zoning district. Variances were previously granted for lot area, lot width, front setback, front yard, side setback, total side setback, side yard, rear setback, rear yard, development coverage and floor area ratio by a vote of 3 to 2 which does not constitute the super-majority required to overturn our GML review of January 23, 2015.

North side of Highview Road, 176 feet west of College Road

Reason for Referral:

Highview Road (CR 64), College Road (CR 81)

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**

In April of 2010, this department issued comments on an application for the side setback, total side setback and rear setback variances required for a proposed addition to a single-family residence. It is our understanding that the residential addition was never constructed. Aerial photography from 2004, 2007 and 2010 show two trailers at the rear of the residential structure. The Town did not refer the trailers to this department for a General Municipal Law review. A site plan for a one-story house of worship was referred to this department on May 10, 2013. Comments were issued on June 6, 2013. Another site plan for a two-story house of worship was referred to this department in August of 2014. Comments were issued on September 25, 2014. On January 23, 2015, we reviewed the variances required to permit the continued maintenance and use of a two-story house of worship which was constructed sometime between 2010 and 2013 without a building permit. As noted above, the required super-majority was not obtained to override the conditions of that review. Comments on a revised site plan were issued on December 6, 2016. We now offer the following recommendations on the requested street frontage variance.

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1 The lot area of the subject site is only 30 percent of the required minimum for local houses of worship in the R-25 zone. The development coverage exceeds the permitted maximum by more than 62 percent. A 60 percent variance is required for floor area ratio. Lot width and street frontages variances are needed, as well as numerous yard and setback variances. The only bulk variances not required are parking, building height and building height to eaves. The number and extent of the variances required are a clear indication that this use is a gross overutilization of the site. We recommend that the illegally constructed addition be reduced in size to more closely conform to the R-25 bulk requirements.

2 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, as noted above. The ability of the existing infrastructure to accommodate facilities of this size on 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.

3 An updated review of the December 15, 2016 site plan must be completed by the Rockland County Highway Department. In addition, the applicant must comply with the conditions of the Highway Department's letter of July 22, 2016.

4 An updated review of the December 15, 2016 site plan must be completed by the Rockland County Sewer District No 1. The applicant must comply with the conditions of the Sewer District's letter of October 19, 2016.

5 An updated review of the December 15, 2016 site plan must be completed by the Rockland County Health Department.

6 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 existing house of worship and residential building must be held to the requisite minimum standards and comply with all requirements of this code.

7 The Tallman Fire Department has issued comments on this proposal related to the required variances, fire truck maneuverability, parking, access and the conditions of the January 23, 2015 GML review in their letter of November 28, 2016. The concerns raised by the Tallman Fire Department shall be satisfactorily addressed by the Town and the applicant.

8 The Town of Ramapo Building, Planning & Zoning Department's January 20, 2017 denial letter includes 17 comments from the Fire Inspector that must be satisfactorily addressed. In addition, the letter states that all egress doors, walkways, ramps and stairs to the public way must be shown, and that the elevation at the lowest point of fire department access and the highest eave and highest floor must be provided.

9 All proposed building entrances, stairways and window wells must be delineated on the site plan demonstrating that they will not impact yard requirements and parking maneuverability for the site. If sidewalks are proposed, they must also be shown on the plans.

10 It will be difficult for sanitation workers to access the dumpster enclosure if vehicles are parked in spaces 8 and 9. The dumpster enclosure must be moved to a more accessible location.

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11 It will difficult for a vehicle parked in space #8 or #9 to maneuver out of the space without a turnaround area. Several turning maneuvers will be required. A turnaround area must be provided.

12 Map Note #10 must be corrected to indicate that Suez is the water company, and not United Water.

13 Map Note #15 must be completed. The date of the Zoning Board of Appeals hearing in which the previous variances were granted must be provided, as well as the listing of the variances granted.

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 Sewer District #1
Rockland County Drainage Agency
New York State Department of State
Rockland County Office of Fire and Emergency Services
Tallman Fire District

Anthony R. Celentano P.L.S.

Congregation Kahal Bais Usher

**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.