



**M E M O R A N D U M**

**TO:** Chris Gerver, Chairperson and Planning Board

**FROM:** Dennis G. Lindsay, PE, Village Engineer  
Jon D. Bodendorf, PE  
Natalie D. Barber, EIT

**RE:** Friedman 32 Blueberry Lane – Shul in Existing Single-Family Home  
Site Plan, Special Permit – **Discussion**  
File No. 217-2-4.2; Memo No. 243-20-018

**DATE:** September 11, 2020

**CC:** Richard Golden, Esq., Kelly Naughton, Esq., Stuart Turner, AICP, PP, Jonathan Lockman, AICP, A. Fusco, PE (for applicant)

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The following are our comments on a site plan for conversion of an existing 1,000SF portion of a 4-bedroom single-family home to a Shul at 32 Blueberry Lane in the R-2A District.

**General** – This improved 1.49-acre property with an existing two (2) story single-family dwelling is located at the end of a cul-de-sac, Blueberry Lane. The property borders Cromwell Lake to the East and Skytop Road to the South. The applicant proposes converting a portion (1,000 SF) of the existing dwelling to a Shul and adding other site improvements, primarily related to parking and sidewalk, to accommodate this use. The applicant advises 3,611 SF<sup>1</sup> of the existing dwelling will remain single-family.<sup>2</sup>

Where the application does not meet Code requirements in the *Schedule Of Zoning Regulations*; the Planning Board has discretion to waive the requirements for a religious use if it is demonstrated that strict adherence to the code would place a substantial burden on the religious exercise of a person, religious assembly, or institution. However, if the development does not meet Code requirements and the hardship is not demonstrated, the applicant will need a variance from the Zoning Board of Appeals. While your discretion is applicable to the requirements in the *Schedules of Zoning Regulations* (tables) and any code section referenced in those tables (e.g. parking), you have an opinion from counsel that this is not applicable to other sections of Chapter 310 Zoning (i.e. landscaping, buffers, others).

**A) Materials Reviewed –**

1. Correspondence from Alfred A. Fusco, Jr., PE of Fusco Engineering & Land Surveying, PC, dated July 21, 2020, requesting appearance before the Planning Board.
2. Correspondence from Alfred A. Fusco, Jr., PE of Fusco Engineering & Land Surveying, PC, dated February 19, 2020, responding to comments from NPV.
3. Short Environmental Assessment Form (EAF) Part 1, unsigned<sup>3</sup>, and dated February 18, 2020.
4. Plans prepared by Fusco Engineering & Land Surveying, P.C., last revised February 18, 2020, as follows:
  - Page 1 of 2: Site Plan
  - Page 2 of 2: Details
5. Draft Floor Plans by DrawRite, dated July 20, 2020, as follows:
  - A-1 – Basement Floor As-Built
  - A-2 – First Floor As-Built

<sup>1</sup> Applicant’s description of areas, bedrooms, and use should be clarified based on inconsistencies with interior layout plans provided.

<sup>2</sup> Per Orange County tax records, the building footprint is approximately 2,867 SF.

<sup>3</sup> Form should be signed by the preparer.

- A-3 – Second Floor As-Built

**B) Review of Submitted Materials –**

1. Zoning –

- Use – In the R-2A zone a Shul is a permitted Special Permit Use with Site Plan approval (Zone references R-3A; SP Use #15 – Place of Worship).
- Bulk/Area Regulations – For this application, the zoning requirements for the proposed Shul are regulated by the R-3A zoning district, SP Use #15. Similar applications have been considered by the Planning Board and the Building Inspector previously opined that these two principal uses are permitted on a single lot provided the lot meets the zoning regulations for each use. We believe the following summarizes the required bulk criteria for this application:

	<i>Lot Area (acres)</i>	<i>Lot Width (ft)</i>	<i>Front Yard (ft)</i>	<i>Side Yard (ft)</i>	<i>Both Yards (ft)</i>	<i>Rear Yard (ft)</i>	<i>Coverage (%)</i>	<i>Building Height (ft)</i>
<i>Single-Family Home R-2A Row 1 of Zoning Table</i>	2	175	40	30	60	50	20	35
<i>Shul R-3A Special Permit Use #15</i>	1	125	50	30	60	50	10	35
<b><i>Required Bulk Criteria</i></b>	<b>3</b>	<b>175</b>	<b>50</b>	<b>30</b>	<b>60</b>	<b>50</b>	<b>10</b>	<b>35</b>
<b><i>Provided</i></b>	<b>1.49</b>	<b>158</b>	<b>47.1</b>	<b>&gt;30</b>	<b>&gt;60</b>	<b>81</b>	<b>20</b>	<b>25</b>

- Lot Area – The Code requires three (3) acres for these two principal uses on one lot. The existing lot is considered an existing non-conformity. The proposed Shul increases the degree of non-conformity and a waiver by the planning board based on the substantial burden criteria (similar for all “waivers” noted below) or a variance from the ZBA is required.
- Lot Width – Similar to Lot Area above, the lot width is a nonconforming 150-ft. For this application, the required lot width is 175-ft (see table above). We do not believe the addition of the Shul would require a waiver or variance, but you should confirm this with Counsel.
- Front Yard – We have discussed the issue on front yards with the Building Inspector and he has opined that the front yard fronts on Blueberry Lane and extends along the northern face of the dwelling. The minimum dimension in this area as depicted on the plan is 47.1-ft. The required front yard is 50-ft for a Shul. Since the plan is complying for the existing single-family dwelling, but is non-complying for a Shul, we believe a waiver or a variance is required. You should confirm this with Counsel.
- Side Yard/Both Yards – The plan complies with the Code criteria for side yards.
- Rear Yard – In a discussion with the Building Inspector, the yard fronting on Skytop Road is considered the rear yard. The setback line should be adjusted so it is from the edge of the right-of-way. However, the plan appears complying.
- Coverage – Coverage is governed by the religious use maximum of 10% where 20% is proposed. The applicant proposes incremental increases to impervious area,

approximately 640 SF for changes to the landscaped circle and approximately 500 SF for new sidewalk, which results in a small (approx. 1.8%) increase in impervious area. The landscaped circle in the driveway from Blueberry Lane is proposed to be replaced with slate and two parallel parking spaces are proposed along the existing driveway. In our opinion the additional use and increase in impervious surface area (albeit a small amount) would increase the degree of non-conformity requiring a waiver or variance. This should be confirmed by Counsel.

- c) Parking – The Code (§310-40) requires a residential dwelling have two (2) spaces per dwelling unit and a place of worship have one (1) parking space/200 square feet of gross floor area or one (1) space/three (3) seats whichever is greater. The applicant has reduced the number of anticipated worshippers from twenty-five (25) to twelve (12). The calculation for parking required by seats results in 4 spaces needed. The calculation by gross floor area (1,000 SF) requires 5 spaces. The applicant should revise the plan to demonstrate the higher parking demand. It should be noted that the floor plans provided indicate 2,763 SF will be used as “Congregation Area”, which would result in 14 spaces required for this use. This is important and presents an inconsistency which needs to be corrected. The area reserved for the Shul should be clarified by the applicant and the parking demand calculation updated. Nine spaces (9) are currently shown.

We believe the following issues related to parking should be clarified:

- [§310-42.C.(1)] No parking space may be located within 10-feet of a residence district. Plan appears noncomplying at Southern lot line.
  - Note: Applicant advises an alternate parking arrangement is not feasible in correspondence dated 2/19/20.
- [§310-42.C.(2)] Applicant should confirm the screening requirements for parking spaces adjacent to residence districts are met.

2. Site Plan – The Planning Board is authorized under §310-45; Article VIII of the Village Zoning Code to review and act on site plans and special permits. The Code requires [§310-45.C.(1)(d)] a site plan be submitted for any application for a special permit. The Code further defines the objectives and design requirements of a site plan with specific site plan requirements under §310-45.I. The applicant should review these requirements and identify those areas where they are requesting relief.

The following are our comments on the site plan:

- a) Utilities –

- a. Water – The site plan shows the location of an existing on-site well. The applicant should discuss anticipated usage. The Code requires “Documentation of the quantity and quality of water based on samples taken by and tests submitted by a qualified laboratory under the review of the office of the Village Engineer as a condition of approval. Said conditions shall be satisfied prior to map signing by the Chairman of the Planning Board” [§310-45.I.(1)(a)(25)]. The Code further requires “That the drainage system and the internal water and sewer systems are adequate and that all wells and sewage treatment systems are in accordance with Village, State, Federal and County Standards” [§310-45.D.(11)].”

In one similar application, we were advised the Department of Health (DOH) determined the proposed water supply did not classify as a public water supply system and the matter was for local determination. However, this applicant should contact the DOH for a determination and secure any necessary approvals.

If you act subject to demonstrating adequate water, we recommend the plan not be signed by the Chair and no building permit be issued until the water supply is proven in terms of quantity and quality and confirmation of necessary approvals is provided as noted above.

- b. Wastewater Disposal – The plan depicts the location of the septic tank and assumed



location of the absorption field. We note the subdivision plan we have on file places the absorption field for this lot approximately in the center of the proposed parking circle. The location of this feature should be confirmed. The adequacy of these facilities to serve the proposed religious use in addition to the single-family home should be reviewed by the applicant's engineer with an engineering report on the system condition and capacity which should include physical observations and hydraulic/dye testing.

- c. Stormwater Management – The site plan does not show the existing nor proposed grade lines. We assume the site drains to Cromwell Lake, but this will need to be confirmed. We would not expect the modest increase in impervious area to affect the on-site drainage. However, the applicant should provide an erosion and sediment control plan.
- b) Traffic Circulation and Access – We defer primarily to your traffic consultant on access and pedestrian safety. Although this is not part of this application, we note the access from Skytop Road to the existing dwelling (18 Skytop Road) located south of the tax parcel in question appears to be severely impeded by the existing retaining walls on this site. This could have ESO implications that should be addressed.
- c) Landscaping – We defer to Planner Turner's office for comments on landscaping.
- b) Miscellaneous –
  - 1. Shul Operation – The applicant should advise the hours of operation.
  - 2. Interior Layout – The applicant has submitted interior layout plans. We have the following comments:

- The application suggests a 1,000 SF addition will be used as a Shul, and the remaining existing 3,611 SF dwelling will continue to be used as a 4-bedroom home.
- According to the "As-Built Plans" provided, the following areas are proposed:

Floor	Congregation Floor Area (SF)	Residential Floor Area (SF)	Gross Area (SF)
Basement	1,155	1,155	2,310
First Floor	1,608	1,134	2,742
Second Floor	0	738	738
Total	2,763	3,027	5,790

- We are unable to resolve the discrepancies in areas but note the same has implications on parking requirements.
- The application notes the residential dwelling will have 4-bedrooms; the layout plan shows 3-bedrooms. This should be clarified and has impacts on estimated water and wastewater generation.
- The interior layout show Mikveh as part of the proposed Shul. This was not previously discussed but has implications on water and wastewater generation.
- The layout plan has notes indicating site plan improvements for conversion of stairs to a ramp at the North face of the building. These should be shown on the site plan. The applicant should provide details and confirm compliance with ADA requirements.

- The layout plan shows a 3-person bathroom on the first floor labeled “Existing”. We note this is unusual for a residential dwelling and you may wish to discuss this with the applicant.
  - It would be appropriate for the applicant to delineate the Shul area from the residential on the plan. The applicant should advise what are proposed as common areas and you should consider with them if that is appropriate.
  - In future submissions, the applicant should show dimensions on the layout plans.
3. Lighting – The applicant should discuss if there is any proposed lighting. If evening services are proposed, safety lighting should be provided but hours should be limited to roughly the service hours.
  4. Signs – The applicant should discuss whether any signs are proposed.
  5. ARB/Ridge Preservation – The applicant does not appear to propose any changes to the exterior of the existing dwelling, but this should be confirmed. If changes are proposed, they should be submitted for ARB review. The site is above elevation 600 and is subject to the Ridge Preservation requirements.
  6. Easements – The applicant should provide any easements for access, overhead utilities, and others to Counsel for their review.
  7. SEQRA – We believe this application would constitute a Type II action under SEQRA, but we defer to Counsel’s opinion on the matter. The applicant has provided a Short Form EAF for you to consider and we have the following comments:
    - Page 2, Question 10 & 11 – Provide estimated usage and generation rates. This is not for the form, but for your information.
    - Page 2, Question 13 – Applicant response as “Yes” to Part A requires follow up regarding what waterbody is proposed for disturbance.
    - Page 3 – EAF should be signed by preparer.
  8. Public Hearing – The site plan requires a Public Hearing (confirm with Board Counsel).
  9. Ownership Authorization – There appears to be two Owners of the proposed lot. Authorization from Zirel Friedman should be provided.

**C) Referrals Recommended**

1. O.C. GML 239 Referral
2. Woodbury Police Department
3. Woodbury Building Department
4. Woodbury Fire Department