

VILLAGE OF NEW HEMPSTEAD
108 OLD SCHOOLHOUSE RD.
NEW CITY, N.Y. 10956

BOARD OF TRUSTEES

REGULAR MEETING
TUESDAY, SEPT. 20, 2016
7:30 P.M. – VILLAGE HALL

PRESENT

FRED BRINN, MAYOR
BRUCE MINSKY, DEPUTY MAYOR
ABE SICKER, TRUSTEE
SHALOM MINTZ, TRUSTEE
ADAM REICH, TRUSTEE

ABSENT

ALSO PRESENT

JOHN LANGE, VILLAGE PLANNER
GLENN MC CREEDY, VILLAGE PLANNER
DENNIS MICHAELS, VILLAGE ATTORNEY
LORI BELLO, DEPUTY VILLAGE CLERK-TREASURER

PLEDGE OF ALLEGIANCE

ROLL CALL

OPEN FLOOR – PUBLIC PARTICIPATION

Mayor Brinn read a letter from the Hillcrest Fire Dept. dated August 22, 2016

The public hearing for Cong. Shaarei Tefillah of New Hempstead (Aron Saperstein) was adjourned to October 24, 2016.

Continuation of public hearing for Special Permit of Ateres Bais Yaakov, 236 Cherry Lane, Monsey, New York 10952: To permit construction, maintenance and use of three temporary modular classrooms for a girls religious school on site temporarily known as Rockland Baptist Church.

Mr. Baker – Traffic report – most that will have to be done is change the timing on the traffic light on Pomona Rd. & Rte. 45.

Attorney Michaels asked for comments from the Village Planner & Village Engineer –

Mr. Lange stated two remaining issues were the distance between the buildings and since the Village of New Hempstead does not have multi-family housing, there is one building on one lot, there is nothing to cover that. We asked the Bldg. Inspector for the Town of Ramapo. We are using the measuring sticks for the multi-family districts in the area. The existing bldg. that is not being used is 25'. The buildings will have to be adjusted to that. The other issue is the wetlands. According to the Planning & Zoning practices, you only have one use for the site unless you have a multi-use zone. We have a building being used as a warehouse, that is one use and now we have the school. Somehow we have to remedy that. If they are forced to vacate that building, that is one remedy.

Mr. McCreedy stated the reference to Rockland Baptist Church should be removed. It is not on the site plans. This is a new site plan for a temporary school.

Attorney Michaels read a report from John Lange (McLaren Engineering Group) dated Sept. 15, 2016
A letter from James W. Flax, M.D. MPH dated Sept. 16, 2016
Letter from Dr. Barry J. Schoenberg and Dr. Jeffrey R. Horowitz dated Sept. 15, 2016
Letter from Jesse M. Hackell, M.D. dated Sept. 9, 2016
Letter from Wm. J. Schwartz, M.D. & Catherine C. Furey, M.D. dated Sept. 7, 2016
E-mail from Stephen Geis dated Sept. 20, 2016

The hearing was opened to the public.

Maureen Callahan

22 Views Way – Took her 2 lights to get onto the Palisades Pkwy. – Not against the school but against the impact on the traffic. Dangerous situation.

Donna Eisenberg – kids have to go to school somewhere, not in favor of having a school on Route 45

Shoshana Shechter

2 Keri Lane – teacher at the school – Rabbi Fink is trying to do this legally

Joe Cohn

20 Pennington Way – jogger – jogs on Route 45 – extremely wide shoulder – light traffic

1 Kim Lane – takes him 1 minute to get to the Palisades Pkwy from Kim Lane – no problem with traffic

17 Dorothy Drive – consideration when there are Boulder games or other activities – if traffic moves so well, how come Ramapo Police have to be stationed there? Traffic on Viola Rd. is blocked when the school gets out. That will happen on Route 45 when busses and parents are picking up. Traffic study needs to be done for a full day.

Jim Kelleher

1302 Views Way – Zoning laws exist for a purpose - variances have to be for a compelling reason. It appears just the opposite is happening now. Need a stronger argument for a school that is required to have 10 to go down to 4 acres. As great as the school is, there is no reason for that. How many additional cars and busses will be on the road in the morning and in the afternoon?

Resident – doesn't feel the school will cause more traffic. (couldn't identify name & address)

John Lauder

933 Rte. 45 – He owns 3 ½ acres of property – he subdivided about 10 years ago – the Village would not let him put another driveway for one house with 2 cars coming out once or twice a day –

Trustee Sicker closed the public portion of the hearing

Attorney Michaels stated the Board needs to do an environmental determination – if you have enough information to render an environmental determination – one of the questions is a traffic study.

Mr. Lange stated the Law requires that you fill out Part 2 of the form. You check the major or minor impact. If you check the major impact you have to go through a whole environmental impact statement. If you check the minor, it does give you the ability to make comments. One of the things he wants to make clear is that this is a residential area. Schools are to be given preference in residential areas according to New York State. Temporary schools are a different situation. Everything we are doing here is focused on the word “temporary”. Any variances that we are requested to make will be temporary. They will not stay with the land. This is a temporary impact. The only thing that bothers him is the trailers on the property. You would probably not want that next to your house. It is not next to your house, it is on Route 45. The variances will not continue with the land.

Objection to the word “trailer”.

Attorney Michaels put together a “Findings” for the Board. He read same into the record.

Discussion on how the property should be left after the modulars have been removed.

Discussion of what to do if at the end of the 3 year period there needs to be a renewal of the special permit.

It was suggested that the 1 year progress report be changed to a 2 year progress report.

With reference to the Short Environmental Assessment Form, as prepared by Village Planner, John Lange, he has checked no or small impact may occur for all potential environmental impacts that are listed on the Part 2 of the Short Environmental Assessment Form, which is a New York State DEC form.

He also had some comments that he included in his Part 3 of the Short EAF.

Trustee Reich offered the following motion, which was seconded by Trustee Mintz:

Resolution # BOT 2016-111

Resolved, that pursuant to the State Environmental Quality Review Act ("SEQRA"), the proposed action, known as the application of Ateres Bais Yaakov Academy of Rockland ("applicant"), requesting approvals of a Special Permit Use (School), Site Plan and Area/Bulk Variances, to be located at 945 Route 45 (Tax Lot number 33.19-1-2), for the purpose of erecting and installing temporary trailers to be used and occupied as a school for girls, is hereby classified as an Unlisted action as defined by SEQRA Regulation 617.4; no agency, other than the Board of Trustees ("BOT") of the Village of New Hempstead ("Village"), the Village Planning Board, Village Zoning Board of Appeals and the Rockland County Department of Planning, will have any significant involvement in the review process, pursuant to SEQRA Regulation 617.6; and this Board hereby declares itself as Lead Agency. The resolution was passed by a vote of 3-0.

Trustee Sicker offered the following motion, which was seconded by Trustee Reich:

Resolution # BOT 2016-112

Pursuant to SEQRA Regulations 617.7, the Board of Trustees, as Lead Agency, for the reasons articulated in the BOT's analysis of Part 2 of the Short Environmental Assessment Form ("Short EAF") entitled "Impact Assessment" – hereby determines that the proposed action will not have a significant adverse environmental impact and a Draft Environmental Impact Statement will not be prepared. The resolution was passed by a vote of 3-0.

The hearing was, again opened to the public for comment.

A resident stated that two weeks ago there was not an approval from the fire dept. as to whether the trucks could get around the building.

It was stated that that situation has been addressed.

Attorney Michaels stated that one of the conditions of the Special Permit should be that the requirements of the Village Fire Inspector must be met.

Attorney Michaels conducted a polling of the Board.

Trustee Sicker offered the following motion, which was seconded by Trustee Reich:

Resolution # BOT 2016-113

Resolved, that the Board of Trustees of the Village of New Hempstead hereby grants a Special Permit Use Approval to Ateres Bais Yaakov Academy of Rockland located at 945 Route 45, Tax Lot No. 33.19-1-2 for the purpose of erecting and installing temporary trailers to be used and occupied as a school for girls with the following conditions:

1. Any and all traffic control improvements that may be required by the Village Engineer, Village Planner and/or NYS Department of Transportation shall be completed by the Applicant, and approved by the Village's Traffic Consultant; and a traffic study shall be submitted by the Applicant to the Village's Traffic Consultant, which traffic study must be satisfactory to the Village's Traffic Consultant.
2. Only the temporary school use and occupancy proposed by the Applicant (the proposed project) shall occupy or use the subject site; all other uses and occupancies, that are not appurtenant to the Applicant's temporary school (the proposed project), shall **not** be permitted and shall be discontinued and removed by the Applicant, except for the presently existing shell building.

3. The distance between the trailers/modular school structures shall meet the minimum separations as determined by the Building Inspector.
4. All trailers/modular school structures shall be **leased**, and documentation evidencing same shall be submitted to the Village Clerk's Office, which documentation shall be reviewed by, and satisfactory to, the Village Attorney.
5. The Applicant shall satisfy any and all requirements of the Village Engineer, Village Planner, Village Fire Inspector and Village Building Inspector.
6. The Applicant shall complete, fulfill and/or satisfactorily address (as determined by the applicable Village Officials, Officers and/or Village consultants) **all** of the modifications recommended by the Rockland County Department of Planning in its 08/22/2016 GML decision letter.
7. The Special Permit Use to operate Ateres' school at the subject site shall be limited to a time period of two years, with one possible one-year extension, up to a maximum total of three years, starting upon issuance of the Certificate of Occupancy for the subject site, or issuance of a Building Permit for Ateres' permanent school at 200 Summit Park Road, New Hempstead, NY, whichever is later, which Special Permit Use is further Specifically Conditioned upon the following:
 - 7(a). Ateres, and its attorney, agree, accept and acknowledge that, even though Special Permit Uses, generally, do not "run with the land," and the BOT's imposition of a time limitation or expiration date is in conformity with Village Zoning Law §6.6.2, since a land use board's imposition of such a time period condition may, nonetheless, be considered inappropriate or improper and/or such a condition may be judicially determined to be unenforceable, Ateres freely and voluntarily offers, of its own volition and without any compulsion from the Village, this maximum of three-year time limitation (if the BOT resolves to extend the Special Permit Use beyond the initial two-year Special Permit Use period), and willingly accepts the maximum three-year time limitation (if the BOT resolves to extend the Special Permit Use beyond the initial two-year Special Permit Use period), and hereby waives and relinquishes any right Ateres may have to legally challenge such time limitation. Regardless of the foregoing, Ateres reserves its right to request the Village for an extension of this Special Permit Use in the event that the 200 Summit Park Road site has not received a Certificate of Occupancy for use as a school, but only if Ateres has actively and diligently prosecuted construction at the 200 Summit Park Road site.
 - 7(b). In order to insure adequate coordination with the construction of the permanent school at 200 Summit Park Road, construction of the permanent school shall be initiated as soon as possible, and the schedule for construction shall be submitted to the Village Engineer prior to issuance of a Building Permit for the 200 Summit Park Road permanent school; and progress shall be demonstrated for the construction of the permanent school prior to the Village granting any extension of the initial two-year Special Permit Use period.
 - 7(c). Upon the expiration of this two-year Special Permit Use (or any BOT approved extension thereof, up to a maximum total of three years), Ateres shall cease operating a school, and shall completely remove all temporary trailers/structures proposed to be placed, at the subject site, and all appurtenances thereto. Any use thereafter, including a new or permanent educational use by Ateres, or any other entity, will require such new approvals as are then required by the Village's Local Laws.

Motion by: Trustee Sicker
Seconded by: Trustee Reich
Abstentions: Mayor Fred Brinn, Deputy Mayor Bruce Minsky, both of whom **recused** themselves*.

The vote was 3-0 in favor of the resolution.

Mayor Brinn took the gavel for the rest of the meeting.

Continuation of Public Hearing on Local Law 2016-#2: Site Plan and Subdivision procedures

Mayor Brinn read correspondence from the Rockland County Dept. of Planning dated Sept. 2, 2016

Trustee Sicker offered the following motion, which was seconded by Deputy Mayor Minsky:

Resolution # BOT # 2016-114

Resolved, that the Board of Trustees of the Village of New Hempstead hereby closes the public hearing on Local Law 2016-#2. The vote was 4-0. The resolution was adopted.

Trustee Sicker offered the following motion, which was seconded by Deputy Mayor Minsky:

Resolution # BOT 2016-115

Resolved, that the Board of Trustees of the Village of New Hempstead hereby approves Local Law 2016-#2 with the incorporation of the changes as recommended by the Rockland County Dept. of Planning in a letter dated Sept. 2, 2016. The vote was 4-0. The resolution was adopted.

Discussion on amending Local Law 2015-#1: Special Permit for Gathering Place, along with definitions, bulk requirements and procedures for applications.

Mayor Brinn asked Mr. Lange what remains for the Board to finalize this local law.

Discussion regarding issues with this local law. What is the number of people to qualify for a gathering place – this is also determined by the size of the room that is being used. The number of people agreed upon is 35. Deputy Mayor Minsky would like to use the number 25. He also suggests that the applicant receive a license instead of a Special Permit.

The parking issue was also discussed. The fire dept. needs to use the driveway. Street parking should be considered. Mr. Lange stated on-site parking should be required.

Mayor Brinn is in favor of maximizing the on-site parking. The Local Law needs to be put in final form a week in advance of the next meeting of the Board.

Attorney Michaels stated it will no longer be referred to as a Special Permit; it will be changed to license; a maximum of 35 persons; maximize parking to the extent feasible on site; as per requirements determined by Village Planner & Village Engineer after reasoned deliberations.

Discussion on amending Local Law #2 of 2015 – Special Permit use for Local House of Worship, along with definitions, bulk requirements and procedures for applications.

Items to be discussed are: parking and the house of worship use – (pre-existing, non-conforming use) Was prior use of private homes as a place of worship in violation of the Village Codes?

Trustee Sicker offered the following motion, which was seconded by Trustee Reich:

Resolution # BOT 2016-116

Resolved, that the Board of Trustees of the Village of New Hempstead hereby sets a public hearing for Local Law #3 of 2016 amending Local Law #1 of 2015 and Local Law #4 of 2016 amending

Local Law #2 of 2015 on Wednesday, October 26th, 2016 at 8:30 p.m. Mayor Brinn called for a vote and the vote was 4-0. The resolution was adopted.

Abstract of Audited Vouchers

Trustee Sicker offered the following motion, which was seconded by Trustee Reich:

Resolution # BOT 2015-117

Resolved, that Abstract of Audited claim numbers #17170 through 17205 in the aggregate amount of \$38,242.42 are hereby approved. Mayor Brinn called for a vote and the vote was 4-0. The resolution was adopted.

Mayor's report - none

Deputy Mayor's report - none

Trustees' report - none

Trustee Sicker offered the following motion, which was seconded by Trustee Reich:

Resolution # BOT 2015-118

Resolved, that the meeting of the Board of Trustees of the Village of New Hempstead held on September 20, 2016 is hereby adjourned. Mayor Brinn called for a vote and the vote was 4-0. The resolution was adopted.

Respectfully submitted,

Lee Mazza, Secretary