

DEPARTMENT OF PLANNING

Dr. Robert L. Yeager Health Center
50 Sanatorium Road, Building T
Pomona, New York 10970
Phone: (845) 364-3434 Fax: (845) 364-3435

Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

August 27, 2019

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

Tax Data: 32.07-1-5

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

Map Date: 5/23/2019

Date Review Received: 7/26/2019

Item: *CONGREGATION ACHDUS YISROEL (R-1963B)*

Variances to permit a two-lot subdivision, with an existing single-family dwelling remaining on Lot #1 and the conversion of the structure on Lot #2 to a House of Worship. An addition to the House of Worship is also proposed. The parcel is located on 1.49 acres in the RR-80 zoning district. The variances required for both lots include lot area and side setback. Lot #2 will need additional variances for lot width, total side setback, side yard, street frontage, development coverage, and floor area ratio.

West side of Ladentown Road, approximately 225 feet south of Mountain Road

Reason for Referral:

Village of Pomona, Mahwah River, federal and state wetlands

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 Section 376-42A. states that as part of any minimum lot area requirement of this chapter for all uses, not more than 50% of any land underwater, subject to or within the one-hundred-year-frequency floodplain, wetlands, within easements or rights-of-way for overhead utilities, with slopes (unexcavated) of over 25% or within a designated street line of any road shall be counted towards meeting the minimum lot area. In addition, at least 50% of the minimum lot area requirement shall consist of land without the above-listed impediments. The application of this section to any particular lot shall be the responsibility of the Town Planning Board at the time of subdivision or site development plan approval.

Tax parcel 32.07-1-5 is an environmentally-constrained parcel that consists of 1.49 gross acres in the RR-80 zoning district, a low-density district that requires larger lots to specifically recognize and protect these features. At 1.49 acres, the site is already undersized by almost 19%, prior to applying any deductions. The site is comprised of both federal and state wetlands, and the 100-year floodplain of the Mahwah River. These features occupy approximately half of the site, and when the requirements of Section 376-42A are applied, the existing net lot area is significantly deficient in meeting the required 80,000 sq. ft., by over 51% (based on the net lot area

CONGREGATION ACHDUS YISROEL (R-1963B)

figures provided in the bulk tables).

The applicant is now proposing to subdivide the existing undersized parcel, intensify the uses on this environmentally constrained parcel, which will exacerbate the woefully insufficient lot size. Proposed Lot #1 will only consist of a net lot area of 35,184 sq. ft., which is deficient by over 56%. Lot #2 requires five acres for the house of worship, and will only be comprised of a net lot area of 8,276.4 sq. ft. (.19 acres), which is more than 96% deficient.

Lastly, subdividing an already undersized parcel will set a negative precedent for similar exemptions and variances for the area, thereby undermining the intent of the zoning ordinance and special bulk requirements that are in place to protect the sensitive environmental features. Given the environmental constraints on the site, the substantially deficient lot sizes, and the extent of the variances required to permit the proposed subdivision and uses, the variances shall not be granted.

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. The net lot area for Lot #1 is deficient by over 56% and Lot #2 by nearly 100%. Both Lots #1 and #2 have only 75% of the required side setback. In addition, the total side setback for Lot #2 is deficient by 73%, side yard by 70%, and street frontage by 14%. Lastly, the development coverage and floor area ratio are exceeded by 120% and 200%, respectively, for Lot #2. The ability of the existing infrastructure to accommodate intensified uses on substantially 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 subdivision and second use shall not be permitted.

The following comments address our additional concerns:

3 The applicant must comply with the conditions of the Rockland County Drainage Agency's letter of August 20, 2019.

4 A review must be completed by the New York State Department of Environmental Conservation and any required permits obtained.

5 If there is any encroachment into the Federal wetlands, a review must be completed by the United States Army Corps of Engineers and all required permits obtained.

6 A review must be completed by the County of Rockland Sewer District #1, any comments or concerns addressed, and all required permits obtained.

7 A review must be completed by the County of Rockland Department of Health, any comment or concerns addressed, and any required permits obtained.

8 The proposed House of Worship must comply with all requirements of the New York State Uniform Fire Prevention and Building Code.

9 A review must be completed by the Rockland County Office of Fire and Emergency Services, the Moleston/Hillcrest Fire District, or the Town of Ramapo Fire Inspector to ensure that there is sufficient maneuverability on site for fire trucks, in the event an emergency arises.

10 The Floodplain Administrator for the Town of Ramapo shall certify that the proposed construction is in compliance with the floodplain regulations of the Town and the Federal Emergency Management Agency.

CONGREGATION ACHDUS YISROEL (R-1963B)

11 The Village of Pomona is one of the reasons this proposal was referred to this department for review. The municipal boundary is 50 feet 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 Pomona 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 Pomona must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

12 The cross access easement must be recorded in the deeds of both parcels. A map note for this easement must also be included on the site plan.

13 A net lot area calculation must be indicated on the site plan with each environmental constraint specified.

14 The development coverage and floor area ratio calculations must be provided on the site plan so their accuracy can be verified. The net lot area must be used to determine these bulk requirements. Additional or more extensive variances may be required if the calculations were based on the gross lot areas and not the net lot area.

15 A sidewalk is only shown along the southern frontage of the site on the map. What will this connect with? It must also be extended north, as the project narrative notes most congregants will walk to services. Pedestrian accommodations must be provided to ensure the safety of those traveling on foot.

16 Given the rural nature of the surrounding community, and the lack of sidewalks, we recommend that the applicant provide a map showing the distance most congregants will have to walk so the feasibility of this arrangement can be evaluated.

17 The parking table for the House of Worship must include both elements of the parking requirement. Based on a potential floor area of 1,500 SF, eight parking spaces are required. Therefore a parking variance is also needed.

18 Parking space #2 on Lot #1 appears to encroach into the stairs, with the sidewalk also being too close. A turnaround area is not provided, creating an unsafe situation for pedestrians. This must be redesigned to mitigate the safety issues.

19 Parking space #7 on Lot #2 is too close to Ladentown Road. This is unsafe as it causes limited sight distances and will result in conflict with other vehicles that are entering and exiting the site. This parking space must be relocated.

20 The site plan indicates a chain link fence will run through parking spot #1 to the building on Lot #2. This must be removed so as not to inhibit access to the parking spot. The removal of this fence will also create a turnaround area so people in this parking spot can safely pull out.

21 The applicant must provide proof of an off-site parking agreement with the adjacent House of Worship.

CONGREGATION ACHDUS YISROEL (R-1963B)

- 22 A dumpster enclosure must be located on the parcel and designated on the site plan. It must be shown that there is sufficient room and turning maneuverability for both parking spaces and the trash enclosure.
- 23 The street frontage provided is overstated on both bulk tables. The total street frontage is 316.37 feet for the parent parcel. The bulk tables must be corrected. Additional or greater variances may be required.
- 24 The lot area deduction note, located near the north arrow on the site plan, is mislabeled. This shall be corrected to show it is for Lot #1, rather than Lot #2.
- 25 The narrative states a new 20' x 20' addition is proposed for the House of Worship. This does not appear on the site plan and must be shown. The addition will increase the degree of non-conformity resulting in the need for variances of greater magnitude.
- 26 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. In addition, designating specific locations on the site for the snow piles will eliminate the loss of parking spaces meant for the congregants of the House of Worship.
- 27 Pervious pavers must be used where possible to reduce the extent of the development coverage variance.
- 28 The bulk table provided in the project narrative indicates a variance is required for total side setback on Lot #1. This should be corrected, as the value provided meets the requirement for this zoning district. The list of variances requested on the next page must also be corrected. This incorrectly states variances for lot width, total side setback, street frontage, development coverage, floor area ratio, and parking are required for Lot #1; as well as a variance for parking for Lot #2. The narrative does not mention that variances for lot width, development coverage, and floor area ratio are needed for Lot #2. All application materials must be consistent. A new public hearing notice will need to be issued if it contained the wrong information.
- 29 Map Note 23 shall be eliminated as it does not apply to the current proposal. Accessory units are not permitted in the RR-80 zoning district.
- 30 We request the opportunity to review any additional variances that may be needed to implement the proposed subdivision, as required by New York State General Municipal Law, Section 239-m (3)(a)(v).
- 31 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.
- 32 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
Rockland County Drainage Agency

CONGREGATION ACHDUS YISROEL (R-1963B)

New York State Department of Environmental Conservation
United States Army Corps of Engineers
New York State Department of State
Moleston Fire District
Hillcrest Fire District

Lanc & Tully Engineering and Surveying, P.C.
Village of Pomona
FEMA

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.

