

**DEPARTMENT OF PLANNING**

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**Douglas J. Schuetz**  
*Acting Commissioner*

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

October 27, 2017

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

**Tax Data:** 49.07-1-40

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

**Map Date:** 5/1/2014

**Date Review Received:** 10/4/2017

**Item:** *TALMUD TORAH YESHUOS MOSHE VIZNITZ (R-2470A)*

Variances for lot area, lot width, side setback, total side setback, street frontage, maximum development coverage, floor area ratio and parking in the front yard to allow the construction, maintenance and use of a school of religious instruction with a 90' x 85' building footprint on .8219 gross acres (.7966 net acres) in an R-40 Zoning district. A variance is also needed to permit a wall with less than the required distance to the east side property line.

North side of Viola Road, 985 feet east of West Maple Avenue

**Reason for Referral:**

Viola Road (CR 74)

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:

***\*Disapprove***

Schools are allowed as a special permit use in the R-40 zoning district. By definition, they are subject to more stringent standards, and must also comply with the relevant bulk requirements. It is unclear whether the proposed school adheres to Section 376-1216.A.(2), (3), (4) or (5). In addition, nine bulk variances are required. Several of these variances are of great magnitude. The subject site is significantly undersized requiring a lot area variance of more than 56 percent. The floor area of the proposed school building is 65 percent greater than the permitted maximum. The applicant is seeking a 250 percent variance for development coverage. These deviations from the required standards are an indication that this proposal will result in an overutilization of the site. This building footprint must be reduced to more closely conform to Section 376-1216 and the R-40 bulk standards.

The following comments address our additional concerns about the variances required for this proposal.

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- 1 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. The ability of the existing infrastructure to accommodate oversized educational facilities 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. As noted above, this proposal must be scaled back to more closely comply with the requisite standards.
- 2 An updated review of the May 1, 2014 planimetric 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 September 25, 2014.
- 3 An updated review of the May 1, 2014 planimetric plan must be completed by the Rockland County Health Department. In addition, the applicant must comply with the conditions of the Health Department's letter of November 5, 2014.
- 4 An updated review of the May 1, 2014 planimetric plan must be completed by the Rockland County Sewer District No. 1. In addition, the applicant must comply with the conditions of the Sewer District No. 1's letter of August 22, 2014.
- 5 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 proposed school building must be held to the requisite minimum standards and comply with all requirements of this code.
- 6 A review must be completed by the County of Rockland Office of Fire and Emergency Services, the Town Fire Inspector or the Monsey Fire District to ensure that there is sufficient maneuverability on-site for emergency vehicles.
- 7 The bus drop off area is located within a row of parking spaces. Section 376-1216.A.(2) requires that bus access be designed to ensure the safe pick-up and drop-off of children, and to minimize the impact on traffic flow. We believe that the current configuration is unsafe for children boarding and alighting the school buses. It will also impede traffic flow on the site because vehicles will be unable to safely enter or exit space #s 10 through 17 while a bus is in the drop-off area. The bus drop-off area must be separated from the school parking area to avoid both pedestrian and vehicular traffic conflicts.
- 8 The only handicapped parking space is located immediately west of the bus drop off area. An access aisle is not provided. This is an unsafe arrangement. The bus drop off area cannot serve as the access aisle for a physically challenged person. The handicapped parking space must be safely configured. As noted above, the bus drop off area must be separated from parking areas. A smaller school building and fewer students will require less parking. The proposal must be scaled back to more closely comply with the requisite standards.
- 9 Several parking spaces are awkwardly configured and will be difficult to exit including the catty-corner spaces (#s 11 and 12) and space #17. Since no turnaround area is provided, a driver parked in space #17 will have to reverse into the internal roadway to exit the spot. A safer parking layout must be devised. This can be accomplished by reducing the building footprint and the size of the student body.
- 10 The proposed parking fulfills the on-site parking requirement. However, it is unlikely that 20 parking spaces will be sufficient for special events including parent-teacher conferences and assemblies at a school with an enrollment of 150 students. Off-site parking arrangements must be in place for these events. A written agreement with a nearby property owner must be submitted to the Town.

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11 All proposed stairways, window wells and walkways must be delineated on the site plan demonstrating that they will not impact yard and setback requirements.

12 The dumpster area is proposed immediately east of the access drive and close to Viola Road. School personnel will have to traverse parking areas and the internal roadway to bring refuse to the dumpster. This is an unsafe arrangement. The dumpster must be moved to a more appropriate location in closer proximity to the school building. It must also be easily accessible to sanitation workers, and not blocked by parked vehicles.

13 The bulk table indicates that a variance is required for total side setback. This variance is not included in the Building Inspector's June 25, 2014 memorandum. The memo does specify that a variance is required for a proposed wall that is less than the required one-foot distance at the east property line. This variance is not included in the bulk table. All application materials must be consistent. If the public hearing notice did not include all required variances, it will have to be reissued.

14 The undated narrative summary submitted as part of this GML referral incorrectly references an amended final subdivision approval. To avoid confusion, this must be corrected to reflect that this is an application for variances.

15 The undated narrative summary notes that the applicant received Community Design Review Approval for the temporary use of the property for educational use in 2014. It is unclear whether the requirements of Section 376-67 were applied to this property since the temporary use involved an existing residential building rather than a modular unit. The narrative summary incorrectly references Section 376-6(6) when discussing the temporary permit. Section 376-67(6) specifies: "Permit shall be for a period of 12 months. One additional extension of one year can be granted upon good cause shown. Financial hardship alone shall not constitute good cause." Clarification must be provided as to whether the original permit was extended for an additional 12 months, as well as the current operating status of the school. Our reading of the code is that the temporary use was permitted until 2016.

16 Map Note 10 must be corrected as SUEZ is the water supplier.

17 The special permit required for this proposal is subject to a review by this department as mandated by the New York State General Municipal Law.

18 Any site plan revisions required for this proposal are subject to a review by this department as mandated by the New York State General Municipal Law.

19 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.

20 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  
Monsey Fire District  
  
Anthony R. Celentano P.L.S.

Talmud Torah Yeshuos Moshe Viznitz  
Rockland County Planning Board Members

*\*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.*