

**TOWN OF HIGHLAND  
ZONING BOARD OF APPEALS (ZBA)**

INTERPRETATION

Applicant(s): Yeshiva Ohr Shraga Veretzky  
Subject Property: 211 Mail Road  
SBL 15-1-70.1 and 70.2  
Date: July 18, 2024

*Statement of Facts:*

Applicant has a pending application for site plan approval and special use permit for operation of the Subject Property, currently approved for use as a “hotel,” as a “summer religious educational retreat”<sup>1</sup> (“Project”). Said conversion would include the construction of two (2) single story 6,800 sq ft dormitories with 72 beds each, an 800 sq ft mikva, and a 9,000 sq ft multi-purpose building.<sup>2</sup>

Applicant first appeared before the Planning Board on March 22, 2023. In advance of this appearance, the Planning Board requested that the Laberge Group commence a “special use review,” which was dated March 20, 2023 (“3/20/23 Laberge Review”) and was submitted to the Planning Board. On January 24, 2024, the Planning Board voted to refer the Applicant to the ZBA for a determination of use.

Applicant first appeared before the ZBA on April 16, 2024 and a public hearing thereupon was had and concluded on May 21, 2024. At the public hearing, concern was raised by members of the community, both by in-person speakers and in correspondence submitted to the ZBA, as to many issues more properly within the purview of the Planning Board in its site plan/special use permit review, including traffic safety, garbage, acreage of the site, the number of people to be utilizing the property, noise, the illegal use of fireworks and the risk of fire, and the effect of the proposed use upon the surrounding rural community.

Some members of the public complained that the true anticipated usage of the Subject Property had been obfuscated by the Applicant. One member of the public noted that the proposed use was already being openly and publicly advertised by the Applicant as a “camp.” The ZBA voted to close the public hearing, but keep the record open for a period of two (2) weeks for the submission of any further written comments. No further written

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<sup>1</sup> Memorandum of Law dated April 27, 2023 (“4/27/03 Barshov MOL”), 1.

<sup>2</sup> See Site Plan by John D. Fuller, P.E., P.C. last revised January 11, 2024 (Drawing S-2; General Notes [6]).

comments were received. The Applicant appeared again before the ZBA on June 20, 2024 to present more detailed plans for the Subject Property including, but not limited to, sketch plans of the proposed construction, and to answer additional inquiries from the ZBA and its counsel.

### *Analysis*

**The record demonstrates that the best and most accurate description of the proposed use of the Subject Property would be as a “children’s camp” which use, whether religious or secular in nature, is explicitly prohibited in the Town of Highland.**

Children’s camps are defined in the Code as follows:

**“CAMP, CHILDREN'S**

An establishment, either publicly or privately owned, complete with buildings, structures, sanitary facilities and ancillary services designated for the recreation and education of youth. The definition shall not include motels/hotels, campgrounds, or short-term rentals as defined herein.”

Town of Highland Code (“Code”), §190-7.

Children’s camps are, and have been for many years, explicitly prohibited in all zones throughout the Town, regardless of whether they are secular or religious in nature. *See Code at §190-41(H), Prohibited Uses in All Districts.*

The Applicant, through counsel, has taken care to describe use of the Subject Property as a “summer religious educational retreat,”<sup>3</sup> which is neither referenced or defined in the Code, stating:

“In the summer months Hasidic young adults, children, and families will come to the [Subject Property] to study Torah, communicate and study with their Rabbi, deepen their religious faith, and connect on a religious level with others of their religious community.”<sup>4</sup>

The Code at §190-12(B) provides, in relevant part:

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<sup>3</sup> 4/27/23 Barshov MOL, 1.

<sup>4</sup> Memorandum of Law by Steven Barshov, Esq. dated November 17, 2023 (“11/17/23 Barshov Memo”), 1.

“Any use not listed specifically within the District Schedule of Use Regulations shall be considered a prohibited use in all districts under this chapter.”

Applicant argues that, notwithstanding §190-12(B), the proposed use of the Subject Property as a “summer religious educational retreat” must be permitted as same constitutes a “place of worship,”<sup>5</sup> which is permitted in all zones in the Town as a special use under the Code.<sup>6</sup> Because “places of worship” are not defined in the Code, and the Courts consistently require that a municipality be “more flexible” in seeking to accommodate religious uses and expansive in defining what constitutes religious uses, Applicant argues that the ZBA has no alternative but to define the proposed use as Applicant urges.<sup>7</sup>

However, on June 20, 2024, Applicant made clear that the dormitories would house only children between the ninth and twelfth grades, would only house them for the summer months,<sup>8</sup> the Project would provide recreational and educational facilities for said children, and that parents will not be permitted to stay on-site.<sup>9</sup>

The Project is clearly designed and intended for the “recreation and education of youth,” i.e., a summer children’s camp, after or near the conclusion of the official school year to the exclusion of any other primary use. This logical conclusion is further bolstered by the Applicant’s identification on its own website of the Subject Property as “Mesivta Camp – Barryville.” <https://ohrshraga.org/>.<sup>10</sup>

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<sup>5</sup> See, generally, 4/27/23 Barshov MOL, 5-14.

<sup>6</sup> Code at Chapter 190 Schedule 2.

<sup>7</sup> See, generally, 4/27/23 Barshov MOL, 5-14.

<sup>8</sup> Said dormitories are best described as housing for the summer children’s camp, i.e., “bunks” and, as such, should not be deemed a separate use upon the Subject Property, but rather as a necessary component of any summer children’s camp offering temporary lodging.

<sup>9</sup> This directly contradicts with Applicant’s attorney’s statement that “Some of the students that would be given religious education at the Site are the children of the families that will reside on Site during the summer months.” 4/27/23 Barshov MOL, 4.

<sup>10</sup> It is worthy of note that the Applicant stated that the Subject Property would consist of the Yeshiva’s students from their Brooklyn and Lakewood New Jersey locations. Applicant stated that the Brooklyn schools regard the month of July as part of the school year and the students are mandated to stay “upstate” for that month. For these students at least, the Subject Property is their school for the month of July, not an “religious retreat.” In the R-2 zone in which the Subject Property sits, Educational Institutions are not permitted. *District Schedule of Use Regulations, 190 Attachment 3.*

**That the summer children’s camp proposed upon the Subject Property caters exclusively to a religious community and includes structures and uses that are undoubtedly religious in nature does not mandate interpreting use in the manner urged by Applicant.**

The Project includes structures and uses that are undoubtedly religious in nature, such as the mikva, shul, and related uses, and said uses would be permitted upon the Subject Property as the primary use of the Subject Property or perhaps as accessory uses to a permissible and related primary use. It is clear, however, that the mikva, shul, and related uses are ancillary to the primary use of the Subject Property as a summer children’s camp, which primary use is explicitly prohibited. The presence of such clearly religious structures and uses do not render the primary, explicitly prohibited use permissible.

None of the cases cited by Applicant require or even reference any finding or decision that a summer children’s camp run by and catering to a religious group be defined, described, or encompassed within the definition of a “place of worship.” To do so would be to render the definitions codified in the Code meaningless and allow a use (i.e., a children’s camp) to all religious groups while simultaneously denying same to all non-religious groups.

**The accessory usage of the Subject Property during the non-summer months is moot as the primary use is prohibited.**

As set forth above, the record clearly shows that the Project is designed and was presented to the ZBA as a summer children’s camp in all but name and the sporadic use of the Subject Property by either the campers/students or other groups for short periods of time over the remaining ten (10) months of the year may constitute accessory uses to the primary use of the Subject Property. As the primary use of the Subject Property is not permitted, whether these additional uses could be considered accessory uses to the primary use is moot.

Therefore, the ZBA makes the following findings regarding the interpretation sought:

***Findings***

- (1) The proposed use of the Subject Property is most properly characterized as a “Children’s Camp” under the Town of Highland Zoning Code;
- (2) While the use of property as a “Children’s Camp” is expressly prohibited in the Town of Highland, the final determination upon this application shall be made by the Planning Board;

- (3) Whether the other uses of the Subject Property during the remaining months of the year can be deemed proper accessory uses to a “Children’s Camp,” in the absence of a permissible primary use, is moot.

**Thereafter, the following interpretation was issued:**

**The proposed use of the Subject Property is most properly characterized as a “Children’s Camp” under the Town of Highland Zoning Code. While the use of property as a “Children’s Camp” is expressly prohibited in the Town of Highland, the final determination upon this application shall be made by the Planning Board. Whether the other uses of the Subject Property during the remaining months of the year can be deemed proper accessory uses to a “Children’s Camp,” in the absence of a permissible primary use, is moot.**

In FAVOR:

L. Fishman; G. Finn; S. Stolte; J. Consiglio; G. Billard

OPPOSED:

NONE

Motion is carried.

DATED: July 18, 2024  
Highland, NY



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Larry Fishman, Chairman  
Town of Highland Zoning Board of Appeals