



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

January 23, 2020

Ramapo Planning Board
237 Route 59
Suffern, NY 10901

Tax Data: 49.13-2-2

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

Map Date: 12/10/2019

Date Review Received: 12/23/2019

Item: 19 BRIARWOOD LANE HOUSE OF WORSHIP (R-1475B)

Site plan for a local house of worship with a rabbi's residence located on 1.148 acres in the RR-50 zoning district. Variances for lot area, lot width, front setback, front yard, side setback, total side setback, side yard, rear setback, rear yard, street frontage, development coverage, floor area ratio and buffer have previously been granted.

North side of Briarwood Lane, approximately 2060 feet west of College Road

Reason for Referral:

Rockland Community College, Village of Montebello

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 376-5 of the Town of Ramapo Zoning Law is entitled Definitions. The meaning of terms used in the Zoning Law are indicated in this section. A Local House of Worship is defined as "a building used exclusively for the conduct of organized religious services with the occupancy of the sanctuary space not to exceed 100 persons." Residence by an officiating clergyman is permitted in the building as an accessory use. No school or outside catering is permitted.

The subject structure was originally constructed as a single-family dwelling. While the site conforms to the RR-50 bulk standards for a single-family dwelling, the structure is deficient in meeting several of the bulk requirements for a local house of worship. The local house of worship is currently functioning within the existing structure without the requisite approvals. This use is permitted by right in the RR-50 zoning district. However, the bulk standards for local houses of worship are far more stringent than those for single-family dwellings. This site is woefully deficient in meeting these standards. A lot area variance of 70 percent was required, as well as a 36 percent lot width variance and a 38 percent street frontage variance. Yard and setback variances ranging from 28 to 97 percent were also required. The maximum standards for development coverage and floor area ratio are exceeded. Only the building height is in conformance with the applicable standard. These non-conformities are a clear indication that this use is a gross overutilization of the site. The site plan shall not be approved, and the use

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must cease.

2 We believe that the parking calculation indicated on the Planimetric Plan is incorrect resulting in an understated on-site parking requirement. The parking requirement is one space per 200 SF of worship area or five seats capacity, whichever is greater. The Minimum Off-Street Parking Spaces Column on the Table of General Use Requirements for the RR-50 zone incorrectly states ten seats capacity. This error has been brought to the Town's attention. The correct on-site parking requirement is 12 spaces. Therefore, a variance of 33 percent is required. Since this variance was not previously granted, a new application must be made to the ZBA. This parking deficiency is a further indication that the local house of worship is not an appropriate use on this parcel. The parking variance shall not be permitted.

3 The Tallman Fire Department is opposed to permitting a local house of worship at this location. They have expressed their concerns in letters dated September 28, 2018, December 12, 2018, May 30, 2019, and December 27, 2019. These concerns include the provision of sufficient fire flow to the site, inadequate parking hampering emergency access, the number and magnitude of the required variances, and the cul-de-sac location. This department concurs with the Tallman Fire Department's determination that fire protection has not been adequately addressed. Briarwood Lane is approximately 2,275 feet or almost half a mile in length. It ends in a cul-de-sac configuration so there is only one point of access for the 24 residential lots with frontage on this street. The subject site fronts on the cul-de-sac bulb. This is not an ideal location for a house of worship that serves up to 50 congregants. Since an emergency access cannot be provided, the local house of worship use must be discontinued.

4 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 ability of the existing infrastructure to accommodate mixed 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 variances shall not be granted, and local house of worship must not be allowed to continue to operate.

The following comments address our additional concerns about this proposal:

5 The Village of Montebello is one of the reasons this proposal was referred to this department for review. The municipal boundary is 190 feet west 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 Montebello 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 Montebello must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

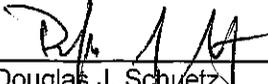
6 A review must be completed by the Rockland Community College, and their concerns, if any, addressed. The applicant must ensure that the fence that encroaches onto the college property is removed.

7 A review must be completed by the Rockland County Department of General Services, Division of Facilities Management, and their concerns, if any, addressed.

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- 8 The applicant must comply with the conditions of the Rockland County Health Department's letter of December 30, 2019.
- 9 The applicant must comply with the conditions of the Rockland Sewer District No. 1's letter of January 2, 2020.
- 10 The existing structure must comply with all requirements of the New York State Uniform Fire Prevention and Building Code.
- 11 Prior to the start of construction or grading, a soil and erosion control plan shall be developed and in place for the entire site that meets the latest edition of the New York State Standards for Urban Erosion and Sediment Control.
- 12 There shall be no net increase in the peak rate of discharge from the site at all design points.
- 13 A refuse containment area must be illustrated on the site plan. Access to the trash receptacles must be unimpeded, and it must be demonstrated that their location will not impact yard requirements and parking maneuverability for the site.
- 14 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 particularly important since the minimum on-site parking requirement is not achieved. In addition, designated snow storage areas will help to protect the existing landscaping from damage due to the weight of the snow and salt intrusion.
- 15 The development coverage and floor area ratio calculations must be provided on the site plan so their accuracy can be verified.
- 16 The zoning designation for the subject parcel is RR-50, a rural residential district. The incorrect zoning designation is specified in the application materials. Map Note 3 and the bulk table must be corrected on the planimetric plan. The correct designation must also be indicated on the application and GML referral forms. All application materials must be consistent.
- 17 The existing well must be properly decommissioned prior to its removal. The Rockland County Department of Health must be notified of the intent to decommission the well, and monitor the process to ensure that it is done in compliance with the specifications of Article II of the Rockland County Sanitary Code. All required permits must be obtained from them.
- 18 All proposed signage must be shown on the site plan, and conform to all Town requirements.
- 19 A revision table must be provided on the site plan. The revision dates shall be listed chronologically.
- 20 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.
- 21 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.

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Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor Michael B. Specht, Ramapo
New York State Department of State
Rockland Community College
Rockland County Department of Health
Rockland County Office of Fire and Emergency Services
Rockland County Sewer District #1
Tallman Fire District
Rockland County Department of General Services,
Division of Facilities Management

Anthony R. Celentano P.E.
Village of Montebello

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.