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July 30, 2024

Hon. Abe Sicker, Mayor, and Board of Trustees
Village of New Hempstead
108 Old Schoolhouse Road
New City, NY 10956

Re: Denton Acres Site Plan

Dear Mayor Sicker and Trustees:

We represent the applicant in the above matter. We wish to respond to comments made by Village Planning Consultant Jonathan Lockman in his memos to the Board dated May 15, 2024, and June 3, 2024, and by Village Engineering Consultant Glenn McCreedy in his memo dated June 7, 2024.

Mr. Lockman states at section 5.b of his May 15 memo:

b. Regarding petition item 8, subpart C(5) the applicant acknowledges that the site cannot take access from NYS 45, a major road. Access from a major or collector road is required by this standard. Access is proposed from Old Schoolhouse Road which does not meet the standard as it is NOT a major or collector road. For this reason alone, this site is not a viable candidate site for landing an NCD floating zone. The petition states that the applicant will seek a variance, admitting that proper access to a major or collector road is not possible. It is improper to seek a variance when petitioning for a rezoning, which is a legislative action by the Trustees.

He reiterates this opinion in his June 3 memo.

Mr. McCreedy states:

We have reviewed the petition materials and offer the following:

Pursuant to the current New York State Department of Transportation Local Highway Inventory (NYSDOT LHI), Old Schoolhouse Road is not under the jurisdiction of the Village of New Hempstead. It is under the ownership of the Town of Ramapo.

Any petition for a functional class change has to be reviewed by the Town of Ramapo, the New York Metropolitan Transportation Council and Region 8 New York State Department of Transportation.

We disagree.

Lockman comments:

Section 290-36.1 provides the use regulations of the NCD district. Mr. Lockman alludes to section 290-36.1.C(5):

(5) All parcels to which the NCD are to be applied must have frontage and direct access on a state highway (although actual site access may be taken from a major or collector road of the Village). For purposes of this subsection, a parcel may include no more than two contiguous tax lots (i) which lots, as of the effective date, must not contain any existing residential structures; and (ii) which lots must have the frontage herein required; provided that such multiple contiguous tax lots shall be merged into a single tax lot as a condition of the application of the NCD.

There is no question that the subject parcel has “frontage and direct access on a state highway”. Its western frontage is on New York State Route 45 and extends for over 960 feet. The provision goes on to say that the “actual site access may be taken from a major or collector road of the Village.” Mr. Lockman states that Old Schoolhouse Road is not a collector road as defined in the Zoning Code.

The Zoning Code does not actually define road classifications. Instead, it names certain roads as “Collector Roads.” No justification is given for the designation.

The roads defined as “Collector Roads” are “Route 45, Route 306, Union Road, McNamara Road, Pomona Road, New Hempstead Road, Grandview Avenue, Hempstead Road, Summit Park Road, and Viola Road.” Zoning Code, § 290-5. The designated Collector Roads include two New York State Roads (Routes 45 and 306), five Rockland County Roads (McNamara Road, Pomona Road, New Hempstead Road, Grandview Avenue, and Summit Park Road), one Village road (Union Road), and one Village/Town road (Hempstead Road).

A comparison of Hempstead Road and Old Schoolhouse Road is instructive. Both roads share many of the same characteristics. Both connect to major or secondary roads at their respective termini. Both are only partially within the Village: in each case a majority of the road right of way is in the unincorporated Town of Ramapo; the western side of each right of way forming the town/village boundary. Both roads have a maximum 50-foot right of way.¹

However, if one applies the definitions that are available, it becomes clear that Old Schoolhouse Road functions as a collector road.

¹ According to the Rockland County GIS mapping, portions of the Hempstead Road right of way are as narrow as 33 feet, especially its far northern and southern portions. By contrast, most of Old Schoolhouse Road has a right of way of 50 or 60 feet, with a small segment (115 feet long) at Stoneham Road reduced to 41.25 feet.

We must begin with the recognition that most of Old Schoolhouse Road is not in the Village. With the exception of a small portion directly opposite Village Hall, the right of way of Old Schoolhouse Road is outside the Village's boundaries and within the unincorporated portion of the Town of Ramapo.

Ramapo's Zoning Code² defines "Road, Collector" as "Any street which serves to carry traffic from local residential streets to secondary streets."

It further defines "Road, Local" as "Any street which serves primarily as an access to abutting residential properties."

As noted above, New Hempstead's Zoning Code does not define or classify streets. However, its Subdivision Regulations contain definitions that are almost identical to Ramapo's:

STREET, COLLECTOR

A street which serves or is designed to serve primarily the function of carrying traffic from minor streets to major streets.

STREET, LOCAL

A street which serves or is designed to serve primarily as access to abutting residential properties.³

The Subdivision Regulations further provide that the classification of new streets in the context of a new subdivision is a matter for the Planning Board.⁴

Thus, nothing in the New Hempstead or Ramapo codes automatically classifies Old Schoolhouse Road in one way or another.

Applying the definitions of the two codes, which, again, are virtually identical, we note that Old Schoolhouse Road is a relatively short street. It runs approximately 2,330 feet from New Hempstead Road northerly to Route 45. It is intersected by two clearly local streets: Stoneham Lane and Charles Street. There are only eight residential driveways that access Old Stonehouse Road, an average of one every 290 feet. There are also driveways for Village Hall and New Hempstead Presbyterian Church.

By contrast, nearby Butternut Drive (a local street) is 1,660 feet long and serves houses only. It has 23 residential driveways, or an average of one every 72 feet. Charles Street is 752 feet long and also serves only residences. It has eight residential driveways, an average of one every 94 feet. Stoneham Lane is 1,155 feet long, serves only residences, and has 14 residential driveways, for an average of one every 82.5 feet.

² Ramapo Zoning Code, § 376-5.

³ New Hempstead Code § 255-9.

⁴ New Hempstead Code § 255-9.H, "Design standards for new streets. Streets shall meet the design standards set forth in the table following. Street classifications may be determined by the Planning Board. Standards are not shown for streets which would be built by the state or county."

Clearly, Old Stonehouse Road is not a “local street” as defined in the relevant codes. It does however, carry traffic from “minor streets” such as Stoneham Lane and Charles Street to Route 45 and New Hempstead Roads, both “major streets.”

Hempstead Road, in contrast, is a much narrower road for much of its length. It is 1.94 miles long, and intersected by eight streets. Only 2,590 feet (less than one-half mile) is within the Village. According to the Rockland GIS maps, 34 homes have driveways accessing Hempstead Road just within the one-half mile within the Village – or one every 155 feet. In many ways, Hempstead Road has characteristics closer to a local road than to a collector road.

The mere fact that Hempstead Road connects two other collector roads does not make it unique in the Village. East Willow Tree Road connects Route 306 and McNamara Road, but is not named as a Collector Road in the Zoning Code. Similarly, Brick Church Road connects Route 306 and Hempstead Road and Brockton Road connects Viola Road and Union Road. All these roads have many more intersections and driveways than does Old Schoolhouse Road.

McCreedy Comments:

Mr. McCreedy conflates NYSDOT classifications with Zoning Code classifications. The Petition does not seek to change the NYSDOT classification. The two classifications are independent of one another.

NYSDOT uses “Functional Classes” to describe roads. Below are the Functional Classes and Zoning Code designations for various roads in New Hempstead:

Brick Church Road	17 - Local	
Brockton Road	19 - Local	
East Willow Tree Road	17 - Local	
Hempstead Road	16 - Collector	
McNamara Road	17 - Collector	
Old Schoolhouse Road	19 - Local	
Pomona Road	16 - Collector	
Summit Park Road (New Hempstead Rd to Oakwood Ter)		16 - Collector
Summit Park Road (Sanitorium Rd to Pomona Rd)		17 - Collector
Union Road (Viola Rd to Grandview Ave)		17 - Collector

While it is apparent that Old Schoolhouse Road is classified differently from roads classified as Collector Roads by the Zoning Code, it is also apparent that there is no correlation between NYSDOT Functional Class and the Zoning Code’s designation. Thus, the northern portion of Summit Park Road and Union Road are assigned Functional Class 17 and designated as Collector Roads. Brick Church Road and East Willow Tree Road are also assigned Functional Class 17 but are not designated as Collector Roads.

We therefore believe it would be appropriate to classify Old Schoolhouse Road as a Collector Road for zoning purposes, only.

Very truly yours,
EMANUEL LAW P.C.



by: _____
Ira M. Emanuel

Cc: Client
Bruce Minsky, Esq., Village Attorney
Jonathan Lockman, Planning Consultant
Glenn McCreedy, PE, Village Engineer