

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

February 26, 2020

Wesley Hills Zoning Board of Appeals
432 Route 306
Wesley Hills, NY 10952

Tax Data: 41.16-1-79

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

Map Date: 12/19/2019

Date Review Received: 2/5/2020

Item: **CONGREGATION BAIS YAKOV YOSEF OSTROW - 5 RIDGEWAY TERRACE (Whi-110B)**

A variance application to allow the construction of two additions to an existing Neighborhood Gathering/single-family dwelling on a corner lot with 0.82 acres in the R-35 zoning district. One addition has two stories, a footprint of 120 square feet, and is to be used as additional living space for the single-family residence. The other addition is a one-story with a footprint of 500 square feet, and is to be used as a lobby/changing room for an existing mikvah within the Neighborhood Gathering. Variances are requested for front yard (Skylark Drive) and maximum building coverage. The applicant also requests that the Planning Board permit an increased impervious surface ratio.

The southwestern corner of Skylark Drive and Ridgeway Terrace

Reason for Referral:

Grandview Avenue (CR 80), Village of New Hempstead

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 Skylark Drive front yard is deficient by 19%. The proposed maximum building coverage and impervious surface ratio for Phase 2 exceed the maximum standard by 13% and 3%, respectively. The ability of the existing infrastructure to accommodate increased residential density 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 Village of New Hempstead is one of the reasons this proposal was referred to this department for review. The municipal boundary is approximately 400 feet south of the parcel. As required under Section 239nn of the State General Municipal Law, the Village of New Hempstead must be given the opportunity to review the proposed site plan and provide any concerns related to the project to the Village of Wesley Hills.
- 3 As per the February 13, 2020 letter from the Rockland County Department of Health, an application is to be made to them for compliance with the County Mosquito Code, should the board require revisions to the existing stormwater management system.
- 4 The applicant must comply with all comments made by the Rockland County Sewer District No. 1 in their letter of February 10, 2020.
- 5 The February 11, 2020 letter from the Rockland County Highway Department must be reviewed by the Village and their comments considered.
- 6 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.
- 7 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

Anthony R. Celentano P.E.
Village of New Hempstead Planning Board

**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.