



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 19, 2018

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

Tax Data: 49.07-1-38

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

Map Date: 11/21/2017

Date Review Received: 12/22/2017

Item: *Menachem Kleinman (R-2510B)*

Variances for minimum lot area, side setback, total side setback, side yard, rear setback, maximum development coverage, floor area ratio, courtyard width, and on-site parking and parking in the front yard, to allow the existing modular structures to be used as a permanent school building. The 1.2-acre site is in an R-40 zoning district.

West side of Route 306, approximately 225 feet north of Viola Road

Reason for Referral:

NYS Route 306, Village of New Hempstead, 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***

On July 29, 2015, this department issued comments on the site plan proposal for a permanent school at this location. The plans for the temporary structures currently in place were not submitted for our review. It is unclear when the modular buildings were installed, or whether their temporary status has expired. This must be clarified. Based on aerial photography flown in April of 2016, these structures have been in place for approximately two years. We question whether this permanent proposal is an attempt to circumvent the time limits in place at the time of installation, as well as the recently adopted local law prohibiting the use of temporary modular buildings for schools. Prior to considering the requested variances, the Town must undertake a review of the special permit and site plan applications now required given the proposed change from temporary to permanent structures.

While the lot is undersized, the June 3, 2015 site plan for the permanent school more closely complied with the R-40 bulk standards than the current proposal. In addition to the minimum lot area variance of 35 percent, the applicant is seeking a 250 percent increase over the maximum permitted development coverage, and a 75 percent variance for maximum allowable floor area ratio. The onsite parking is deficient by 22 percent. Several yard and setback variances are also required. The current layout plan results in a gross overutilization of the site as evidenced by the number and magnitude of the variances required. The overall building footprint must be

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reduced, and one or more modular buildings removed, to more closely conform to the applicable bulk requirements.

The following comments address our additional concerns about this proposal.

1 In the current proposal, the southern driveway and the access to the parking area have been modified. Vehicle circulation and turning movements are improved, as a result. However, seven parking spaces have been eliminated resulting in the need for a parking variance. The bus drop off area has been relocated. While it is closer to the building entrance, it coincides with the parking lot access. This raises concerns about student safety. The proposed use of traffic cones to block the parking lot access must be closely monitored by school personnel.

2 As noted above, a parking variance is now required for the school. This department is not in favor of granting parking variances for sites with frontage on a state or county road. Insufficient onsite parking has the potential to negatively affect the safe and efficient flow of traffic along Route 306. Special events such as parent-teacher conferences and assemblies will require more than 25 parking spaces for a student body of 256. Off site parking arrangements must be in place for large gatherings at the school. A reduction in the building footprint will result in fewer required parking spaces for daily operation of the school.

3 A review must be completed by the New York State Department of Transportation, and all required permits obtained.

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 Route 306, immediately east 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 An updated review of the November 21, 2017 drawings must be completed by the Rockland County Highway Department, and any required permits obtained. In addition, the applicant must comply with the conditions of the Highway Department's September 8, 2017 letter.

6 The applicant must comply with the conditions of the Rockland County Health Department's December 1, 2017 letter.

7 The applicant must comply with the conditions of the Rockland County Sewer District #1's December 7, 2017 letter.

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8 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 is seeking several substantial variances for this proposal. The ability of the existing infrastructure to accommodate oversized schools on undersized 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, and one or more modular structures removed, to more closely comply with the R-40 bulk standards.

9 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 building must be held to the requisite minimum standards and comply with all requirements of this code.

10 A review must be completed by the Rockland County Office of Fire and Emergency Services or the Monsey Fire Department to ensure that there is sufficient maneuverability on site for fire trucks, in the event an emergency arises.

11 The Town of Ramapo Building, Planning & Zoning Department's August 9, 2017 denial letter includes fifteen comments from the Fire Inspector that must be satisfactorily addressed.

12 The application materials submitted to this department for review specify only one parcel, Lot 49.07-1-38. The actual site plan includes the subject site and a portion of the parcel to the north, Lot 49.07-1-37. A connection between the two parcels is proposed. This connection is not adequately addressed in the project narrative. An explanation must be provided as to the access and circulation link between these two parcels, and how the school on Lot 49.07-1-37 relates to the subject school. In addition, a site plan that shows both lots must be submitted for our review. The bulk table must include what it proposed, and any additional variances that may be required, for both parcels.

13 As mentioned above, the northern driveway on Lot 49.07-1-37 is serving as the access for the school on Lot 49.07-1-38. A driveway easement is now shown on Lot 49.07-1-37 in favor of Lot 49.07-1-38. While the proposed circulation is indicated, it must also be demonstrated that emergency vehicles and fire trucks have sufficient maneuverability to navigate between the two parcels.

14 The July 28, 2017 project narrative indicates that the existing modular building has an 8,800 SF building footprint. One story modular buildings are depicted on the map. The bulk table specifies that the provided floor area ratio (FAR) is .70, or 75 percent greater than allowed. A .70 FAR corresponds to a 36,537 SF building. The total floor area of the modular structures must be provided, as well as the FAR calculation.

15 A narrow macadam drive is shown along the northern property line, and to the north of the modular structures. It appears to serve as a pedestrian access leading to the individual modular buildings. A fire lane is proposed immediately south of the macadam drive. This is an unsafe arrangement due to the potential for traffic conflicts between pedestrians and emergency vehicles. The fire lane must be relocated.

16 A turnaround area must be provided at the southern end of the parking lot. As currently configured, it will be difficult for a vehicles parked in space 12 to exit this space.

17 Parked vehicles must not impede access to the garbage enclosure.

18 All proposed walkways must be delineated on the site plan demonstrating that they will not impact yard requirements and parking maneuverability for the site. A walkway must be installed on the east side of the building and crosswalks provided from the building to the parking area.

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- 19 A landscaping plan must be submitted for our review so we can determine if the proposal conforms to the special permit standards outlines in Article XII, particularly Section 376-1216.A.(3), as it relates to perimeter, parking lot and building plantings required for schools.
- 20 Low evergreen landscaping must be provided in front of the parking spaces facing Route 306 to shield headlights from shining into oncoming vehicles traveling on the state highway.
- 21 A lighting plan shall be provided that shows fields of illumination. This plan must demonstrate that the intensity of the candle lumens is less than 0.1 at the property line.
- 22 A scale must be provided on the vicinity map.
- 23 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.
- 24 The site plan application required for this proposal is subject to a review by this department as mandated by the New York State General Municipal Law.
- 25 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.
- 26 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
New York State Department of Transportation
Rockland County Department of Highways
Rockland County Department of Health
Rockland County Drainage Agency
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 New Hempstead

Congregation Divrei Chaim

Mona Montal, Chief of Staff
Rockland County Planning Board Members

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**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.

