

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

**ZONING BOARD OF APPEALS**

REGULAR MEETING  
MONDAY, OCTOBER 10, 2016  
6:00 P.M. – VILLAGE HALL

PRESENT

ALLEN FISHKIN, ACTING CHAIRMAN  
SOLOMON FUERST  
LEONARD GREENBERG

ABSENT

MARTIN LEIBOWITZ, CHAIRMAN  
ADAM POLLACK  
RICK ELL

ALSO PRESENT

JOHN LANGE, VILLAGE PLANNER  
RAPHAEL ZIEGLER, FIRE INSPECTOR  
DENNIS MICHAELS, VILLAGE ATTORNEY  
LORI BELLO, DEPUTY VILLAGE CLERK-TREASURER

**Continuation of Public Hearing – Ateres Bais Yaakov Academy of Rockland, 200 Summit Park Rd., New Hempstead, N.Y. 10977. The Applicants are requesting a variance from the provisions of Section 5.2 And 6.9.4 of the New Hempstead zoning law to temporarily locate a girls religious school on a parcel with a lot area of 3.459 instead of the required minimum of 10 acres formerly known as Rockland Baptist Church, 9045 Route 45, New City, N.Y. 10956. The subject property is located on the west side of State Route 45, 1,000 feet south of Pomona Rd. The property is designated on the Town of Ramapo tax maps as Section 33.19, Block 1, Lot 2 in a 1R-50 zoning district.**

**In addition to the variance for the acreage, there are additional variances required. Front yard – Required 50', the applicant proposes 30' side yard. 60', the applicant proposes 5.3' – FAR – 3,750 sq. ft. or 0.1 – requires 22,700 or 0.151 – impervious coverage 0.2 – proposed 0.34 – parking spaces Required – 170, proposed 56. Parking required in the front and side yards.**

Acting Chairman Fishkin presented a Report from the Fire Inspector, Raphael Ziegler. The original report was dated September 5, 2016, however, the current report dated October 9, 2016 was read by Attorney Michaels. Copy attached to these minutes.

Attorney Michaels presented the Traffic Impact Study prepared by Michael A. Galante, Executive Vice President of Frederick P. Clark Associates, Inc. Copy attached.

Acting Chairman Fishkin stated the traffic study by Harry Baker was contradicted by our Engineer. He also stated the BOT issued a Special Permit without hearing all the problems.

Mr. Fuerst stated they are in a situation where the two Boards are looking at things as opposed to one Board.

Attorney Michaels read into the record "conditions" which he has prepared with reference to this application. Copy attached.

Attorney Michaels suggested a condition that the applicant make a good faith effort to obtain further off street parking spaces if needed as determined by Building Inspector, Fire Inspector, Village Engineer, etc.

Five Factors of the Village Law

1. Whether an undesirable change will be produced in the character of the neighborhood or detriment to nearby properties will be created by the granting the area variances.
2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
3. Whether the requested area variance is substantial;
4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and

5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.

Attorney Michaels feels all of these factors have been addressed. Whether or not they have been answered to each member's satisfaction is for you to decide.

Attorney Michaels also read the "Unique Circumstances" into the record.

Attorney Michaels suggested the ZBA give the applicant an option to request a continuation to address the concerns of that member that may be hesitant to grant an approval or perhaps to deny it at a future meeting.

The items to be addressed are line items that need to be addressed.

Acting Chairman Fishkin feels this is a problem that is self-created. Unfortunately a business decision was made to create this situation. The Rabbi's partners did not allow the continuation of use of the property where they had been and was therefore forced to move. Rabbi Fink seems to be the only one who wanted to continue the school.

Acting Chairman stated he has been made aware that Rabbi Fink has looked for other sites and have found a possible site in Tuxedo so you are not forced to accept this particular site.

Attorney Mele stated the Tuxedo site has not been confirmed as to whether it is allowed. It may also need a Special Permit.

Acting Chairman felt that the other members of the Board, who are not present tonight, should have input. Even if approval was given tonight, the applicant would not be able to occupy the site until next term.

Charles Frankel, Chairman of the Planning Board, stated that they have 5 members of the Board present tonight. At least 3 of the members said they would not vote before the ZBA's variances are granted or not granted. The next meeting of the P.B. will be Nov. 14<sup>th</sup>.

Acting Chairman Fishkin offered the following motion, which was seconded by Mr. Greenberg:

Resolution # ZBA 2016-26

Resolved, that the public hearing on application of Ateres Bais Yaakov Academy of Rockland, will remain open and continue on Wed. Nov. 9<sup>th</sup> at 7:30 p.m. at Village Hall. No other public notices will be posted or mailed. Acting Chairman Fishkin called for a vote and the vote was 3-0. The resolution was adopted.

Attorney Michaels stated the Zoning Board of Appeals meeting is now at a close, ended and adjourned until Wed. Nov. 9<sup>th</sup>.

Respectfully submitted,

Lee Mazza, Secretary