

DEPARTMENT OF PLANNING

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Acting Commissioner

Arlene R. Miller
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October 27, 2017

Ramapo Planning Board
237 Route 59
Suffern, NY 10901

Tax Data: 56.06-1-14

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

Map Date: 8/8/2017

Date Review Received: 10/4/2017

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

Revised site plan for an existing local house of worship with a Rabbi's residence on .6017 acres in an R-25 zoning district.

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. A revised site plan was referred to this department for review on November 2, 2016; comments were issued on December 6, 2016. A GML referral for a street frontage variance was received on April 5, 2017; our comments were issued on May 4, 2017. A final site plan has now been submitted for our review. We offer the following recommendations.

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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 frontage 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 August 8, 2017 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 letters of July 22, 2016 and December 5, 2016.
- 4 The applicant must comply with the conditions of the Rockland County Health Department's letter of September 8, 2017.
- 5 The applicant must comply with the conditions of the Rockland County Sewer District No 1's letter of September 11, 2017.
- 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 letters of November 7, 2016 and 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 The Landscaping and Lighting Plan shows plantings along the eastern property line to the east of the house of worship. Fire access to the rear of the building is also proposed in this narrow area. It is unclear whether fire trucks will be able to maneuver in this constrained area. A fire truck turning analysis must be provided so on-site maneuverability for emergency vehicles can be evaluated.
- 10 The proposed fire access to the rear of the house of worship is unpaved. As such, it is not stable or strong enough to support large emergency vehicles. Heavy rain will exacerbate this instability; snow on the ground will make this area inaccessible, and snow piles will block passage for the emergency vehicles. Grasscrete or some other stable foundation material must be provided in this area to ensure that firetrucks are able to safely access the rear of the site. Snow piles must not be located at the edge of the pavement in this area, thereby blocking emergency access.

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11 As previously noted, the worship area has decreased from 3,000 SF to 2,547 SF resulting in a reduction in the on-site parking requirement. No explanation is provided as to the use of the remaining 1,592 SF in the addition. It is therefore not possible to confirm the accuracy of the parking calculation. The project narrative must clarify the purpose of this 1,592 SF within the house of worship building, and whether parking is required for this space. The parking calculation must reflect this floor area.

12 Inadequate on-site parking can impede the safe and efficient flow of traffic along the County road. If the proposed parking proves insufficient for the congregants, the applicant must pursue an off-site parking agreement with a nearby property owner to ensure that no vehicles are parked along Highview Road. This is especially critical if the on-site parking requirement is understated.

13 Pervious pavers shall be installed where appropriate on the site to reduce the extent of the variance required for maximum development coverage. This must include parking areas, as well as sidewalks.

14 Areas dedicated for snow removal must be clearly delineated on the site plan so that the plow drivers will know where to place the snow piles. This will help to protect the landscaping from being broken from the weight of the snow and from causing salt intrusion to the plants. In addition, designating specific locations on the site for the snow piles, especially since only the required minimum number of parking spaces is being provided, will eliminate the loss of parking spaces meant for congregants. As indicated above, under no circumstances can the fire access to the rear of the building be blocked by snow piles. In addition, snow must be removed from this area to ensure clear emergency access.

15 It will difficult for vehicles parked in spaces 8 and 9 to maneuver out of the spaces given the proposed retaining wall and the dumpster enclosure. A turnaround area must be provided.

16 Vehicles will be unable to enter or exit spaces 6, 7, 8, 9, 10 or 11 when sanitation workers are removing refuse. The dumpster enclosure must be moved to a more accessible location.

17 Prior to the start of construction or grading, a soil and erosion control plan shall be developed and in place for the entire site that meets the latest edition of the New York State Guidelines for Urban Erosion and Sediment Control.

18 There shall be no net increase in the peak rate of discharge from the site at all design points.

19 Map Note #10 must be corrected to indicate that Suez is the water supplier.

20 Map Note 15 does not specify the dates on which the variances were granted. The dates of the Zoning Board of Appeals hearings must be provided, as well as the listing of the variances granted. Given that the Zoning Board of Appeals did not have a supermajority vote to override the conditions of our January 23, 2015, those variances should not have been granted. This issue must be addressed.

21 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.

22 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 Department of Health
Rockland County Sewer District #1
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.