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 9, 2018

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

Tax Data: 49.12-2-51

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 11/28/2017 **Date Review Received:** 12/13/2017

Item: ***BAIS MIKROH GIRLS SCHOOL (R-1858D)***

Variances for total side setback, side yard, development coverage and parking in the side yard to allow the construction, maintenance and use of an addition to an existing school on 3.33 acres in an R-25 zoning district. A two-story, 19,608 SF building is proposed. Construction will be completed in two phases. Phase I will involve the installation of site infrastructure, and the construction of a 4,900 SF modular classroom at the rear of the parcel. Phase 2 will involve the construction of the permanent addition. The modular classroom will be removed, and additional parking provided.
South side of Viola Road, 750 feet east of Route 306.

Reason for Referral:

Viola Road (CR 74), Village of New Hempstead

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 The applicant must comply with the conditions of the Rockland County Highway Department's letters of November 15, 2017 and November 27, 2017.

2 The applicant must comply with the conditions of the Rockland County Health Department's letter of November 28, 2017.

3 The applicant must comply with the conditions of the Rockland County Sewer District #1's letter of November 28, 2017.

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4 The Village of New Hempstead is one of the reasons this proposal was referred to this department for review. The municipal boundary is along Viola Road, approximately 60 feet 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 New Hempstead 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 New Hempstead must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

5 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 applicant is seeking a 190 percent increase over the maximum permitted development coverage for Phase II. The ability of the existing infrastructure to accommodate facilities of this size 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.

6 The applicant must consider using pervious pavers or porous concrete in the parking area to reduce the extent of the variance required for maximum development coverage. Since 13 more parking spaces are proposed than are required, reducing the number of parking spaces must also be considered.

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 school buildings 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 project narrative must include detailed information about the proposed phasing of this project. The Town of Ramapo Building, Planning and Zoning Department's November 13, 2017 CDRC Comments seek clarification about whether the modular classroom is still proposed based on conflicting comments in letters from the project engineer. The November 28, 2017 Phase I Layout Plan depicts a 70'x70' modular classroom. The status of the temporary modular classroom must be clarified.

10 The Town of Ramapo Building, Planning and Zoning Department's November 13, 2017 CDRC Comments do not specify that a variance is required for parking in the side yard. This variance is noted in the project narrative but not on the Layout Plan. All application materials must be consistent. The need for a variance for parking in the side yard must be clarified. The public hearing notice will have to be reissued if it did not contain all required variances.

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11 The Phase I Layout Plan depicts two trailers to the west of the existing building. On the Phase II Layout Plan, a crosshatched area is shown over the trailers. It is unclear if the trailers are to be removed, or what the crosshatching represents. This must be clarified. Since trailers are typically a temporary use, the layout plan must include a map note detailing when these structures are to be removed. The term of use for the modular classroom must be addressed in a map note as it is also a temporary use.

12 Traffic flow must be clearly indicated in the field during construction to ensure the safety of the students and other pedestrians as they navigate between the school buildings, play areas and parking lots.

13 A vicinity map must be provided that includes a north arrow and a scale.

14 The Layout Plan shall contain map notes that list all appropriate information, including the district details and the tax parcel identification number.

15 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.

16 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.

17 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.

Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor Michael B. Specht, 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

Leonard Jackson Associates
Village of New Hempstead

Congregation Bas Mikroh Girls School

**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.

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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.