



Rockland County

Ed Day, Rockland County Executive

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

September 9, 2019

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

Tax Data: 56.06-1-13

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

Map Date: 7/10/2019

Date Review Received: 8/7/2019

Item: *Kinyan Torah/65 College Road (R-1797P)*

Variations to permit a change in use from a local house of worship with classrooms to a school of religious instruction. An addition to the existing building, a new driveway and a reconfigured parking area are also proposed. The parcel is located on 1.058 acres in the R-25 zoning district. The variations required include lot area, front setback (College Road), front yard (College Road), side setback, development coverage, floor area ratio, distance to a signalized intersection and waiver of the buffer. Northwest corner of College Road and Highview Road

Reason for Referral:

College Road (CR 81), Highview Road (CR 64)

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 Over time, the local house of worship use has become subordinate to the school of religious instruction. The applicant is now seeking to officially change the use so the certificate of occupancy reflects the actual use. Typically, a school is a more intense land use than a house of worship. Class is often in session five or six days per week at most schools of general and religious instruction. Extracurricular activities can extend the school day into the evening hours. In this case, the school of religious instruction has been operating for many years. The project narrative specifies hours of operation that span six days per week and up to 13 hours per day. However, the applicant is proposing to increase the size of the structure thereby increasing the degree of non-conformity with the R-25 bulk standards. While the lot area standard of 80,000 SF is slightly more relaxed than for a house of worship use in the R-25 zoning district, the parcel is 46 percent deficient in meeting this requirement. A house of worship use allows for a maximum development coverage of 40 percent, while a school use only allows for 20 percent. The proposed school use exceeds both maximums at 55 percent; a variance of 175 percent is needed for development coverage. While the floor area ratio standard of 40 percent is more generous than the 20 percent required for houses of worship, a variance of 68 percent is required. The variances required for the expanded school use shall not be granted. The building footprint shall be reduced so that greater conformance

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with the R-25 bulk standards is achieved. By achieving all yard and setback requirements, the development coverage will be reduced.

2 The R-25 zone is a low-density, residential district characterized by single-family dwellings on large lots. The original house of worship was permitted by right in this zone. Schools of General and Religious Instruction, however, are special permit uses subject to a higher level of review. The school must comply with the general conditions outlined in Section 376-120 and the individual standards listed in Section 376-1216, as well as the bulk standards for Use Group e.1. The proposal does not conform to all of the general standards. It is not possible to determine if it complies with Section 376-1216A.(2), (3), (4) or (5) as sufficient information has not been provided. A special permit application must be submitted for our review as mandated in Section 239-m.3.(a)(iii) of the New York State General Municipal Law.

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 lot area is only 54 percent of the required size while the development coverage and floor area ratio are exceeded by 175 percent and 67.5 percent respectively. The ability of the existing infrastructure to accommodate nonconforming educational uses 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 comply with the R-25 bulk standards.

The following comments address our additional concerns about this proposal:

4 The applicant shall comply with the conditions of the Rockland County Highway Department's August 15, 2019 letter.

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

6 General Note 41 states that the well is to be decommissioned. The existing well must be shown on the site plan, and approval must be obtained from the Rockland County Department of Health prior to initiating any decommissioning activity.

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

8 The building 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 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.

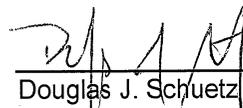
10 The applicant must satisfactorily address the comments in the Tallman Fire Department's March 25, 2019 letter. A Fire Truck Maneuverability Analysis must be submitted for their review.

11 It is unclear if the proposal is for new construction or an addition to the current building. The proposed building outline is underlain by the existing structure on the ZBA plan. While the application materials specify that an addition is proposed, the building footprint depicted on the map is not connected to the existing structure. Clarification must be provided. In addition, the applicant shall provide a separate existing conditions map.

12 The handicapped parking space must be located closer to the building entrance.

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- 13 The use of pervious pavers will reduce the development coverage, and must be considered.
- 14 The development coverage and floor area ratio calculations must be provided on the site plan so their accuracy can be verified.
- 15 The July 10, 2091 narrative is confusing when providing operational details about the current use. The second paragraph references the existing house of worship and then discusses the school's hours of operation, the size of the student body and busing. It must be clarified whether the school will maintain this operating schedule, and whether the number of students will change.
- 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 Health
Rockland County Department of Highways
Rockland County Sewer District #1
New York State Department of State
Tallman Fire District
Rockland County Office of Fire and Emergency Services
Civil Tec Engineering & Surveying PC

Congregation Beth Abraham Inc.

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.

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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.