

VILLAGE OF  
BRIARCLIFF MANOR  
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1111 PLEASANTVILLE ROAD  
BRIARCLIFF MANOR, N.Y. 10510  
TELEPHONE: (914) 944-2770  
FAX: (914) 941-4837

November 4, 2022

Yeshivath Viznitz Dkhal Torath Chaim, Applicant  
C/O Daniel Patrick  
Cuddy & Feder LLP  
445 Hamilton Ave, 14<sup>th</sup> Floor  
White Plains, NY 10601

Re: Yeshivah Application  
235 Elm Road  
Briarcliff Manor, NY 10510  
Parcel ID 98.19-2-11

To whom it may concern:

Reference is made to your application for a Special Permit for a Yeshivah at 235 Elm Road, pursuant to Chapter 220-6, Special Permit Uses, of the Code of the Village of Briarcliff Manor. These premises are located in the R-40B zoning district.

Review of information provided to date indicates that the application does not comply with the above referenced section of the Village Code for the following reason(s):

Section 220-6J(a) states that "the lot area shall be not less than five acres and shall have primary access from, and frontage of no less than 200 feet along, a state, county, arterial or collector road, as defined by the NYS Department of Transportation". The Premises has a lot area of 1,618,749 s/f (37.16 acres) that meets a portion of this requirement, however Elm Road is classified by the New York State Department of Transportation ("NYS DOT") as a local road and not a state, county or collector road.

Please refer to the attached Traffic Review Memorandum by DTS Provident, Design Engineering, LLP, dated November 3, 2022 for further discussion on this road classification.

You may appeal my decision through the Zoning Board of Appeals by following the procedure outlined in Chapter 220-17 of the Code of the Village of Briarcliff Manor. If you wish to proceed further with this matter, please contact Christine Dennett, Village Clerk. Any appeals must be filed within 30 days.

Sincerely,

David J. Turiano, P.E., CEO  
Building/Engineering Dept.

CC: Josh Subin, Steven Barshov, Zoning Board Chairman Christopher Bogart, Christine Dennett  
Attachment

## TRAFFIC REVIEW MEMORANDUM NO. 6 – SPECIAL PERMIT

TO: David J. Turiano, P.E.  
Village of Briarcliff Manor

FROM: Brian Dempsey, P.E., PTOE, RSP1

DATE: November 3, 2022

RE: Traffic and Site Circulation  
Plan Review  
Special Permit  
Yeshivath Viznitz  
235 Elm Road

DTS Provident Design Engineering, LLP (DTS Provident), formerly Provident Design Engineering (PDE), on behalf of the Village of Briarcliff Manor, has reviewed the Special Permit Application information provided in the October 12, 2022 Letter as well as the October 31, 2022 Letter from Cuddy & Feder for the proposed Yeshivath Viznitz proposed to be located at 235 Elm Road, the former Briarcliff Manor Pace University Campus.

### Village Code

Section 220-6J. "Special uses in residence districts" of the Village of Briarcliff Manor's Code states: The following restrictions shall apply to any special use in a residential district:

- a. The lot area shall be not less than five acres and shall have primary access from, and frontage of no less than 200 feet along a state, county, arterial or collector road, as defined by the NYS Department of Transportation.

### Applicant's Position re Compliance with Special Permit Requirements

As part of their October 12<sup>th</sup> Letter, the Applicant responded to the reference to Section 220-6J(a) of the Village Code that was made by the Village's Planning Consultant, Buckhurst Fish & Jacquemart, Inc. (BFJ Planning). The Applicant response was (*in italics*):

*Response: The Premises has a lot area of 1,618,749 s/f (37.16 acres) and has 691.5' of frontage along Elm Road. The Premises has direct frontage on Elm Road which is classified by the New York State Department of Transportation ("NYS DOT") as a Class 17 – Major Collector and a Class 19 – Urban Local roadway. While the portion of Elm Road*

on which the Applicant has direct frontage and access is classified as a Class 19 – Urban Local roadway, Elm Road transitions to a Class 17 – Major Collector between Pine Road and South State Road and Elm Road operates akin to an arterial or collector road as those are defined by the New York State Department of Transportation.<sup>23</sup> Specifically, Elm Road acts as a connection between Long Hill Road and South State Road. For reference, the Automatic Traffic Recorder (“ATR”) counts for Elm Road were performed by the Applicant’s traffic engineers, Colliers Engineering and Design, which demonstrate that Elm Road operates with an Annual Average Daily Traffic (“AADT”) of 2,518 vehicles, which demonstrate Elm Road’s larger traffic volumes and use for traffic circulation as well as land access. Please see the Applicant’s Traffic Impact Study prepared by Colliers Engineering & Design dated December 6, 2021 included with the Applicant’s December 9, 2021 submission for information on traffic operations of nearby roadways. Elm Road, upon which the Premises has over 200’ of frontage and primary access, can therefore be characterized as a collector or arterial roadway.

Furthermore, the stretch of Elm Road along which the Premises has direct frontage and access operates as a Major Collector/Minor Collector as classified by the U.S. Department of Transportation Federal Highway Administration (“US FHA”) Functional Classification Concepts, Criteria and Procedures. Specifically, the US FHA criteria for a Major Collector/Minor Collector include roadways within an AADT count of between 1,100 – 6,300 vehicles. As indicated above, the ATR counts for Elm Road demonstrate that it operates with an AADT of 2,518 vehicles. This is compared to a Local Road which the US FHA criteria state have an AADT of between 80-700 vehicle trips, well below the operations of Elm Road. Thus, Elm Road operates as a Major Collector/Minor Collector based on the US FHA criteria. [Emphasis provided]

As part of their October 31<sup>th</sup> Letter, the Applicant added (italics added):

*The Applicant’s October 12, 2022 letter provides responses to certain special permit criteria found at Section 220-6J of the Village Code. The Applicant refers to its October 12, 2022 as well as its prior correspondences which demonstrate conformance with all applicable special permit criteria.*

*One point of reiteration pertains to Section 220-6J(a) which provides that “the lot area shall be not less than five acres and shall have primary access from, and frontage of no less than 200 feet along, a state, county, arterial or collector road, as defined by the NYS Department of Transportation.” The Premises has a lot area of 1,618,749 s/f (37.16 acres) as shown on the Revised Engineering Site Plans prepared by Hudson Engineering & Consulting, P.C. dated August 12, 2022 (included with the Applicant’s August 30, 2022 submission to this Board). Elm Road is classified by the New York State Department of Transportation (“NYS DOT”) as a Class 17 – Major Collector and a Class 19 – Urban Local roadway and the Premises has 691.5’ of frontage along Elm Road as shown on the Revised Engineering Site Plans prepared by Hudson Engineering & Consulting, P.C. dated August 12, 2022 (included with the Applicant’s August 30, 2022 submission to this Board). The Premises complies with this requirement.*

### **DTS Provident Response**

As documented below, the overwhelming majority of Elm Road, and more importantly the portion of Elm Road along the Site Frontage, is classified as a Local Road by the New York State Department of Transportation (NYSDOT). Thus, it is not a state, county, arterial or collector road, as defined by the NYSDOT, which is the Village's requirement. A short section of Elm Road between South State Road and Pine Road is considered a "Major Collector" and that portion connects South State Road and Pine Road, which are classified as Major Collectors. The other roads that Elm Road connects with are Local Roads.

### **Functional Classification Description**

The Engineering Division of the Office of Technical Services of the NYSDOT defines Functional Classification on the NYSDOT website as "the process by which roads, streets, and highways are grouped into classes according to the character of service they provide. Individual roads and streets do not serve travel independently but as part of a network of roads through which traffic flows.

Functional classification defines the nature of this movement by defining the part that any particular road or street should play in serving the flow of trips through a highway network and the type of access it provides to adjacent properties. Functional classification describes the importance of a particular road or network of roads to the overall system and, therefore, is critical in assigning priorities to projects and establishing the appropriate highway design standards to meet the needs of the traffic served. Functional classification is also used to determine which roads are eligible for project funding under the Surface Transportation Program (STP) administered by the Federal Highway Administration."

The seven functional classifications:

- Principal Arterial - Interstate
- Principal Arterial – Other Freeway/Expressway
- Principal Arterial – Other
- Minor Arterial
- Major Collector
- Minor Collector
- Local

Each of the above functional classifications are further distinguished between urban and rural.

### **NYSDOT Roadway Classification Definitions**

Chapter 2 "Design Criteria" (dated April 15, 2021) of the NYSDOT Highway Design Manual (available on the NYSDOT website) in Section 2.4.1.2 through 2.4.1.4 define Arterials, Collector Roads and Streets, Local Roads and Streets as:

Suburban Arterial: Arterials in moderately and densely populated areas generally carry larger traffic volumes. They vary from multilane, divided, controlled-access facilities to two-lane streets. They serve major areas of activity, carrying a high proportion of an area's traffic on a small proportion of area's lane mileage.

Suburban Collector: Suburban collector streets link neighborhoods or areas of homogeneous land use with arterial streets. They serve to dual function of land access and traffic circulation.

Local Suburban streets are primarily village and city streets. Their primary purpose is access to abutting property.

### **Functional Classification of Elm Road**

The NYSDOT lists the Functional Classification of all roads in New York State in the Roadway Inventory Listing webpage, the definitive classification database for all roads in the state. The NYSDOT website also provides the New York State Roadway Inventory Viewer, which provides a map illustrating the classifications of each roadway. Both sources show that the portion of Elm Road at the proposed Site is classified as a "Local Road". Please see Attachment A annexed.

As illustrated on the above figure from the NYSDOT Functional Class Viewer, the subject section of Elm Road is classified as a Local Roadway. This section also is not considered a Federal Aid Eligible Road. The NYSDOT "Local Roads Listing" also lists this section of Elm Road as a Local Roadway.

A very small portion of Elm Road between South State Road and Pine Road is considered a "Major Collector" and that is because that piece connects South State Road and Pine Road, which are classified as Major Collectors. This portion is just over a tenth of a mile while the entire length of Elm Road is just under a mile, thus the small portion is only 12.5 % of the overall length of Elm Road. As stated above the portion of Elm Road where the Site has frontage, as well as 87.5% of Elm Road is classified as a Local Road by the NYSDOT.

Thus the NYSDOT classification for the portion of Elm Road along the Site frontage is a Local Road. The roadway classifications are established by the NYSDOT, not the Village, and we are not aware of a process for challenging or revising a road classification.

### **Conclusion**

In light of the above, it is evident that the portion of Elm Road along the Site Frontage is classified as a local road and not a state, county or collector road as defined by the NYS Department of Transportation and as required by the Briarcliff Manor Village Code.

This memo reflects DTS Provident's Professional Review and Comments.

**ATTACHMENT A**

