



Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING

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Acting Commissioner

Arlene R. Miller
Deputy Commissioner

October 8, 2019

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

Tax Data: 57.18-2-47
57.18-2-1

57.18-2-46

57.18-2-45

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

Map Date: 7/10/2019

Date Review Received: 8/23/2019

Item: *YESHIVA NOAM HATORAH (R-2226R)*

Variances for front setback (Gerow Avenue and Route 45), front yard (Gerow Avenue and Route 45), rear setback, rear yard, parking, and distance to an intersection to allow the construction of a school on .4517 gross acres (.4255 net acres) in the R-15 zoning district. The applicant is also seeking a waiver of the buffer requirement from the Planning Board. The existing lot lines will be deleted to allow the four parcels to be merged.

Southeast corner of Gerow Avenue and South Main Street

Reason for Referral:

South Main Street (NYS Route 45), Villages of Spring Valley and Chestnut Ridge, Old Nyack Turnpike (CR 52)

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 Schools of general and religious instruction are special permit uses in the R-15 zoning district. By definition, they are subject to a higher standard of review. The special permit standards are included in Article XII. The general conditions are listed in Section 376-120; the individual standards for schools are contained in Section 376-1216. It is unclear if this proposal is fully compliant with Section 376-120. A. through G. This must be addressed in the project narrative. Section 376-1216.A.(2) specifies that bus access shall be provided on site and must be designed to ensure the safe pickup and drop off of children and to minimize impact on traffic flow. While the project narrative notes that buses will bring students to school and pick them up, a bus drop off area is not illustrated on the Layout Plan. The proposed driveway is 15-feet wide so vehicles will be forced to stack as students board or alight the school buses. As a result, traffic flow on Gerow Avenue will be affected. This has safety implications for both vehicular and pedestrian safety. Section 376-1216.A.(3) requires that the project shall be suitably landscaped with perimeter, parking lot and building plantings as required by the Planning Board. It is

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not possible to determine if this standard is achieved without a landscaping plan. Section 376-1216.A.(4) specifies that all projects shall provide proper access for fire-fighting and emergency equipment and vehicles; Section 376-1216.A.(5) requires that the school must comply with Chapter 144, Fire Prevention, of the Code of the Town of Ramapo. Emergency access and fire prevention are not addressed in the project narrative or on the layout plan. Additional information must be provided as to whether this proposal achieves the requisite special permit standards. Bulk variances cannot be granted for a special permit use if the proposal does not meet the applicable standards in Article XII.

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. Yard and setback variances are needed ranging from 29 to 57 percent. Only 33 percent of the required on-site parking is provided. The ability of the existing infrastructure to accommodate noncompliant educational uses on undersized, nonconforming 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 so that yard and setback standards are achieved, and the required on-site parking is provided.

3 Town officials have previously expressed concern to this department about the increasing traffic congestion along state and county roads. The issue of pedestrian safety has been raised repeatedly. In direct contradiction to these concerns, the Town's Zoning Board of Appeals overrides our GML recommendations by granting variances to allow noncompliant development on undersized, nonconforming lots such as the subject site. Land use and traffic generation are not mutually exclusive concepts. If more intense uses are permitted, additional traffic will be generated causing increased congestion on the roadway network, and putting the walking population at greater risk. The variances must not be granted.

4 This department is not in favor of granting parking variances for sites with frontage on a state or county road. The proposed on-site parking is deficient by 67 percent. The safe and efficient flow of traffic will be negatively affected if the six parking spaces prove insufficient. This is especially likely for special events such as parent-teacher conferences and school assemblies. A smaller school building with fewer staff members and a reduced student population will allow for closer conformance with the on-site parking requirement. The proposal must be scaled back.

5 The required parking variance is not noted in the Building Department's July 29, 2019 CDRC comments. All application materials must be consistent. The public hearing notice must be reissued if it did not include all the variances required for this proposal.

6 The provided lot area and lot width do not meet the minimum standards for a school in the R-15 zoning district. They are deficient by 26 and 29 percent respectively. These variances are not noted in the bulk table, the July 31, 2019 project narrative or the Building Department's July 29, 2019 CDRC comments. Therefore, the degree of nonconformity is understated. It is imprudent to allow a special permit use on an undersized parcel with insufficient lot width. The variances must be denied. The public hearing notice must be reissued if it did not include all the variances required for this proposal.

The following comments address our additional concerns about this proposal.

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

8 The applicant must comply with the conditions of the Rockland County Highway Department's letter of August 27, 2019.

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9 The applicant must comply with the conditions of the Rockland County Health Department's letter of July 22, 2019.

10 The applicant must comply with the conditions of the Rockland County Sewer District #1's letter of June 11, 2019.

11 The Villages of Spring Valley and Chestnut Ridge are two of the reasons this proposal was referred to this department for review. The Spring Valley municipal boundary is approximately 23 feet north of the site, within the centerline of Gerow Avenue; the Chestnut Ridge municipal boundary is approximately 301 feet south 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 Villages of Spring Valley and Chestnut Ridge 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 Villages of Spring Valley and Chestnut Ridge must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

12 The proposed school building must comply with all requirements of the New York State Uniform Fire Prevention and Building Code.

13 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/South Spring Valley Fire Departments to ensure that there is sufficient maneuverability on site for fire trucks, in the event an emergency arises.

14 As noted above, variances are needed for lot area, lot width and parking. These variances must be noted in all application materials. A revised ZBA application must be submitted for our review. The public hearing notice must include all required variances.

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

16 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 staff and visitors. This is especially critical since the on-site parking requirement is not achieved. In addition, it will help to protect the proposed landscaping from damage due to the weight of the snow and salt intrusion.

17 General Note 9 must be corrected to specify Section 239 L and M of the General Municipal Law, as this is an application for variances not a subdivision.

18 General Note 13 specifies the South Spring Valley Fire District. Our records indicate that this parcel is within the Spring Valley Fire District. The appropriate fire district must be clarified.

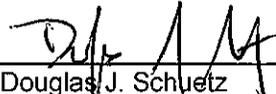
19 The vicinity map shall include a north arrow and a scale. The subject parcel must be centered on the map.

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20 The special permit and site plan applications are subject to a review by this department as mandated by the New York State General Municipal Law.

21 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.

22 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 Sewer District #1
New York State Department of State
Rockland County Office of Fire and Emergency Services
Spring Valley Fire District
South Spring Valley Fire District

Civil Tec Engineering & Surveying PC
Villages of Spring Valley and Chestnut Ridge

Yeshiva Noam Hatorah

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.