

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

PLANNING BOARD

REGULAR MEETING
MONDAY, MARCH 6, 2017
7:30 P.M. – VILLAGE HALL

PRESENT

CHARLES FRANKEL, CHAIRMAN
RACHEL SCHWARTZ, DEPUTY CHAIRPERSON (arrived 7:41)
ANGELA ESPOSITO
JENNIFER EISENSTEIN

ABSENT

MEL POLIAKOFF
HILLEL KURZMANN

ALSO PRESENT

DENNIS MICHAELS, VILLAGE ATTORNEY
GLENN MC CREEDY, VILLAGE ENGINEER
JOHN LANGE, VILLAGE PLANNER
CAROLE VAZQUEZ, VILLAGE CLERK-TREASURER
LORI BELLO, DEPUTY VILLAGE CLERK-TREASURER
ALLIE WEINRAUB, PLANNING/ZONING SECRETARY

Clearing, Filing & Excavation Permit – O’Neil Moreau, 53 Summit Park Road, New Hempstead

The applicant stated he is trying to level his back yard. Mr. McCreedy stated this was not part of a previous application. He has no problem approving this application. Chairman Frankel offered the following motion, which was seconded by Mrs. Esposito:

Resolution # P.B. 2017-1

Resolved, that the application of O’Neil Moreau, 53 Summit Park Road, New Hempstead is hereby approved subject to the approval of the Village Engineer. Chairman Frankel called for a vote and the vote was 3-0. (Mrs. Schwartz had not yet arrived.) The Resolution was adopted.

Schedule Public Hearing for site plan – applicant Israel Teichman – Kehillas Zihron Yitzchok, 36 Pennington Way, New Hempstead.

Chairman Frankel stated the applicant is applying under the old code, Local Law #2 of 2015. Chairman Frankel offered the following motion, which was seconded by Mrs. Esposito:

Resolution # P.B. 2017-2

Resolved, that the Planning Board hereby sets the date of April 3, 2017 for the public hearing for site plan on application of Israel Teichman – Kehillas Zihron Yitzchok, 36 Pennington Way, New Hempstead. Chairman Frankel called for a vote and the vote was 3-0. The resolution was adopted.

Chairman Frankel stated, in prior years, the Village Board would refer to the Planning Board site plan approval and allow the Planning Board to be the Lead Agency and the Village Board never considered themselves Lead Agency. We have been asked, because they have declared the intent to be Lead

Agency, to step aside. Chairman Frankel would like to make a motion that we advise the Village Board, on this application, we would like to be Lead Agency.

Chairman Frankel offered the following motion:

Resolution # P.B. 2017-3

Resolved, that the Planning Board of the Village of New Hempstead hereby advises the Village Board that the Planning Board would like to be Lead Agency on the application of Israel Teichman – Kehillas Zichron Yitzchock, 36 Pennington Way, New Hempstead. There was no second to the motion. Chairman Frankel withdrew the motion.

Referral to the Village Board on Local Law for Petition to add a new overlay zoning district: Neighborhood Commercial (NC) and change the Zoning designation of real property designated as Tax Map #41.15-4-1 & 2 from its current designation of 1R-35 to the new NC designation and a local law amending Local Law No. 11 of 1984 (Zoning Code) establishing a Neighborhood Commercial (NC) zoning district.

Chairman Frankel stated the Planning Board already made a recommendation to the Board of Trustees at their December 21st meeting. Chairman Frankel offered the following motion, which was seconded by Jennifer Eisenstein:

Resolution # P.B. 2017-4

Resolved, that the Planning Board of the Village of New Hempstead hereby reaffirms their recommendation to the Village Board, with the minor changes, regarding the creation of floating zone permitting commercial uses. Chairman Frankel called for a vote and the vote was 4-0. The resolution was adopted.

Referral from the Board of Trustees on Local Law for Petition to add a new floating zoning district to be designated as “Residence – Townhouse” or “R-TH” and to change the zoning designation of real property designated as Section 33.18, Block 1, Lot 6 from its current designation of 1R-50 to the new R-TH designation and a local law amending Local Law #11 of 1984 (Zoning Code) to add a floating district allowing multi-family residences.

Mr. Lange stated this application has been known as mini station. It’s a small piece of property surrounded by the Town of Ramapo on three sides. The only connection to the Village of New Hempstead is through Pomona Rd. and that’s on the short side of it. It’s on Station Road. It’s a long and narrow piece of property. We have done some evaluations which say if we were going to have multi-family, there’s probably not a location that you can put multi-family that would be less impactful for the Village. These are still single families in the Townhouse, but they are attached. There will be 2 or 3 stories depending on the height; suggested 35. Single family homes, but attached either on one side or both sides.

Chairman Frankel stated he shares office (same location) with the applicant. No financial interest, however. He feels it is best if he recuses himself from any decisions. Deputy Chairman Schwartz took over the meeting for this application.

Mr. Lange stated this is a floating zone application so the applicant would have to evaluate all of the sites that meet the base criteria. In a floating zone you first determine whether an applicant meets the criteria before you try and place it on the ground. In this case there have been some changes made to their petition in order to minimize it. It does not require the land to be vacant and in this case it should, otherwise you can take any one or two acre lots and do the same thing with it. When I looked at the one and two acre vacant lot, it is very limited to that area. I think that's really what we are looking for so I think with some modifications, this could work. The requested density of 12 units per acre is great for New Hempstead, but it doesn't mean that you have to grant what they requested, they also have a minimum of one acre lot with a maximum of 2 acres. If you look at what's around this lot you have the Verizon dispatch center, you have the American Legion bldg., you have the Ramapo ball park, and what will become the development of the Miniseongo golf course.

Amy Mele, 4 Laurel Rd., New City, Counsel to Mr. Emanuel on this application. Attorney Mele pointed out that the Village, back in 2015, adopted a problem and goals statement for the Village of New Hempstead. She felt it is fair to state that the Village Board has in the past expressed support for a smart housing initiatives. What we are proposing now is there is no place in the Village for multi-family housing that isn't age restricted. People are looking for something more affordable, something less than a single family home. We proposed this as a floating zone so that the Village Board would have the opportunity to evaluate in its full discretion each and every parcel. We limited to parcels of a certain size between 1 and 3 acres. We identified they should always be on a collector road so that you don't have issues with traffic. This particular application is a long narrow parcel and it is not really suitable for anything other than perhaps a row of townhouses. We have added into the law that entry be at ground level so that there shouldn't be multi-level apartment buildings. We proposed this as a floating zone because we thought that gave the Village flexibility to evaluate other sites for this type of housing. It is also across from Cambridge Heights, which was re-zoned also.

Deputy Chairman Schwartz stated the Cambridge Heights property was zoned based on that parcel or the combination of the lots not necessarily pertaining to how you could build on every parcel. She further asked is either re-zone that particular 1.3 acres or make a floating zone change of law for the entire Village. Is that the proposal? Mr. Lange stated the proposal is for a floating zone and he favors that because you don't have an updated con plan on how you re-zone properties. We would be making a floating zone. The particulars on how you pick this are in that description in the zone. Deputy Chairman Schwartz stated the floating zone is a little more flexible than zoning it for a particular property. Mr. Lange stated that is correct. Deputy Chairman Schwartz stated we can't vote on this today because the site currently doesn't meet the criteria.

Attorney Mele stated all the Board is voting on today is if you want to recommend to the Village Board that they adopt this floating zone or not and if you like it to be adopted with Mr. Lange's recommendation. Attorney Michaels stated this is a proposed Local Law that is being precipitated by a petition from a citizen. A proposed local law can come from the Village Board of Trustees or it can come from a private citizen. In this case it happens to be a developer saying why don't you consider this Local Law? Obviously they are asking for it because they are hoping to apply under that new Local Law if it is adopted, but it could be any applicant. Any applicant can come in and ask for this type of development project at any site that meets the criteria. The criteria does not change site to site. It's called a floating

zone because as Mr. Lange said, a potential applicant will come to the Trustees and say I have a potential site where we would like this zone to be mapped. It's not mapped there. That's why its floating. But we would like it to be mapped at this location. We think it meets all the criteria. Then make a formal proposal to the Board of Trustees and then Village Planner and anyone else who needs to review it to see if it meets the criteria. If it does, then the map is then amended so the zoning district map for this proposed RTH is not mapped until it's agreed to by the Trustees. First thing that has to happen is the Trustees have to adopt this Local Law and by adopting this Local Law, they aren't designating a site yet. That will come soon after if this Local Law is adopted. Deputy Chairman Schwartz asked if is in the best interest of the Village to adopt a Local Law of this nature. She feels the Planning Board's job is to lookout for the wellbeing of the residents of the Village.

Mr. Lange stated part of what they have to do is look at all the parcels that meet the criteria that they revoked do they will have a complete examination of every parcel that could possibly be used as part of the environmental analysis so you will see where this applies and where it doesn't. The thing that appeals to him is basically it applies here. It is a very limited application.

Amy Mele stated as part of the petition they identified, it looks like 8 parcels; not all are vacant. If they adopt Mr. Lange's suggestion and change the Local Law to only apply to vacant parcels, it would decrease the number of potential parcels where the Village Board can even place it. Again, as Mr. Michaels stated, this would first go to the Village Board for the zoning regulations and then come to the Planning Board for site plan.

Steven Geis stated this is no way an improved statement from the December 21st meeting. Many Village citizens spoke very strongly against what was expressed and he has heard from a young group discussion, many people are very seriously concerned about the principals of creating a type of zoning for townhouses. People in the Village are not in favor of higher density zoning becoming a matter of force within the Village.

Charles Frankel (as a private citizen) stated that we do not have a zone created for multi-family and, therefore, the Village is wide open to a law suit from any Federal, State agency or citizens group. That will cost the Village a great deal of money to defend. By putting in a very limited floating zone that may qualify under these requirements for only 3 or 4 or 5 particular very small multi-family projects, we are defending ourselves against the potentiality of expensive lawsuits. It does not set a precedent in any way for projects of greater size such as a project that may be on 30 or 40 acres, which could hold 100, 200 or 300+ multi-family projects that would change the character of our Village. The fact that they are in our code protects us, but the fact that if somebody goes forward and develops one of these projects, it does not change the character of the Village and does not open up to any other precedence. The Board should consider what the long term potential could be as evidenced by what they are doing in Westchester County. Deputy Chairman Schwartz stated she thinks there needs to be deep consideration; a more deep understanding of the Local Law.

Discussion on acreage allotment.

Attorney Mele stated if the Board needs more time they can adjourn the public hearing and allow more time, then come back and answer some more questions in detail and identify the exact lots and show what the impact of converting it to vacant land only would be.

Mr. Lange stated the Village Board does not have to accept the Planning Board's recommendation. It is a recommendation; it's not mandatory.

Deputy Chairman Schwartz stated she would like to adjourn so they would have more time to discuss it.

Deputy Chairman Schwartz offered the following motion, which was seconded by Mrs. Esposito:

Resolution # P.B. 2017-5

Resolved, that the Referral to the Board of Trustees from the Planning Board on recommendation review of a proposed Local Law is hereby continued until the next meeting of the Planning Board on April 3, 2017. Deputy Chairman Schwartz called for a vote and the vote was as follows: Mrs. Schwartz, yes, Mrs. Esposito, yes, Mrs. Eisenstein, yes, needs more time. The resolution was adopted.

Abe Sicker, 28 Terri Lee Lane, here as a resident. He wanted to point out that there are many ways of restricting this. Even if he is not agreeing that there is required, but even in the event that it is, there are ways of restricting the petition on a State Road over County Roads and there are many ways that would be too restricted. It would be more of a fair picture if the entire Village has everything in its fatality of what it is. If it is, then it can be restricted to 80% of what it is.

Chairman Frankel returned to the "helm".

Referral to the Planning Board on Local Law for Petition to add a new Special Permit use to be known as "Special Permit Regulating Interim School Uses" in the 1R-25, 2R-15, 1R-50; 1R-40 and 1R-35 zones.

Chairman Frankel asked the purpose for this.

Attorney Mele stated the purpose is for the Village to have on its books a Local Law allowing for the interim use of trailers on a site while the school is being used. (Temporary modules) These modules have been discussed over the last year with this Board and others. We were looking at sites on Rte. 45 to put the trailers while building the 200 Summit Park Rd. site. There are trailers serving children in schools all over the State and Country. The problem with them is not that they have become bad but they tend to become permanent. We have tried to provide you with what could be a model law which makes sure that these things do not become a permanent part of the landscape but that the children have a safe place to learn while a state of the art building is being built. It provides for a very tight time frame for 12 months, and can renew for 12 months after. It will go through a site plan in process. A lot of you were concerned about Ateres being able to get the building up and running. They have already been approved to start clearing the site. She feels this is a strong local law and she thinks the Board may find that other municipalities may copy it because it insures that it does not become a permanent part of the landscape and keeps a fire under the applicant.

Attorney Michaels stated it is his understanding that the site prep permit has not yet been issued. He just learned this today.

Chairman Frankel stated the Planning Board has been asked to recommend strictly as part of this agenda item, a recommendation to the Village Board on the adoption of the Local Law and nothing else. There is an agenda item following that will be later in the agenda that has to do with an extension of a subdivision signing and another agenda item that has to do with amending the site plan that has already been approved by this Board. Chairman Frankel asked Mrs. Eisenstein if she had previously recused herself on matters pertaining to Ateres and if she was doing so now. Mrs. Eisenstein stated "yes". Chairman Frankel asked Mrs. Eisenstein to step into the audience for a few minutes. Chairman Frankel asked Mr. Lange for comments.

Mr. Lange wanted to make it clear that this permit does not get issued until the construction starts on the permanent school. There is a requirement for regular scheduled updates to the Village and Planning Board of the progress. So we know if there are any delays. The whole concept behind this is to drive the interim school and a permanent school at the same time. Chairman Frankel asked Mr. Lange why zone 2R-15, which is a very small acreage for a school, is included in the list of eligible zones. The others are 25 acres, 50 acres, 40,000 sq. ft. and 35,000 sq. ft. Mr. Lange stated he would not do it for anything other than the zone where this school is located. Chairman Frankel stated the Local Law is recommending these others. Mr. Lane stated in his commentary he advised that we only apply this to the larger zone.

Attorney Michaels stated he is comfortable with the language in the Local Law.

Attorney Michaels stated that he wanted the record to reflect that they are working off of the draft that was distributed this evening by Amy Mele, Attorney for the petitioner and it is hand written in the top right 2/27/17 John & Dennis included. As an officer of the Court you represent that this is the latest version that have John Lange and Dennis Michaels requested modification.

Deputy Chairman Schwartz offered the following motion, which was seconded by Mrs. Esposito:

Resolution # P.B. 2017-6

Resolved, that the Planning Board of the Village of New Hempstead hereby recommends to the Board of Trustees the adoption of "Special Permit Regulating Interim School Uses" restricting it to only two districts, the 1R-50 and the 1R-40. Chairman Frankel called for a vote and the vote was 3-0. The resolution was adopted.

Mesivta Ahavas Hatorah – Discussion

Amy Mele, representing Attorney Emanuel on this application. She represented this application before this Board about a year ago. This is a Yeshiva and Synagogue on the corner of Union and Brick Church Rd. When we were here before we basically stated to the Village Board that we were increasing our student population from somewhere in the 50's to 80 and the Special Permit that was issued was for up to 80 students. At that time there was some discussion as to what if we went over 80 students. We said we were not planning to go over 80. We were comfortable with that number. With respect to future

plans for expansion, we said we wished to expand operations in the near future but had no concrete plans. We are here tonight with a new site plan as we would like to add a 1 story addition to make some
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additional classrooms, and to add an indoor gymnasium feature. This would require two variances for FAR and parking. They are proposing to put the parking in reserve, but they are looking for the Board to declare its intent to be Lead agency and a referral to the ZBA for variances. Jesse Cokeley is with her this evening and will go over the application if you wish. The applicant has worked very closely with Mr. Ziegler, with reference to fire safety issues. The plans also include a new bus drop-off for the children. This would add another bus length into the site. They feel this is a more attractive site and it is safer.

Chairman Frankel asked for Mr. Lange's input. Mr. Lange stated he would like to see the bus lane added onto and he would like to see them re-pave the parking lot. Chairman Frankel asked if the Planner had made any determination regarding variances that would be needed. Mr. Lange stated this is the first time he is looking at the plans.

Chairman Frankel stated he thought the applicant could go to the ZBA without a referral from the Planning Board, but if during the planning process it came up that additional variances may be needed, they would have to go back to the ZBA. Attorney Michaels stated what they really needed was a denial from the Building Inspector stating you cannot get a building permit because you need this, that or another thing being variances from the Zoning Board.

Chairman Frankel asked Attorney Mele if she was looking for the Planning Board to declare themselves Lead Agency and start the process. Attorney Mele stated "yes". Chairman Frankel asked for comments from the professionals and the Planning Board Members. "No comments"

Chairman Frankel asked for a motion to declare intention to be Lead Agency and to open a public hearing on April 3rd. Deputy Chairman Schwartz offered the following motion, which was seconded by Jennifer Eisenstein:

Resolution # P.B. 2017-7

Resolved, that the Planning Board of the Village of New Hempstead hereby declares its intention to be Lead Agency with regard to the application of Mesivta Ahavas Hatorah and also sets a public hearing for April 3, 2017. Chairman Frankel called for a vote and the vote was 4-0. The resolution was adopted.

Ateres Bais Yaakov Academy of Rockland – Extension of Filing Subdivision & Easement

Mrs. Eisenstein has recused herself and is taking a seat in the audience. Chairman Frankel asked why an extension is needed. Amy Mele the applicant was due to file their subdivision plat by January 30th. They did seek an extension before that time, but the Board has not had a meeting. The time has expired. They are here this evening to ask for two 90 day extensions because if they ask for one they will be back next month asking for the second because they are behind the time frame.

Deputy Chairman Schwartz offered the following motion, which was seconded by Mrs. Esposito:

Resolution # P.B. 2017-8

Resolved, that the Planning Board hereby grants two 90 day extensions to applicant Ateres Bais Yaakov Academy of Rockland for filing subdivision & easement. Chairman Frankel called for a vote and the vote was 3-0. The resolution was adopted.

Ateres Bais Yaakov Academy of Rockland – Lead Agency

Chairman Frankel noted that Mrs. Eisenstein is still recused. He asked why the applicant is here this evening. Amy Mele stated it is for the Board to declare itself Lead Agency on the site plan for the interim use. She also requested a public hearing on April 3rd. Attorney Michaels asked if this is for the interim school use modular classroom structures. Chairman Frankel stated it is for the amended site plan. Attorney Michaels stated it needed to be clear in the notice of intension to declare lead agency, what the exact action is.

Attorney Mele stated it is a motion for the Planning Board to declare its intent to be lead agent with respect to the amended site plan for Ateres Bais Yaakov to include interim trailers based on the proposed local law to the extent that it is required and to set a public hearing for April 3rd to consider the amended site plan. Deputy Chairman Schwartz offered the following motion, which was seconded by Mrs. Esposito:

Resolution # P.B. 2017-9

Resolved, that pursuant to the State Environmental Quality Review Act (SEQRA), the proposed action by Ateres Bais Yaakov Academy of Rockland, whose application seeks the Planning Board's grant of approval of an amended site plan for real property located at 200 Summit Park Rd., New Hempstead, N.Y. as per Local Law 11 of 1984 of the Village of New Hempstead Zoning Law requesting to construct or obtain approval of an interim school use, in other words, calling them a temporary classroom modular structure, is hereby classified as an unlisted action as defined by SEQRA regulation 617.2. No agency other than the Planning Board, the Rockland County Department of Planning, the Village Board of Trustees and maybe the Zoning Board of Appeals will have any involvement in the review process pursuing to SEQRA regulations 617.6 and the Planning Board hereby declares its intent to be Lead Agency. Chairman Frankel called for a vote and the vote was 3-0. The resolution was adopted.

Chairman Frankel reminded the Planning Board that in the original site plan the Board was the Lead Agency so this is an extension of our responsibility on this application. Mrs. Esposito offered the following motion, which was seconded by Mrs. Schwartz:

Resolution # P.B. 2017-10

Resolved, that the Planning Board hereby sets a public hearing on application of Ateres Bais Yaakov for April 3, 2017. Chairman Frankel called for a vote and the vote was 3-0. The resolution was adopted.

GML – Rockland County Planning Department

Mr. Lange stated the Dept. of General Services for the County wants to install two 4000 gallon gas tanks next to Bldg. T, which is where Planning and the bus transportation are located. He has one objection as it says it is in conformance with the comprehensive plan and the zone. Considering they don't have a comprehensive plan or zone, it defaults us. It's an R-50 zone and gas tanks in R-50 zones are not allowed. I contacted them and they said "yes" this was probably not correct, they will remedy it. Based upon that the Village has to either support or not support their intent to be Lead Agency. I think we can still support their intent to be lead agency, but he wants to cover the actual design and construction very carefully because if you look at what's downhill from those 2-4 thousand gas tanks, we want to be extra vigilant when this all goes on.

Chairman Frankel stated there is a proposal on a project before us that may be affected by whatever they do at Bldg. T, so, therefore, we want to be included in all of the planning phases concerning this. How can we interject ourselves into the County situation by becoming more involved and making sure and watching out for the interest of the citizens of the Village in the building process. Mr. Lange stated it will be difficult as the Village has not received any notice of any construction of the buildings up there. He further stated we have to write a letter to them saying we want to be advised of any meetings so that we can make sure that the gas tanks have required safety devices.

Chairman Frankel called on someone from the audience.

Aaron Fink, 200 Summit Park Rd. Dean of Ateres. One of the issues he had to deal with when designing his site was the drainage that was created by the construction in Bldg. T, which was not properly set up to run at that time. Even though they are built for that now, it might be good for the residents and all the people downstream if they could do some corrective action to keep the drainage where it belongs. Mr. Lange spoke about a problem of too much soot coming downstream. Chairman Frankel stated we should address that to the County and maybe they can take some corrective action. He felt that residents in the area need to notify the County of whatever needs to be done.

Chairman Frankel offered the following motion, which was seconded by Mrs. Eisenstein:

Resolution # P.B. 2017-11

Resolved, that the Planning Board of the Village of New Hempstead hereby conquers with The Rockland County Dept. of General Services, Division of Facilities Management being Lead agency. We also instruct our Village Planner and Engineer to be in contact with the County so we are kept up to date and can make recommendations on how they proposed the construction. Chairman Frankel called for a vote. The vote was 4-0. The resolution was adopted.

Approval of minutes of December 21, 2017.

Mrs. Eisenstein offered the following motion, which was seconded by Mrs. Esposito:

Resolution # P.B. 2017-12

Resolved, that the minutes of the regular meeting of the Planning Board, held on December 21, 2016 are hereby approved as submitted and that the reading of said minutes be waived. Chairman Frankel called for a vote and the vote was 3-0. Mrs. Schwartz was not in attendance at that meeting. The resolution was adopted.

GML – Village of Wesley Hills – Local Law #1 2017 - Filming

Chairman Frankel stated the Village of Wesley Hills has a request concerning a proposed Local Law #1 – 2017 Filming. They are proposing a Local Law on Filming. The County is very active in trying to promote motion picture filming to bring revenue to the various municipalities in the County. The Local Law in Wesley Hills is being proposed to regulate filming in the Village of Wesley Hills.

Chairman Frankel offered the following motion, which was seconded by Mrs. Esposito:

Resolution # P.B. 2017-13

Resolved, that the Planning Board of the Village of New Hempstead responds to the Village of Wesley Hills that we have no comment with regard to the GML from the Village of Wesley Hills regarding filming. Chairman Frankel called for a vote and the vote was 4-0. The resolution was adopted.

Wetlands Permit for 15 McNamara Rd, Village of Wesley Hills

Chairman Frankel explained that this request is for the granting of a wet lands permit on a piece of property for the construction of a new house for 15 McNamara Rd. Chairman Frankel offered the following motion, which was seconded by Mrs. Eisenstein

Resolution # P.B. 2017-14

Resolved, that the Planning Board of the Village of New Hempstead responds to the Village of Wesley Hills that we have no comment with regard to the GML from the Village of Wesley Hills regarding a wetlands permit on 15 McNamara Rd. Chairman Frankel called for a vote and the vote was 4-0. The resolution was adopted.

Mrs. Esposito offered the following motion, which was seconded by Mrs. Schwartz:

Resolution # P.B. 2017-15

Resolved, that the meeting held by the Planning Board of the Village of New Hempstead on March 6, 2017 is hereby adjourned. Chairman Frankel called for a vote and the vote was 4-0. The resolution was adopted.

