



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

March 19, 2020

Ramapo Planning Board
237 Route 59
Suffern, NY 10901

Tax Data: 56.06-1-13

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

Map Date: 12/27/2019

Date Review Received: 2/11/2020

Item: *KINYAN TOHRAH (R-1797Q)*

Site plan and special permit for the construction of an addition to an existing local house of worship with classrooms located on 1.058 acres in the R-25 zoning district. This application will change the use to only a school of religious function. A new driveway and parking area, as well as a play area, are also proposed. A waiver of the buffer is being sought from the Planning Board. Variances have previously been granted for lot area, front setback (College Road), front yard (College Road), side setback, development coverage, floor area ratio, and distance to a signalized intersection.

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; that is 175 percent greater than the allowed development coverage. While the floor area ratio standard of 40 percent is more generous than the 20 percent required for houses of worship, the proposed floor area ratio is 68 percent greater than allowed. The building footprint shall be reduced so that greater conformance with the R-25 bulk standards is achieved. By

KINYAN TOHRAH (R-1797Q)

achieving all yard and setback requirements, the development coverage will also 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 or provide sufficient perimeter and building landscaping, as required by Section 376-1216A.(4). It is not possible to determine if it complies with Section 376-1216A.(4) or (5) as sufficient information has not been provided.

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 An updated review must be completed by the County of Rockland Department of Highways, any concerns addressed, and all required permits obtained.

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 Our department previously reviewed an application for variances for this proposal. With that application, a map dated July 10, 2019 was provided. Map Note 41 on that map stated that the well was to be decommissioned. The map provided with this application, dated December 27, 2019, does not include that note. It must be clarified if there is an existing well on the property and if it is to be decommissioned. If the well exists, it 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 No. 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, the Town of Ramapo Fire Inspector, or the Tallman Fire District to ensure that there is sufficient maneuverability on site for fire trucks, in the event an emergency arises. The proposed 23-foot radius seems too tight for fire truck maneuverability.

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 Prior to the start of construction or grading, all soil and erosion control measures must be in place for the site. These measures must meet the latest edition (November 2016) 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.

KINYAN TOHRAH (R-1797Q)

13 The December 27, 2019 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.

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. This will help to protect the proposed landscaping from damage due to the weight of the snow and salt intrusion. In addition, providing specific locations on the site for the snow piles will reduce the loss of available parking spaces meant to be used by staff.

15 The entrance to the building along College Road may encourage people to park their vehicles and/or stop for drop-off and pick-up of students along this road, rather than pull into the parking area off of Highview Road. Parking must not occur on any County highways.

16 The handicapped parking space must be located closer to the building entrance, and a sidewalk connecting the two provided.

17 All emergency exits must be illustrated on the site plan.

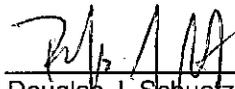
18 The use of pervious pavers will reduce the development coverage, and must be considered.

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

20 All proposed signage must be shown on the site plan, and conform to all Town requirements.

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 State
Rockland County Department of Health
Rockland County Department of Highways
Rockland County Office of Fire and Emergency Services
Rockland County Sewer District #1
Tallman Fire District

Civil Tec Engineering & Surveying PC

KINYAN TOHRAH (R-1797Q)

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.