



M E M O R A N D U M

TO: Chris Gerver, Chairman and Planning Board

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

SUBJECT: Dunderberg Ventures, LLC – Two Schools with House of Worship
Site Plan/Special Permit/ARB – **ZBA Referral**
File # 225-1-17 & 18; Memo 243-19-048

DATE: December 13, 2019

CC: Richard Golden, Esq., Kelly Naughton, Esq., Stuart Turner, AICP, PP, Lawrence Torro (for applicant)

The following provides the history of this parcel, a summary of the current application, and comments on the proposed two schools of religious instruction for this property in the R-2A zone with frontage on Dunderberg Road located north of NYS Rte 17 (future US 84).

General/Background – Development of this property has been reviewed on a number of occasions for senior housing (2003) and office space (2005, 2006, and 2017). On each occasion, the applications were either denied and/or referred to the ZBA and Village Board for nonconformance with zoning bulk criteria, use, or zone change. Those applications were not advanced with the planning board beyond the initial review. The current application is for two religious schools each with a house of worship. The applicant has revised their submission to include more detail, SEQR documents, a narrative and letter describing need for the proposed schools. As you know, you have authority to grant waivers for certain bulk criteria if the zone requirements would place a “substantial burden on the religious exercise of a person, religious assembly or institution”. The question of applicability in this instance is one you will need to consider with advice from Counsel (see B.1.b below).

A) Materials Reviewed –

1. Correspondence from Zarin & Steinmetz, dated November 20, 2019, describing the need for the application and requesting appearance before the Planning Board.
2. Project Narrative by Civil Tec Engineering + Surveying, November 18, 2019.
3. Short Environmental Assessment Form, signed by Rachel Barese, PE of Civil Tec Engineering + Surveying, PC, dated November 19, 2019.
4. Site Plans prepared by Civil Tec Engineering + Surveying, November 18, 2019 as follows:
 - Sheet 1 of 8 – Site Plan (Overall)
 - Sheet 2 of 8 – Site Plan
 - Sheet 3 of 8 – Site Plan
 - Sheet 4 of 8 – Grading, Drainage, & Utilities Plan
 - Sheet 5 of 8 – Grading, Drainage, & Utilities Plan
 - Sheet 6 of 8 – Erosion Control Plan
 - Sheet 7 of 8 – Erosion Control Plan
 - Sheet 8 of 8 – Details

B) Review of Submitted Materials –

1. Zoning –

- a) Use – This application is described as “two schools” (special permit use #16), each with a place of worship (special permit use #15). These are special permit uses in the R-2A zone and regulated by criteria listed under the R-3A zoning table. We recommend you discuss with Attorney Golden or seek an interpretation from the Code Enforcement Officer, whether the school(s) are considered the principal use and the house of worship accessory or if each use would be considered a principal use. We believe this question remains to be answered since the synagogue will be used during and outside of school hours.
- b) Bulk/Area Regulations – The applicant proposes to combine two tax lots and construct two separate schools, each with a house of worship, on the consolidated lot. This impacts the review of bulk criteria. This application requires relief from zoning requirements as noted below. The applicant’s narrative suggests variances are being sought which implies referral to the ZBA rather than waivers from the Planning Board.

A revised site plan with additional detail has been provided listing some variances for the development as proposed. As noted above, the application of bulk criteria will depend on clarification of the proposed use(s). The applicant has revised the bulk table listing criteria for a school use in the R-3A zone; the requirements for a school are more conservative than for a house of worship with the exception of coverage (20% maximum for schools versus 10% maximum for house of worship). We believe the applicant will need to comply with or seek relief from the more conservative bulk criteria (10% coverage). The regulations that might be impacted based on the material submitted, prior reviews and the lot configuration include the following:

- Yard Setbacks –
 - Front – The R-3A zone requires a 100’-front yard for schools (frontage on Dunderberg), the plan shows a 40’-front yard.
 - Rear – The opposite yard (abutting Route 17) would typically be the rear yard with a 100-foot depth required for schools. The plan shows a 29.7’. The code also requires frontage on a State Highway have a 50’-yard “unoccupied and open to the sky” (§310-12.B.); the plan shows parking and structures in this area. It should be confirmed this criterion applies to frontage on a limited access highway.

- Lot Area – The Code (§310-6.F) requires “where more than one principal use occupies a lot, said lot shall be large enough to satisfy the minimum lot area or density requirements of each use”. Pending clarification on use(s), the applicant should demonstrate compliance with the required net lot area defined by the Code. At a minimum we believe the two schools would require 4-acres of lot area. If the places of worship are considered additional uses, then an additional 2-acres are required. The total lot area is 7.67-acres, but confirmation of net lot area is necessary. Net lot area is defined as the gross lot area minus deductions for wetlands, steep slopes, utility rights-of-way, among others (§310-2; Lot Area).

- *Coverage* – The Code permits coverage of 20% for schools and 10% for a place of worship. The applicant is proposing 30% requiring a variance or waiver.

We believe it would be appropriate to discuss measures to alleviate or reduce the relief requested, such as decreasing the building footprint, reducing the request to one school, etc.

- c) *Parking* – The quantity of spaces required depends on floor area, seats (house of worship) and/or students (school) (§310-40). Your Code (§310-40.B) requires “where more than one use is to be located on a lot, the site plan shall provide for the sum of the off-street parking space requirements for each use..” unless (§310-40.C) “where, in the Planning Board’s judgement, a use or combination of uses on a single lot will generate parking needs which are less than the total amount the zoning code requires the number of required spaces may be reduced by up to 25%”. More detail (floor plans and number of classrooms - applicant advises 16-20 students per classroom, coincident use) is required to determine the parking requirements and any required waivers or variances.
- d) *Other Zoning Issues* – (Repeated from prior memorandum)
- *Landscaping, Screening and Buffering* (§310-27) – There is no information regarding landscaping and buffering. Unless the applicant complies with the requirements in §310-27, variances or waivers will be required. We note the requirements for landscaping will be particularly difficult to achieve in parking areas and buffers where the distance between the pavement and the property line is restricted (along Route 17).
 - *Loading Berths* – Off street loading berth needs must be satisfied (§310-41).
 - *Hedge Screen* – Parking areas to the north, fronting on other residential properties, require a hedge [§310-42.C.(3)].
2. *Site Plan Issues* – We have highlighted below some site plan issues to be considered with more detailed plans.
- a) *Sewer* – The applicant advises that sewage will be collected at a low spot on the property and pumped to the “existing sewer pump station constructed for Woodbury Junction”¹. We have the following comments:
- a. Details on the gravity line to the on-site pump should be provided (size and material)
 - b. The location of the pump is not on the low spot of the property. This should be revised and shown closer to Building One where grade is approximately 563, versus the 582 elevation is shown; otherwise significant excavation will be required.
 - c. Details of the on-site pump station should be provided.
 - d. Ownership of the station, considering the limited public purpose, should be considered by the sewer administrator.
 - e. Details on the forcemain connection to the Village collection system should be provided.
 - f. Anticipated generation rates should be provided.

¹ This language in the applicant's narrative appears to be in error. Connection to the existing sewer (pay or take) for Woodbury Junction does not seem feasible.

- b) Water – The applicant shows a service connection to the curb cut at Dunderberg/Nininger Road. The details of this connection should be provided and confirmed with the Water & Sewer Administrator. If existing water facilities along Dunderberg/Nininger Road are available these should be shown with sizing. If not, the applicant should discuss the extension required for connection to municipal water sources. Anticipated usage should be provided.
- c) Stormwater Management – With the higher coverage proposed (30% versus 20%/10%), additional site area would need to be designated for stormwater management. The applicant should confirm the area of disturbance (EAF indicates 6-acres). This will require the preparation of a Stormwater Pollution and Prevention Plan. The applicant proposes an on-site “water quality basin”, the suitability of this for managing and treating all of the runoff generated from the site will need to be confirmed through additional details and calculations in the SWPPP. Furthermore, in developing the plan, consideration for maintenance responsibility and requirements should be discussed. A catch basin detail has been provided; the detail should confirm bicycle safe, eco-friendly grating. Where stormwater and sanitary facilities cross one another a cross section should be provided showing adequate separation distance per DOH requirements. All existing stormwater features on site require protection during construction.
- d) Erosion and Sediment Control (ESC) Plan – We have the following comments on the plan and details provided:
- a. Grade lines should be shown on the ESC plans for confirmation that the silt fences are placed appropriately.
 - b. We note a stabilized construction entrance is shown for only one point of access to the property. This should be shown at the entrance and exit, it should be clear that this feature will extend the full length of the apron/drive and will be the appropriate length per the detail provided.
 - c. Note 5 on the ESC plan should refer to the inlet protection detail provided.
 - d. We require notes on the stockpile detail for preventing wind erosion, either by wetting, seeding, or other means.
 - e. A detail for the washout station should be provided.
- e) Retaining Wall – The applicant proposes a retaining wall along the South side of the schools for addressing the steep slope at this end of the property. The wall would essentially result in a 6-inch curb around the parking areas with a drop of up to 16-feet in some areas to the bottom of the wall with a slope (extremely steep behind Building One) to the Route 6 ramp. Retaining walls of this height require a signed and sealed design by a Professional Engineer. The visual and safety impacts of this feature will also need to be discussed. We would suggest a fence, guardrail, or other barricade for protection of cars and children.
- f) Access – Access will be to a county road. The traffic flow for these school(s) with places of worship at the density proposed will have more impact than many other permitted uses in the R-2A zone. Sight distances, grades, and other information related to access would need to be considered. We defer to your traffic consultant on guidance regarding these issues.
- g) Lighting and Landscaping – Because of its location, light from this site on adjacent residential properties and light from existing sources onto this site should be considered in reviewing environmental impacts. A landscaping and lighting plan should be provided.

- h) Noise – Due to proximity to Route 17, noise will be a consideration.
- i) Stone Walls – There are a number of existing stone walls on the site. Typically, as recommended by the Code (§310-27.(5)), these features are preserved to the maximum extent possible. The applicant should discuss disturbance to these features and clearly indicate where they will be altered on the plan.
- j) Refuse Collection – The size and aesthetics of the refuse enclosures should be reviewed. Additional details regarding the size of the dumpster and means of waste collection should be provided. Additionally, an elevation view and color samples for these features should be provided.
- k) Recreation Space – A note on the plans indicates the area between the schools will be designated recreation space. If any improvements to this area are proposed, they should be shown on the plan.
- l) Details –
 - a. Typical Pavement Detail – Applicant should consider using a 6-inch base and 3-inch binder course for this driveway that will be used by busses.
 - b. Concrete Curb Detail – This detail indicates turf area and underdrains. These should be shown on the plan if proposed.
- m) SEQRA – A short EAF has been submitted. Based on the nature of the project we believe a long EAF should be submitted. However, we have the following comments for the applicant to consider:
 - a. Part 1, Name of Project: Typo Dunderberg Ventures
 - b. Part 1, Project Location: Confirmation of roadway as Dunderberg or Nininger is required.
 - c. Part 1, Question 2: May need permitting approval from NYSDOT and highway department.
 - d. Part 1, Question 4: The existing site is heavily wooded (forest).
 - e. Part 1, Question 6: We recommend this answer as “Yes” be justified. The existing landscape is a heavily wooded lot. The proposed action would convert this to mostly impervious area.
 - f. Part 1, Question 8.a.: This will need to be determined with a traffic study upon recommendation from your traffic consultant.
 - g. Part 1, Question 8.c: In consideration of the applicant’s narrative that suggests use of these facilities on occasion will be during events where driving is prohibited, incorporating pedestrian accommodations should be considered as a part of this action.
 - h. Part 1, Question 10: Connection to municipal water needs to be confirmed, see Comment 2.(b) above.
 - i. Part 1, Question 13.a: The applicant indicates waters regulated by federal, state, or local agencies are present on the site, these should be shown on the plan.
- n) Ridge Preservation – Portions of the site are at or above 600-ft above mean sea level, although the development is not proposed for these portions of the site. Although technically, portions of the site are above 600-ft, we question whether this Code requirement would be applicable for this application.

- o) Tree Cutting – The lot is heavily wooded. The Board should consider preservation of trees under ridge preservation criteria (if applicable) or under Chapter 286 of the Code.

- p) Miscellaneous – Other considerations as this site plan is developed include – directional and regulatory signage, pavement striping, snow storage, building signs, protected fire lanes, fire protection (hydrants/sprinklers), activity areas for school, any specific state requirements for schools and parking lot layout for busses if expected including drop-off areas.

C) Referrals Recommended –

1. Woodbury Police Department
2. Woodbury Fire Department
3. Woodbury Ambulance
4. Orange County Department of Planning – GML referral
5. Orange County Department of Public Works – GML referral, Highway Work Permit
6. NYSDOT – Highway Work Permit if any work (grading) is on state ROW
7. Protected Waters – (EAF Question 13.a) Authority to be discussed.