# Submissions:

1. Residential gathering places are designated under use group q. Refer to comment 8A regarding compliance with the bulk requirements. With a future submittal, please revise the bulk requirements table to include all requirements outlined in the Zoning Chapter. In addition, the applicant should show the location of the setbacks and yard requirements directly on the site plan to demonstrate compliance.

**RESPONSE: The plan has been revised to include all items in the bulk table**

1. A Short Environmental Assessment Form, Part 1, has been submitted. Please refer to our SEAF comments below.

**RESPONSE: The EAF has been revised**

1. The submitted narrative notes there will be a private mikvah associated with the residence. However, the mikvah is not shown on the floor plan. Please clarify.
2. We note that on Google Maps, the \* Henry Court property is identified with the label “Congregation Halberstadt,” as well as the label “Camp Tomid.” It appears that the property may already be in use as a gathering place. Please clarify.
3. Regarding the list of nearby property owners, the application packet says, “see attached.” However, no list was provided with our copy. Please provide the list of abutters for public hearing notice purposes.
4. On page 3 of the application form, the applicant has checked off NYS Department of Transportation as a referral agency. However, Henry Court is not a state road.
5. The site plan should show the 150-foot buffer of the Mahwah River, required by §195-63.B.(2).(a).[2]. Please show it on the Site Plan. See zoning discussion below for implications.

**RESPONSE: the buffer has been added to the plan**

1. Please troubleshoot line work on the file pdfs. On our pdf copy of the site plan set, segments of the lines outlining some of the features are faint or missing from the site plan.

**RESPONSE: The line weights have been updated**

1. Floor plan.
	1. Please provide a floor plan with an architect’s or engineer’s stamp.
	2. There is an indication of a wash & bathroom connected to the garage conversion area. Please clarify. It is unclear how the bathroom will connect to the existing residence. Is it a new bathroom?
	3. The footprint outline of the garage and washroom areas, and the overall footprint of the house, which are shown on the floor plan, do not align with the building footprint shown on the site plan. Please clarify.

**RESPONSE: The site plan has been updated**

# Zoning:

1. The application is for Residential Gathering Place, which is a special use in the Village of Montebello. The special use standards for Residential Gathering Places from §195-79.1 are listed below (in blue font), with comments regarding each:
2. *The building containing the residential gathering place shall comply with all applicable zoning code provisions of the Village of Montebello for a one-family detached residence, and with the requirements of all applicable fire and building codes of New York State and shall be accessory to the principal use as a single-family residence.*

The applicant has provided a bulk requirements table for use group “q.” Based on initial review of the provided bulk requirements table, we note the following:

* 1. Minimum Lot area. The minimum lot area is 35,000 square feet. The applicant has provided the gross lot area of the site (~46,072 sf), which is compliant. However, according to §195-14A, of the Zoning Code,

*As part of any minimum lot area requirement of this chapter, no land under water, subject to or within the one-hundred-year-frequency floodplain, freshwater wetlands, within easements or rights-of-way for any utilities, with slopes of over 25% or within a designated street line of any road shall be counted. Furthermore, only 75% of land area of land with a slope exceeding 15% but no more than a slope of 20% shall be credited, and only 50% of land area of land with a slope exceeding 20% but with no more than a slope of 25% shall be credited. The application of this section to any particular lot or site shall be the responsibility of the Village Planning Board at the time of subdivision or site development plan approval.*

The Mahwah River runs along the rear portion of the property with an associated floodplain, which is shown. The application form also indicates that the site has slopes greater than 15%. Please indicate where steep slopes are on the site plan. The applicant should provide a calculation for the net lot area, accounting for all the deductions above. Should the net lot area fall below 35,000 square feet, the application may require a variance from the Zoning Board of Appeals.

**RESPONSE: The lot area has been recalculated**

* 1. Lot width. The required lot width is 150 feet. The lot width is incorrectly indicated as 66.98 feet, which is actually the street frontage. The lot width is defined in §195-124 as “The distance measured along a line drawn parallel to the front lot line at a distance equal to the minimum front setback requirement.” Please show the correct provided lot width in the bulk table.

**RESPONSE: The lot width has been updated**

* 1. Front yard. The applicant has not indicated the front yard requirement in the provided table. The front yard requirement is 50 feet. It appears that the existing concrete walkway is within this front yard. We defer to the Building Inspector to determine if this is an existing nonconformity which will not require a variance.

**RESPONSE: The front yard has been added to the bulk table**

* 1. Side yard. The applicant has not indicated the side yard requirement in the provided table. The side yard requirement is 20 feet. The proposed additional parking area is only 3 feet from the side lot line. We believe the applicant will need a variance from the ZBA for this side parking lot only 3 feet from the neighbor.

**RESPONSE: A side yard variance has been added to the bulk table**

* 1. Rear yard. The applicant has not indicated the rear yard requirement in the provided table. The rear yard requirement is 20 feet, and no incursions of the rear yard are noted.

**RESPONSE: The rear yard has been added to the bulk table**

* 1. Street frontage. The required street frontage is 100 feet. The provided frontage is on a cul-de-sac.

§195-14.B states that cul-de-sac street frontage may be reduced to no less than 50% of the requirement, which in this case would be 50 feet. The existing lot width is 66.98 feet, so it complies. We defer to the Building Inspector to determine if this is an existing nonconformity which will not require a variance.

 **RESPONSE: The correct frontage has been updated**

* 1. Maximum height. Please provide the existing height of the building.

 **RESPONSE: The height has been added to the bulk table**

* 1. Development coverage. The applicant has provided an additional table calculating the existing development coverage on the project site. The applicant is proposing additional hardscape for the proposed RGP parking spaces and does not count any of this new proposed coverage as an impervious surface. “Porous asphaltic concrete” is proposed for the new parking areas. Typically, these surfaces must be periodically vacuumed to maintain porosity. We will defer to the Village Engineer whether this material can be exempted from impervious surface calculations.

 **RESPONSE: the plan has been updated to use regular asphalt**

* 1. Floor area ratio. Please provide the existing and proposed FAR for the project site to confirm compliance with this requirement.

 **RESPONSE: FAR has been added to the plan**

* 1. Wetlands Permit. As the proposed parking area is within the 15-foot required buffer, a wetlands alteration permit will be required per Chapter 191 of the Village Code. The applicant should submit a

wetlands permit application with the supporting documents required by this Chapter, so the Planning Board may conduct the wetlands review concurrently with the special permit and site plan reviews.

1. *Only habitable spaces within structures in compliance with all applicable fire and building codes may be utilized for a residential gathering place. Gatherings shall not be held in temporary structures, outside of the residence building or permanent accessory structures, more than three times per year, nor for a duration of longer than 10 days.*

This standard appears to be met.

1. *The maximum occupancy of the residential gathering place shall be in accordance with the definition of "gathering place, residential," as set forth in §* [*195-124*](https://ecode360.com/8770647#8770647)*. (See definition below.)*

[*GATHERING PLACE, RESIDENTIAL*](https://ecode360.com/33599434#33599434)

1. *The accessory use of a portion of a one-family detached residence, which portion is incidental and subordinate in both use and size to the residence, is located within the residence building or accessory structure, and is designated primarily for regular large gatherings, meeting all of the following criteria:*
	1. *The gatherings occur more than 12 times per year; and*
	2. *These gatherings are comprised of 15 or more persons; and*
	3. *The occupancy of the gatherings shall be the lesser of: (i) 49 persons; or (ii) the number of persons determined by dividing the number of square feet of the portion of the residence so designated as a residential gathering place by 15 square feet per person. The requirement of no more than 49 occupants is the maximum permitted before the use category of "assembly" would be applicable under the New York State Uniform Fire Prevention and Building Code, as may be amended from time to time. The standard of 15 square feet per person is set forth in Table 1004.5 of said New York State Code, which is applicable to unconcentrated assembly without fixed seats.*
2. *The designated area for a gathering place shall have a maximum floor area of less than 50% of the gross floor area of the one-family detached residence.*
3. *Any use that exceeds any of the above criteria at any time shall not be considered a residential gathering place. The Building Inspector shall determine the appropriate use category based upon the requirements of this chapter.*

The sanctuary space dimensions proposed, within the new addition, are 20’10” x 20’10” (434 square feet). However, the site plan indicates an area of 480 feet. Please clarify this discrepancy. At 15 square feet per person, this would result in an occupancy of approximately 28 people. The applicant has indicated a maximum occupancy of 15 people. The maximum occupancy should be adjusted to meet the fire code standard, even if only 15 people are regularly expected. This standard appears to be met.

1. *The maximum floor area of the residential gathering place shall be in accordance with the definition of "gathering place, residential," as set forth in §* [*195-124*](https://ecode360.com/8770647#8770647)*.*

**RESPONSE:**

We note that the size of the dedicated area for the gatherings appears to be less than 50% of the floor area of the home, which meets part B of the definition above.

1. *Notwithstanding any other provision of this chapter, only those accessory uses permitted as of right to a one-family detached residence shall be allowed at a residence with a residential gathering place. Where accessory uses are proposed that are not permitted as of right to a one-family detached residence, the use shall no longer be considered for issuance of a special permit for a residential gathering place under this chapter.*

This standard does not seem applicable to the application.

1. *The required number of parking spaces for a residential gathering place shall be determined by Column F of the Table of General Use Requiremen*[*ts.[1]*](https://ecode360.com/33583950#ft37520621-1) *Parking shall be provided for both the residence and the gathering place area, according to the table. This parking requirement may be reduced by up to 25% pursuant to §* [*195-28B*](https://ecode360.com/8769847#8769847)*. Reserve areas for future parking lot development may be provided in lieu of construction of parking spaces, pursuant to §* [*195-28A*](https://ecode360.com/8769846#8769846)*. All required parking spaces shall be provided on the lot on which the residential gathering place is located.*

For a maximum capacity of 28 people, 6 parking spaces would be required, but only 5 are provided. The standard can be met if a written waiver request is submitted to the Planning Board, and the Board grants such a waiver. The Board is authorized to waive up to 25% of the requirement, per

§195-28.A.

 **RESPONSE: A waiver will be requested**

1. *No parking or loading shall be permitted between the structure and any street line on which the property fronts.*

The design complies.

1. *All outdoor lighting shall be shielded in a manner to direct lighting away from adjacent properties and the public street. Exterior lighting shall be limited to the minimum requirements by code for safety, and shall comply with the site development plan specifications in Chapter 146.*

The applicant has provided a detail for bollards on the site plan. Please indicate lumens and color temperature for these.

 **RESPONSE: The Bollards will not have lighting**

1. *The Planning Board shall require adequate screening in the required rear and side yards, to protect the character and compatibility of adjacent uses. Screening can consist of a wall, fence and/or plantings as approved by the Planning Board.*

Although the applicant is proposing some landscaping around the proposed parking area, there is an entire section of the parking area, closest to the neighboring property to the west, with no proposed landscape screening. See screenshot below. This is not compliant with this requirement.

 **RESPONSE: 8’ privacy fence has been added to the entire section on the west.**

1. *Except as set forth in §* [*195-79.1B*](https://ecode360.com/37520617#37520617) *above, the Residential Gathering Place use shall be conducted entirely within a completely enclosed structure, which use is incidental and accessory to the use of the residence for dwelling purposes, does not change the architectural character thereof, and is consistent with the residential zoning district involved. The appearance of all principal and accessory structures shall be in harmony with the surrounding area and be of a similar design aesthetic in conformity with the scale and character of the neighborhood within which it is to be located.*

As the applicant is proposing the conversion of the existing garage, we believe the application is compliant with this requirement.

1. *No regularly scheduled assembly may be held between the hours of 11:00 p.m. and 6:00 a.m. For the purpose of this provision, "regularly scheduled" shall mean occurring in greater frequency than three times per calendar year.*

Specific hours of operation must be indicated in a note on the site plan to match the narrative.

**RESPONSE: The note has been added**

1. *No space within the residential gathering place may be rented out to or utilized for meetings or functions not directly convened or hosted by the residents of principal one-family detached residence.*

A note should be provided on the site plan to this effect.

**RESPONSE: The note has been added**

1. *One sign is permitted which shall meet the standards for a home occupation sign as set forth in § 195-82A. In addition, the sign shall contain English language characters and text to the extent necessary for public safety and/or to aid in the dispatch of emergency services.*

Is the applicant proposing any signage for the property? Please note that the maximum size of a home occupation sign is only 6 inches by 30 inches.

**RESPONSE: No signage will be proposed**

1. *Use of any outdoor areas of the property by nonresidents shall be limited only to parking and passive recreational uses requiring a minimum of facilities or equipment, which may include a small jungle gym or climber for children, benches and picnic tables.*

The site plan indicates a play area on the southeastern portion of the site. Is there equipment proposed with this or is this just a general designation?

**RESPONSE: The play area is existing. The word existing has been added to the plan.**

1. *The Planning Board may impose such additional restrictions and conditions on the location of parking spaces, landscaping and/or fencing to screen the residential gathering place from adjacent residential properties, outdoor lighting, and other conditions of use of the residential gathering place as, in the judgment of the Board, are necessary for the residential gathering place to be able to operate in a manner that is consistent with public safety and neighborhood character.*

Such other restrictions and conditions may arise after the Planning Board and the public provide comments.

1. *Any kitchen facilities shall be in scale or type as is customarily incidental to a one-family detached residence. No catering facilities are permitted.*

The applicant should confirm if there are any kitchen facilities associated directly with the proposed gathering area.

1. *A narrative summary shall be submitted to the Planning Board, providing the maximum anticipated number of persons to be assembled, square footage of the assembly spaces, days and hours of assembly, and number of parking spaces provided.*

The applicant has provided a narrative, but it does not appear to provide the necessary information as outlined above. Please confirm/provide the square footage of the assembly space(s).

1. *Bulk provision waiver. The Planning Board shall have the authority, consistent with the purposes of this chapter and upon finding that the waiver shall not result in danger to the health, safety and general welfare of the community, neighborhood or area residents, to waive any bulk provision for residential gathering places herein up to 3%, for good cause shown. Any variation of bulk provisions greater than 3% shall be referred to the Zoning Board of Appeals.*

See comments in 8A above.

# SEQR Procedural:

1. We recommend that when the Planning Board receives a complete application, it assumes Lead Agency under SEQRA and categorizes the action as Type II, requiring no further environmental review. The proposed action meets the criteria for 6 CRR-NY 617.5, Type II actions, item (9):

“(9) construction or expansion of a primary or accessory/appurtenant, nonresidential structure or facility involving less than 4,000 square feet of gross floor area and not involving a change in zoning or a use variance and consistent with local land use controls, but not radio communication or microwave transmission facilities;”

1. In accordance with §239-l, 239-m, and 239-n of the General Municipal Law of the State of New York, the project requires review by the Rockland County Planning Department due to its proximity with Route 202, Harriman State Park, and the Mahwah River.

# SEAF, Pt. 1

1. The applicant has provided an SEAF Part 1. The applicant should provide the EAF with the DEC automated answers, which will answer certain questions based on the location of the project site.

**RESPONSE: The EAF has been revised**