



EMANUEL LAW P.C.

Ira M. Emanuel, Esq. | Amy Mele, Esq. *Of Counsel*
Counsel to Freeman & Loftus, RLLP

Four Laurel Road
New City, NY 10956

Info@EmanuelLaw.com

www.EmanuelLaw.com

Tel: 845-634-4141

March 8, 2021

Ramapo Planning Board
237 Route 59
Suffern, NY 10901

Re: Hillside Mikvah Site Plan

Dear Members:

We represent the applicant in the above matter. We offer the following responses to the Rockland County Planning Department's March 1, 2021, review letter, which disapproved the project. The Department's review is based on drawings dated January 28, 2021. Submissions made to the Town after that date anticipated many of the Department's comments and have addressed them.

1 Permitting development that does not comply with the applicable bulk standards can set an undesirable land use precedent and result in the overutilization of individual sites. While the subject site is 83 percent larger than the minimum lot area standard, the proposed community mikvah has a substantial building footprint and requires 59 parking spaces. As a result, the maximum permitted development coverage is exceeded by 125 percent. The ability of the existing infrastructure to accommodate large community facilities is a countywide concern and must be evaluated. This evaluation must consider whether local roads will become more congested and the sewer system, stormwater management systems and the public water supply will be overburdened. The Town must consider the cumulative and regional impacts of permitting such development. The building footprint and the capacity of the mikvah must be reduced to more closely conform to the RR-50 development coverage standard.

The Department has engaged in an Old West stereotype: "hang him now, and we'll have a trial in the morning". Instead of asking for traffic, storm water, and public water supply evaluations before deciding to disapprove, the Department has disapproved, and then asks for these evaluations to justify its predetermination. For this reason, alone, this item should be overridden.

For the record, the applicant has submitted to the Town:

- a traffic report dated February 20, 2021, a SWPPP dated January 28, 2021,
- a drainage area and winter stabilization plan dated January 28, 2021,

- an erosion control plan dated January 28, 2021,
- fire flow calculations dated October 16, 2020, and
- water main extension plans dated January 28, 2021.

The applicant is in the process of obtaining a water supply determination from Suez North America, the public water supplier.

The Department then claims that the facility must conform to RR-50 design standards, in particular the development coverage standards of the district. Those standards, however, effectively prohibit any institutional use because they do not allow for parking to serve the facility.

As applied to the subject application, the available lot area is 137,444sf (3.15ac), which is almost twice the required minimum lot area of 75,000sf. The allowed development coverage is 0.20, which translates to 27,489sf.

A prior proposal for this mikvah provided development coverage of 50%. A design change reduced the amount of coverage to 45%.

Reducing the size of the mikvah facility is not feasible, and will not properly serve the needs of the targeted religious community. An existing community mikvah on Viola Road already exceeds capacity, and so the need for a facility of this size has already been determined by the operators.

The number of parking spaces is driven by the number of shower heads to be provided. At 53 shower heads, 57 spaces are required. 57 spaces is approximately equal to 17,100sf (@ 300sf/space). Thus, the parking spaces, alone, take up 12.4% of the overall site. This is more than one-half of the allowable development coverage, and does not include driveways, walkways and other non-building surfaces.

The current building footprint is 18,517sf, or 13.47% of the site. Again, the footprint, alone, constitutes more than one-half of the allowable coverage. Note, however, that the overall floor area is less than $\frac{3}{4}$ of the amount allowed by the Code (0.4 permitted vs. 0.27 proposed).¹

Further, the calculation of development coverage (and other dimensions) does not take into account vacant land owned by the facility in adjacent New Jersey. That land will remain vacant. If this additional land was considered, then the development coverage proportion would drop to 35%.

Finally, the 20% development coverage proportion required for an institutional use is identical to the proportion required for a single family house in the same zoning district. Houses do not need parking areas. They don't need sidewalks. They don't need trash enclosures. The coverage proportion is simply unrealistic as applied to an institutional use that is otherwise allowed *as of right* under the Zoning Code.

¹ Both the floor area and development coverage calculations include not only the proposed mikvah, but also the caretaker's residence that will remain on the site.

Adherence to this unrealistic requirement, as required by the Department, would constitute a substantial burden on this clearly religious use under federal law.

The problem is not the size of the facility. The problem is the Zoning Code.

The applicant asks that this item be overridden.

2 The municipal boundary of the Village of Airmont is along the north side of Hillside Ave, approximately 35 feet north of the site. The zoning designation of this section of the Village is RR-50, a rural residential district characterized by single-family dwellings on 50,000 SF lots. Most of the parcels on the north side and north of Hillside Avenue exceed the RR-50 minimum lot area requirement. The scale of the proposed mikvah is not consistent or compatible with the surrounding residential neighborhood and will have a deleterious effect on the community character. It must be reduced in size so the RR-50 bulk standards for front setback and front yard are achieved and the extent of the development coverage is lessened substantially.

If the Department had its way, only large homes on large lots would be built in this area. This position violates State case law and federal statute.

The proposed mikvah is entirely compliant with the requirements of the Zoning Code as to its massing and size. It has less than $\frac{3}{4}$ of the gross floor area permitted under the Zoning Code (0.4 vs. 0.27). The needed variances are for front yard and setback and for development coverage.

The front yard and setback variances are for the same dimension. The layout was redesigned from the original to place the parking in the rear of the parcel. This had the joint benefit of creating more privacy for patrons of the mikvah² and moving and shielding the active parts of the facility from neighboring homes.

In order to accomplish this result, the building was moved closer to the road, resulting in a reduction of the front yard and setback of 19 feet (50 vs. 31). To make up for this reduction, the applicant has provided landscape screening along the entirety of the road frontage.

The need for a development coverage variance is detailed in the applicant's response to comment #1. Essentially, the Zoning Code, by requiring the same development coverage proportion for single family homes as for permitted institutional uses, ignores the

² A mikvah is a ritual bath patronized by religious Jewish women in connection with their menstrual cycles. Thus, a woman who is observed entering a mikvah is revealing this extremely personal status. Maintaining the privacy of mikvah patrons is therefore extraordinarily important to the operators and patrons of the facility.

impact of providing parking spaces on coverage. Thus, it almost guaranties that institutional uses, even permitted ones, must seek a variance for this dimension.

The applicant asks that this item be overridden.

The following comments address our additional concerns about this proposal.

3 The Village of Airmont is the reason this proposal was referred to this department for review. New York State General Municipal Law states that the purposes of Sections 239-I, 239-m and 239-n shall be to bring pertinent inter-community and county-wide planning, zoning, site plan and subdivision considerations to the attention of neighboring municipalities and agencies having jurisdiction. Such review may include inter-community and county-wide considerations in respect to the compatibility of various land uses with one another; traffic generating characteristics of various land uses in relation to the effect of such traffic on other land uses and to the adequacy of existing and proposed thoroughfare facilities; and the protection of community character as regards predominant land uses, population density, and the relation between residential and nonresidential areas. In addition, Section 239-nn was enacted to encourage the coordination of land use development and regulation among adjacent municipalities, and as a result development occurs in a manner which is supportive of the goals and objectives of the general area.

The Village of Airmont must be given the opportunity to review the proposal and its impact on community character, traffic, water quantity and quality, drainage, stormwater runoff and sanitary sewer service. The areas of countywide concern noted above that directly impact the Village of Airmont must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

The Village of Airmont was given an opportunity to comment, and did, in fact comment in a letter from its planning consultant dated February 5, 2021.

4 An updated review of the January 28, 2021 site plan must be completed by the Rockland County Health Department. In addition, the applicant must comply with the conditions of the Health Department's letter of September 9, 2020.

Agreed.

5 An updated review of the January 28, 2021 site plan must be completed by the Rockland County Sewer District #1. In addition, the applicant must comply with the conditions of the Health Department's letter of August 29, 2019.

Agreed.

6 A truck turning analysis mut be submitted and reviewed by the Rockland County Office of Fire and Emergency Services, the Town of Ramapo fire inspector, or the

Tallman Fire Department to ensure that there is sufficient maneuverability on site for emergency vehicles.

A truck turning analysis dated March 1, 2021, has been submitted for review.

7 A circular driveway configuration is shown adjacent to the south side of the structure near a building exit. Is this to be a drop-off and/or pick-up area? Its purpose must be clarified.

It is a drop-off/pick-up area.

8 A 10 x 40 loading berth is shown to the south of the aforementioned circular driveway, It is unclear why a loading berth is needed or why it is not closer to the building. Clarification must be provided.

The loading berth is needed to provide supplies to the mikvah. These supplies include linens, soap, and other items needed for ritual bathing. Supplies are provided numerous times during the week.

The proposed loading area is located near the entrance door, but in a location that will not block incoming traffic (no significant traffic is expected during times of delivery in any event). Supplies can be easily wheeled from the parked delivery vehicle to the building on a handtruck or dolly.

9 Two wells are depicted on the Grading, Drainage and Utilities Plan. The proposed wells must be installed pursuant to all requirements of Article II of the Rockland County Sanitary Code, and under permit with the Rockland County Department of Health. The Health Department must review this proposal to determine if the proposed development meets the definition of a NYS public water system. Private wells cannot be used to provide potable water to public systems.

The applicant is currently working with the Health Department on this issue.

10 The proposed location of the garbage enclosure will impede traffic flow entering and exiting the site. The garbage enclosure must be relocated to an area with less vehicular traffic.

No, it won't. The Department fails to understand that most, if not all traffic generated by the facility will be during late afternoon and evening hours. Garbage pickup is in the early morning.

The applicant asks that this item be overridden.

11. Retaining walls that are over four (4) feet in vertical height shall be designed by a licensed New York State Professional Engineer and be in compliance with the NYS Fire

Prevention and Building Code. Design plans shall be signed and sealed by the licensed NYS Professional Engineer.

Comment noted. The current proposal does not include walls over four feet high.

12 A landscaping plan shall be submitted for our review. Given that front setback and front yard variances are required, sufficient landscaping must be provided along the Hillside Avenue frontage to mitigate the visual impact of the facility when seen from the adjacent Village of Airmont. The landscaping must include low evergreen plantings to prevent the headlights of vehicles parked in the diagonal spaces from shining towards the residential properties on the north side of Hillside Avenue.

A landscaping plan last revised March 5, 2021, has been prepared and will be submitted to the Planning Board for review. The intent of the landscaping plan is to screen the entire facility, including the parking areas, from Hillside Avenue.

The applicant asks that this item be overridden to the extent that it requires resubmittal to the Department.

13 A lighting plan shall be provided that shows fields of illumination. This plan must demonstrate that the intensity of the candle lumens is less than 0.1 at the property line.

A lighting plan revised February 23, 2021, has been provided that complies with this “recommendation”.

14 Areas designated for snow removal must be clearly delineated on the site plan and in the field so that the plow drivers will know where to place the snow piles. Providing specific locations on the site for the snow piles will reduce the loss of available parking spaces meant to be used by staff and visitors. This is critical since only the required minimum number of parking spaces is provided. In addition, it will help to protect any proposed landscaping from damage due to the weight of the snow and salt intrusion.

Ample areas are available for snow storage and will be identified in the next plan revision.

15 Water is a scarce resource in Rockland County; thus proper planning and phasing of this project are critical to supplying the current and future residents of the Villages, Towns, and County with an adequate supply of water. If any public water supply improvements are required, engineering plans and specifications for these improvements shall be reviewed and approved by the Rockland County Department of Health prior to construction in order to ensure compliance with Article II (Drinking Water Supplies) of the Rockland County Sanitary Code and Part 5 of the New York State Sanitary Code.

Agreed.

16 For installation of a sanitary sewer system, engineering plans and specifications shall be reviewed and approved by the Rockland County Department of Health prior to construction.

Comment noted. No sewer main extension is proposed. The Town DPW and Rockland County Sewer District No. 1 have already reviewed the proposed sanitary sewer connections.

17 Prior to the start of construction or grading, all soil and erosion control measures must be in place for the site. These measures must meet the latest edition (November 2016) of the New York State Standards for Urban Erosion and Sediment Control.

Agreed. An erosion and sediment control plan has already been provided to the Town.

18 There shall be no net increase in the peak rate of discharge from the site at all design points.

Agreed. The plans comply with this requirement.

19 A stormwater pollution prevention plan (SWPPP) was not provided. The SWPPP, if required, shall conform to the current regulations, including the New York State Stormwater Management and Design Manual (January 2015) and local ordinances.

A SWPPP dated January 28, 2021 has been submitted to the Town for review.

20 Different symbols are used for sidewalks and the trash enclosure in the legend and on the map. All information must be consistent. The drawings shall be revised so that the information contained in the legend is shown on the map.

The applicant's engineer will provide consistent symbols on the next revision.

21 General Note 7 must be revised to specify Section 239 L and M of the NYS General Municipal Law as this is a site plan application not a subdivision.

General Note 7 will be corrected on the next revision.

22 The subject site must be centered on the vicinity map.

A revised vicinity map will be provided with the next revision.

23 Question 6 on the Short Environmental Assessment Form (SEAF) must be answered negatively as the proposed action is not consistent with the predominant character of the existing built or natural landscape.

This is a matter that is beyond the jurisdiction of the Department, which is not even an involved agency. It is exclusively within the jurisdiction of the Planning Board as lead agency under SEQRA. The applicant will take direction from the Planning Board.

The applicant asks that this item be overridden.

24 Question 8A on the SEAF shall be answered affirmatively as there will be a substantial increase in traffic above present levels. Three single-family dwellings are being replaced with a 37,100 SF facility that can accommodate up to 96 visitors in one evening.

This is a matter that is beyond the jurisdiction of the Department, which is not even an involved agency. It is exclusively within the jurisdiction of the Planning Board as lead agency under SEQRA. The applicant will take direction from the Planning Board.

The applicant asks that this item be overridden.

25 Question 9 on the SEAF was answered affirmatively so information must be provided about the design features and technologies that meet or exceed the state energy code requirements.

This is a matter that is beyond the jurisdiction of the Department, which is not even an involved agency. It is exclusively within the jurisdiction of the Planning Board as lead agency under SEQRA.

The applicant asks that this item be overridden.

26 Pursuant to General Municipal Law (GML) Section 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 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.

Comment noted.

27 In addition, pursuant to Executive Order 01-2017 signed by County Executive Day on May 22, 2017, County departments are prohibited from issuing a County permit, license, or approval until the report is filed with the County Commissioner of Planning. The applicant must provide to any County agency which has jurisdiction of the project: 1) a copy of the Commissioner 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.

Comment noted.

Based on the foregoing, the applicant asks that comments 1, 2, 10, 12, 23, 24, and 25 be overridden for the reasons stated above.

Very truly yours,
EMANUEL LAW PC



By: _____
Ira M. Emanuel

Cc: Client