Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

April 2, 2019

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

Tax Data: 57.05-1-53

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 12/13/2018 **Date Review Received:** 2/27/2019

Item: ***CONGREGATION ZICHRON OHEL ELIMALECH TOSH (R-2230A)***

Variances for lot area, front setback (Maple Avenue), front yard (Maple Avenue), side yard, rear yard, and development coverage to permit the construction of a 12,096 SF Local House of Worship on .3306 gross acres (.3084 net acres) in an R-15C zoning district. Lot area, front setback (Decatur Avenue and Maple Avenue), front yard (Decatur Avenue and Maple Avenue), side setback, development coverage and parking variances were previously granted.
Northeast corner of Maple Avenue and Decatur Avenue

Reason for Referral:

Village of Spring Valley

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 On May 12, 2008, this department issued a GML review of the site plan for an earlier version of this proposal. We considered the proposal to be an overutilization of the parcel given the number and the magnitude of the variances required. We recommended that the site plan be disapproved. The ZBA application for the original proposal was not referred to this department for review so we did not have an opportunity to comment on the variances required. This is a violation of the New York State General Municipal Law, Section 239-m.2.(v). Therefore, we will issue comments on all variances required for this proposal.

2 The December 13, 2018 project narrative indicates that the additional variances are required due to the Town's enforcement of the designated street line (DSL). While this is true, the DSL is not an optional enforcement provision. It must always be applied so it is unclear why the project engineer did not include it on the April 2, 2008 site plan. Given that the net lot area is reduced and the yard and setback variances are increased, the building footprint must be reduced accordingly. The proposed local house of worship shall be scaled back so that no site improvements extend beyond the DSL. It must also more closely conform with the R-15C bulk requirements.

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3 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 60 percent increase over the maximum permitted development coverage, as well as yard and setback variances ranging from 28 percent to 93 percent. Only 21 percent of the required on-site parking is provided. The ability of the existing infrastructure to accommodate large facilities 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 to more closely conform to the R-15C bulk standards.

The following comments address our additional concerns about the proposal.

4 The applicant must comply with the conditions of the Rockland County Health Department's December 17, 2018 letter.

5 The applicant must comply with the conditions of the Rockland County Sewer District #1's December 17, 2018 letter.

6 The proposed local house of worship must comply with all requirements of the New York State Uniform Fire Prevention and Building Code.

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

8 It will difficult for a vehicle parked in space 13 to maneuver out of the space without an appropriately sized turnaround area. The three feet provided is insufficient. A six-foot turnaround area must be provided so that vehicles can safely exit parking spaces without vehicular and pedestrian conflicts. The parking lot must include a crosswalk, and a walkway shall be installed along the north side of the structure so that congregants can safely navigate from their vehicles to the building entrance.

9 It will be difficult for sanitation workers to access the dumpster enclosure in its current location at the eastern end of the parking lot. This narrow area is constrained by its proximity to the building. The dumpster enclosure must be moved to another location so that access to the limited parking spaces is not blocked by a garbage truck.

10 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. Providing specific locations on the site for the snow piles will reduce the loss of available parking spaces meant to be used by congregants. This is critical since the minimum on-site parking is not provided. In addition, it will help to protect any proposed landscaping from damage due to the weight of the snow and salt intrusion.

11 The development coverage and floor area ratio calculations must be provided on the site plan so their accuracy can be verified.

12 All trees to be removed must be labeled as such. The Planimetric Site Layout Sheet currently shows trees on parking spaces and walkways.

13 Map Note 10 must be corrected to indicate that water will be supplied by SUEZ.

14 Map Note 15 must also include the ZBA meeting date at which the variances were granted, as well as the resolution number.

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15 The Building Department's August 9, 2018 CDRC comments do not include the side setback variance previously granted. All application materials must be consistent. It is especially important in this case since the original ZBA application was not submitted for our review. The public hearing notice will have to be revised and reissued if it did not contain all required variances.

16 The project narrative indicates that a variance is required from Section 376-78.A. since parking is provided for more than four vehicles less than 75 feet from the intersection. This variance is not noted on the Layout Sheet or included in the Building Department's CDRC comments. All application materials must be consistent. It is especially important in this case since the original ZBA application was not submitted for our review. The public hearing notice will have to be revised and reissued if it did not contain all required variances.

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.

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
Spring Valley Fire District

Anthony R. Celentano P.E.
Village of Spring Valley

Congregation Zichron Ohel Elimalech Tosh

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.