



Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

January 22, 2019

Wesley Hills Planning Board
432 Route 306
Wesley Hills, NY 10952

Tax Data: 41.06-1-26

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

Map Date: 12/12/2018

Date Review Received: 12/24/2018

Item: *CONGREGATION ANSHEI CHESED - 62 LIME KILN ROAD (Whi-152)*

A site plan and special permit application to construct an 18,849 square foot Neighborhood Gathering and Rabbi's residence on 1.21 acres in the R-50 zoning district. Variances are required for total side yard, rear yard, maximum building coverage, maximum impervious surface ratio, and maximum front yard impervious surface ratio.

The southern side of Lime Kiln Road (CR 84), approximately 190 feet east of Wilder Road (CR 81).

Reason for Referral:

Lime Kiln Road (CR 84), Wilder Road (CR 81)

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:

****Recommend the following modifications***

1 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 proposed total side yard and rear yard are deficient by 11% and 64%, respectively. The maximum building coverage exceeds the maximum standard by 33%. The maximum impervious surface ratio and front yard impervious surface ratio exceed the maximum standards by 136% and 240%, respectively. The ability of the existing infrastructure to accommodate increased density and additional impervious surfaces in residential areas 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 Village must consider the cumulative and regional impacts of permitting such development.

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2 The number of proposed parking spaces exceeds the minimum requirement of 20 spaces required for a Neighborhood Gathering. However, section 230-26.G(1)(f) of the Village regulations empowers the Planning Board to require additional spaces if the Board determines they are necessary to maintain public safety and neighborhood character. The Board is further empowered to allow off-site parking spaces to be located in accordance with the criteria indicated in section 230-26.G(1)(g). The narrative provided indicates that an additional 53 parking spaces are available off-site. However, no additional information regarding these spaces is provided. Should the Planning Board determine that additional parking spaces are, in fact, necessary, the Board must be satisfied that the proposed off-site parking spaces comply with the requirements of section 230-26G(1)(g). Specifically, these sites must be located within 100 yards of the subject property. The applicant must provide the Planning Board with permission agreements for the use of the parking spaces. The applicant must provide maps of the nearby properties that include the additional parking spaces, as well as demonstrating how pedestrians will safely travel between them and the Neighborhood Gathering. A pedestrian walkway must be provided for the spaces located on the Dyke Drive properties since the distance along roadways exceeds 3,000 feet. The site plan includes a partial path through 50 Wilder Road (parcel 41.06-1-61). Permission must be obtained from the owner of 50 Wilder Road for use of the walkway, as well. In addition, the applicant must demonstrate that these spaces are available to congregants during the times at which they are needed. A significant portion of the off-site parking spaces are provided by Congregation Tiferes Yisroel. If services are offered to both congregations at the same time, there will be no excess spaces available for use by members of the other congregation. The applicant must provide additional information regarding these spaces in order for the Planning Board to ensure that there is an adequate total number of spaces to accommodate all uses on the property. Lastly, a parking management plan must be provided to ensure that congregants are quickly and efficiently directed to offsite parking spaces when their use is required.

3 The applicant must comply with all comments made by the Rockland County Highway Department in their letter of January 8, 2019.

4 The applicant must comply with all comments made by the Rockland County Office of Fire and Emergency Services in their letter of December 31, 2018.

5 The applicant must comply with all comments made by the Rockland County Sewer District No. 1 in their letter of May 11, 2018.

6 A review must be completed by the Rockland County Department of Health to ensure compliance with Article XIX (Mosquito Control) of the Rockland County Sanitary Code.

7 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 Guidelines for Urban Erosion and Sediment Control.

8 There shall be no net increase in the peak rate of discharge from the site at all design points.

9 The lighting plan must show fields of illumination that demonstrate that the intensity of the candle lumens is less than 0.1 at the property line.

10 Water is a scarce resource in Rockland County; thus proper planning and phasing of this project are critical to supplying the current and future residents of the Villages, Towns, and County with an adequate supply of water. A letter from the public water supplier, stamped and signed by a NYS licensed professional engineer, shall be issued to the municipality, certifying that there will be a sufficient water supply during peak demand periods and in a drought situation.

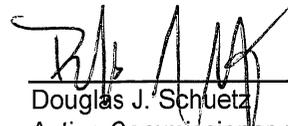
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- 11 If any public water supply improvements are required, engineering plans and specifications for these improvements shall be reviewed by the Rockland County Department of Health prior to construction. In order to complete an application for approval of plans for public water supply improvements, the water supplier must supply an engineer's report pursuant to the "Recommended Standards for Water Works, 2003 Edition," that certifies their ability to serve the proposed project while meeting the criteria contained within the Recommended Standards for Water Works. These standards are adopted in their entirety in 10 NYCRR, Subpart 5-1, the New York State regulations governing public water systems. Further, both the application and supporting engineer's report must be signed and stamped by a NYS licensed professional engineer and shall be accompanied by a completed NYS Department of Health Form 348, which must be signed by the public water supplier.
- 12 Public sewer mains requiring extensions within a right-of-way or an easement shall be reviewed and approved by the Rockland County Department of Health prior to construction.
- 13 To help reduce the extent of the development coverage variance required for the site, pervious pavers and/or other porous materials must be used wherever possible.
- 14 The landscaping plan must be supplemented to provide additional screening along the rear property line in order to reduce the visual impact of the large Rabbi's residence, especially since the structure requires a substantial variance of the rear yard requirement.
- 15 Low evergreen landscaping must be provided along Lime Kiln Road to block the headlights of parked cars from shining into the County right-of-way.
- 16 The snow storage areas must be revised. The western storage area is comprised of landscaping and the preceding comment requires additional landscaping in the northern storage area. This landscaping will be damaged by the weight of the snow and salt intrusion. The snow storage areas must be relocated.
- 17 Sheet 7 of 7 is listed as a Planting and Lighting Plan, but shows a turning radius plan for emergency vehicles. The title must be corrected.
- 18 The square footage given for the Rabbi's residence is not consistent. Page 1 of the narrative states the residence will be 7, 631 square feet, presumably including the basement. Page 2 of the narrative and the site plan indicate that the residence will be 5,748 square feet. Page 2 of the narrative also includes inconsistent square footages for each floor of the residence. The first and second floors are, respectively, indicated to have 2,516 and 2,515 square feet in one instance, and 2,941 and 2,807 square feet in another. All materials must be consistent, and square footages must include all finished areas of the structure.
- 19 Despite the discrepancy over the square footage of the Rabbi's residence, the proposed structure is substantially larger than most single-family dwellings. Given the size and scope of the variances required for it, particularly of the rear yard and impervious surface ratio requirements, the Rabbi's residence must be reduced.
- 20 A stormwater pollution prevention plan (SWPPP) was not provided. The SWPPP, if required, shall conform to the current regulations, including the New York State Stormwater Management and Design Manual (August 2010) and local ordinances.
- 21 All proposed signage shall be indicated on the site plan and shall conform to the municipality's sign standards.
- 22 We request the opportunity to review any variances that may be needed to implement the proposed site plan, as required by New York State General Municipal Law, Section 239-m (3)(a)(v).
- 23 The Village shall be satisfied that the proposed Neighborhood Gathering complies with the general standards for special permit uses outlined in Section 230-22, as well as the individual standards and requirements listed in Section 230-26.G.

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24 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.

25 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: Mayor Marshall Katz, Wesley Hills
Rockland County Department of Health
Rockland County Sewer District #1
Rockland County Department of Highways
Rockland County Office of Fire and Emergency Services

Sparaco & Youngblood, PLLC

**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.