

DEPARTMENT OF PLANNING

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Arlene R. Miller
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December 27, 2018

Ramapo Planning Board
237 Route 59
Suffern, NY 10901

Tax Data: 56.11-1-33

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

Map Date: 9/28/2018

Date Review Received: 11/2/2018

Item: CONGREGATION CHASIDEI GUR OF MONSEY/38 SADDLE RIVER ROAD (R-2568D)

Revised final site plan for a local house of worship with a 3,182 SF building footprint on .2296 gross acres (.2270 net acres) in an R-15A zoning district. Variances were initially granted on November 30, 2016 for lot area, lot width, front setback (Emes Road), front yard (Emes Road), side setback, total side setback, side yard, maximum development coverage and floor area ratio. Site plan revisions necessitated additional variances for front setback (Emes Road), front yard (Emes Road), maximum development coverage, fence height and fence setback, which were granted on September 6, 2018. West side of Saddle River Road and east side of Emes Road, 50 feet north of Albert Drive

Reason for Referral:

Village of Kaser

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***

1 As noted in our four previous reviews of this proposal, local houses of worship are permitted by right in the R-15A zoning district, subject to the Use Group x.1 bulk standards. This department continues to recommend that the variances required for the local house of worship be denied. This site is deficient in meeting the minimum lot area and the lot width requirements. A 34 percent variance is needed for lot area; a 50 percent variance is required for lot width. We believe a variance is also required for street frontage. While this parcel has frontage on both Saddle River Road and Emes Road, each is less than the required 85 feet. The proposed house of worship requires a floor area ratio variance of 100 percent. The oversized structure needs several yard and setback variances. Since the building is less than ten feet from the northern and southern property lines, variances from the New York State Uniform Fire Prevention and Building Code will also be necessary. In addition, we believe the required on-site parking is understated. Initially, the maximum permitted development coverage was exceeded by 60 percent. The ZBA granted all the requested variances in 2016 despite our contrary recommendation.

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The current proposal requires additional variances. The development coverage now exceeds the permitted maximum by 68 percent. A variance of more than 94 percent is needed for the front yard and front setback on Emes Road. The proposed fences are twice the allowable height with no setback from the property line. The number and extent of the required variances are a clear indication that this proposal will result in a gross overutilization of the site. Given the low density nature of the surrounding residential neighborhood, this project has the potential to change the community character of this area. The building footprint of the local house of worship must be scaled back significantly to more closely conform to the applicable bulk standards, and be resubmitted for our review.

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 applicant was granted a variance of 100 percent for floor area ratio, and is now seeking a 68 percent increase above the maximum allowable development coverage. The ability of the existing infrastructure to accommodate oversized 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. The building footprint must be reduced to allow for closer conformance to the R-15A bulk standards.

3 On July 15, 2016, this department issued comments on the variances required for an earlier version of this proposal. At that time, a parking variance was needed. The parking calculation specified a 2,800 SF worship area and 50 congregants. Fourteen parking spaces were required. Only nine parking spaces were illustrated on the April 20, 2016 site plan submitted for review at that time. The January 23, 2017 site plan depicted 13 parking spaces, the same row of nine spaces along the northern property line, plus four parallel parking spaces along the southern property line. The four parallel spaces are not shown on the current plan. The parking calculation indicates an 1,800 SF worship area and 45 congregants. Since the building envelope has not changed, it is unclear why a smaller worship area and fewer congregants are noted on the current site plan. These reductions would result in a smaller building footprint. Additional information must be provided about the layout and configuration of the 3,182 SF local house of worship. The assertion in the November 14, 2017 ZBA resolution that the building footprint cannot be reduced without adverse impacts to the applicant is not a sufficient explanation. The ZBA mandated reduction of 1000 SF in the worship area must result in a smaller building footprint.

The following comments address our additional concerns about the proposed site plan.

4 The Village of Kaser is the reason this proposal was referred to this department for review. The municipal boundary is approximately 365 feet northeast of the subject property line. As required under Section 239nn of the State General Municipal Law, the Village of Kaser must be given the opportunity to review the proposed subdivision and provide any concerns related to the project to the Town of Ramapo.

5 In 2016, the NYS Department of State determined that the Town was not administering or enforcing the State Uniform Fire Prevention and Building Code in accordance with minimum standards set forth in 19 NYCRR part 1203. Their concerns about the Town's administration and enforcement of the State Uniform Fire Prevention and Building Code were specified in the Executive Deputy Secretary of State's letter of July 15, 2016. The proposed local house of worship must be held to the requisite minimum standards and comply with all requirements of this code.

The proposed local house of worship will require a variance from the New York State Uniform Fire Prevention and Building Code as the structure is within ten feet of the property line, despite the assertion in the November 14, 2017 ZBA resolution that the project is in full compliance.

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- 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 An updated review of the September 28, 2018 site 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 May 3, 2018.
- 8 An updated review of the September 28, 2018 site plan must be completed by the Rockland County Sewer District #1. In addition, the applicant must comply with the conditions of the Sewer District's letter of August 14, 2018.
- 9 It will be difficult for a vehicle parked in space #9 to maneuver out of the space without a turnaround area. It is unclear what the line extending from the east side of the handicapped access aisle represents or if it will impede a vehicle exiting space 9. The building entrance is not clearly defined, and staircases and exits are not shown on the east side of the structure, making it difficult to assess the parking area in relation to pedestrian movement on site, and whether there will be safety issues for the congregants. A turnaround area must be provided so that vehicles can easily navigate the parking area. The November 14, 2017 ZBA resolution asserts that the site plan is in compliance with the provisions of Section 376-71 with respect to the turnaround area. Since a turnaround area is still not shown on the site plan, we cannot determine if it is in compliance. The staircases and building exits must be also illustrated on the site plan so that safety issues can be properly evaluated.
- 10 It is unclear whether a street frontage variance is required. As noted above, the street frontage on both Saddle River Road and Emes Road is less than the required minimum of 85 feet. We believe a variance is needed. This question has been posed in the four previous reviews and must be addressed.
- 11 The project narrative and bulk table indicate that the proposed fence height is 8 feet. The site plan drawing has not been revised accordingly. All application materials must be consistent.
- 12 There shall be no net increase in the peak rate of discharge from the site at all design points.
- 13 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.
- 14 Areas designated 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 proposed landscaping from damage due to the weight of the snow and salt intrusion. In addition, providing specific locations on the site for the snow piles will reduce the loss of available parking spaces meant to be used by congregants, especially when only the minimum number of spaces are being provided.
- 15 Map Note 2 must be corrected to indicate that the gross area of tract is 0.2296 acres not 0.299 acres.
- 16 Map Note 15 is incomplete. It must list the two ZBA hearing dates as well as the variances granted.
- 17 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.

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18 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 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.
Village of Kaser

Congregation Chasidei Gur of Monsey

Mona Montal, Chief of Staff
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.