

**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*

**Richard M. Schiafo**  
*Deputy Commissioner*

March 07, 2025

Montebello Planning Board  
One Montebello Road  
Montebello, NY 10901

**Tax Data:** 48.10-1-36

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

**Map Date:** 08/09/2024

**Date Review Received:** 01/27/2025

**Item:** *Jacob Leitner - 8 Henry Court (GML-25-0064)*

Site plan and special permit application to permit the use of a single-family dwelling as a residential gathering place for religious purposes. The subject site is on a 1.08-acre lot in the R-35 zoning district. Variances were previously granted for floor area ratio, side yard, and total parking spaces required for house and residential gathering places.

North side of Henry Court, approximately 220 feet north of Zeck Court

**Reason for Referral:**

Mahwah River, Haverstraw Rd (US Route 202)

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 Special permit uses are, by definition, subject to a higher standard of review. The Planning Board shall be satisfied that the proposed use of a single-family dwelling as a residential gathering place for religious purposes conforms to Section 195-79.1 of the zoning code.
- 2 This department previously reviewed this project for variances on June 25, 2024. We cautioned the Zoning Board of Appeals against permitting development that does not comply with the applicable bulk standards, which may set an undesirable land use precedent and result in the overutilization of individual sites. We also asked the Village to consider precedent before granting a variance to increase floor area ratio (FAR) to 10 percent above the maximum permitted. This bulk standard can particularly define the neighborhood's community character, and may result in nearby property owners seeking the same relief. We now ask the Planning Board to consider the cumulative and regional impacts of permitting such development before granting the special permit.

**Jacob Leitner - 8 Henry Court (GML-25-0064)**

- 3 A review must be done by the Rockland County Department of Health to ensure compliance with Article XIX (Mosquito Control) of the Rockland County Sanitary Code.
- 4 The subject site borders the Mahwah River along the northeastern side of the property; therefore, the project proposal was reviewed by the Rockland County Drainage Agency. The applicant must comply with the comments made by the Rockland County Drainage Agency in their July 16, 2024 letter.
- 5 The applicant must comply with all conditions made by the Rockland County Sewer District No. 1 in their letter dated February 3, 2025.
- 6 The subject site is within the 100-year floodplain of the Mahwah River according to the maps made available to the Rockland County GIS division via the FEMA Flood Map Service Center. The engineer of record shall certify to the floodplain administrator for the Village of Montebello that the proposed construction is in compliance with the floodplain regulations of the Village and the Federal Emergency Management Agency.
- 7 According to the Hudson River Natural Resource Mapper (<https://gisservices.dec.ny.gov/gis/hvnrnm/>), there are federally regulated wetlands along the riverbank of the Mahwah River, which runs along the northeast border of the property. If there is any encroachment into the wetlands, a review must be completed by the United States Army Corps of Engineers and all required permits obtained. Any federal wetlands must be delineated on the site plan.
- 8 The New York State Department of Transportation shall be given the opportunity to review the proposed development, any comments or concerns addressed, and needed permits obtained.
- 9 All proposed building entrances, exterior stairways, decks, window wells, and walkways must be delineated on the site plan demonstrating that they will not impact yard and setback requirements or increase the development coverage. Parking maneuverability shall not be affected by the location of these features.
- 10 Pursuant to New York State General Municipal Law (GML) Sections 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's 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.
- 11 In addition, pursuant to Executive Order 01-2017 signed by County Executive Day on May 22, 2017, County agencies are prohibited from issuing a county permit, license, or approval until the report is filed with the County's Commissioner of Planning. The applicant must provide to any County agency which has jurisdiction of the project: 1) a copy of the Commissioner's 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.



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Douglas J. Schuetz  
Acting Commissioner of Planning

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cc: Mayor Lance Millman, Montebello  
Federal Emergency Management Agency  
NYS Department of Transportation  
Rockland County Department of Health  
Rockland County Drainage Agency  
Rockland County Planning Board  
Rockland County Sewer District No. 1  
Josip Medic, P.E.

\*New York State General Municipal Law § 239(5) requires a vote of a 'majority plus one' of your agency to act contrary to the above findings.

The review undertaken by the County of Rockland Department of Planning 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 determines whether the proposed action reviewed implicates the Religious Land Use and Institutionalized Persons Act. The County of Rockland Department of Planning defers to the municipality referring the proposed action to render such opinions and make such determinations as 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.

Pursuant to New York State General Municipal Law §§ 239-m and 239-n, the referring body shall file a report of its final action with the County of Rockland Department of Planning within thirty (30) days after the final action. A referring body that 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.