

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

October 7, 2020

Haverstraw Village Zoning Board of Appeals
40 New Main Street
Haverstraw, NY 10927

Tax Data: 26.50-1-8.2

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M

Map Date: 4/8/2004

Date Review Received: 9/11/2020

Item: 13 DOWD STREET - DETACHED GARAGE (VH-147)

A variance application to construct a detached garage for an existing single-family residence on 0.20 acres in the R-2 zoning district and the Mountain Protection Overlay District. Variances are requested for side yard, building height, maximum coverage, and distance from the principal structure.

The southern side of Westside Avenue, approximately 75 feet east of Dowd Street

Reason for Referral:

Ramapo Road/Westside Avenue (US Route 202), US Routes 9W/202, Town of Haverstraw, Village of West Haverstraw, High Tor State Park

The County of Rockland Department of Planning has reviewed the above item. Acting under the terms of the above GML powers and those vested by the County of Rockland Charter, I, the Commissioner of Planning, hereby:

****Disapprove***

1 The application materials included a site plan with a revision date of April 8, 2004 that did not include the proposed garage. Another site plan that depicts the location of the garage appears to be a copy of the first site plan, and has been reduced in size, is no longer to-scale, and has the bottom section cut off. The addition of the proposed garage was apparently not made by a surveyor or engineer and is only a rough approximation of the actual location. No bulk table has been provided and the proposed maximum lot coverage is not provided in the application materials. The plans submitted as part of a variance application must be complete, consistent and accurate. Without an updated site plan from a licensed surveyor or engineer, it is impossible to have the necessary confidence in the provided dimensions, and the extent of the maximum coverage variances is unknown. This application must be disapproved until an adequate site plan is provided.

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2 The application materials indicate that the subject property is located within the R-1 zoning district. However, the Village zoning map maintained by the Rockland County Planning Department indicates that the property is located in the R-2 zoning district and the Mountain Protection Overlay District. As such, the proposal must meet the additional requirements found in section 245-21 of the Village's zoning regulations. Of specific concern are the requirements of section 245-21.D (2), which requires that a minimum of 50% of the site remain undisturbed and in its natural state, and an additional 20% of the site remain in an open landscaped or open recreational use. Although the site plan does not specifically address these requirements, it appears likely that additional variances of these requirements are required. This application does not address the requirements of the overlay district, and must be disapproved.

The following comments address our additional concerns about this proposal.

3 The Town of Haverstraw and the Village of West Haverstraw are two of the reasons this proposal was referred to this department for review. The Town of Haverstraw boundary is approximately 320 feet west of the parcel. The Village of West Haverstraw boundary is approximately 260 feet northwest of the parcel. As required under Section 239nn of the State General Municipal Law, these municipalities must be given the opportunity to review the proposed application and provide any concerns related to the project to the Village of Haverstraw.

4 A review must be completed by the Rockland County Department of Health to ensure compliance with Article XIX (Mosquito Control) of the Rockland County Sanitary Code.

5 A review shall be completed by the New York State Department of Transportation and any required permits obtained, especially since the topography of the site slopes toward the State highway.

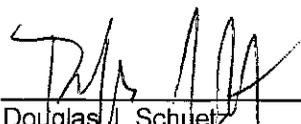
6 A review must be completed by the Palisades Interstate Park Commission and any comments or concerns addressed.

7 The rejection letter from the Village building inspector, dated September 11, 2020, and the referral form provide an incorrect parcel identification number and zoning district. The parcel identification number for 13 Down Street is 26.50-1-8.2, not 26.50-1-9, and the property is located in the R-2 zoning district, not R-1. The application materials must be corrected. The public hearing notice must be reviewed and, if it contains inaccurate information, re-issued.

8 A full-sized, to-scale site plan must be provided. It must include a bulk table, map notes with district information, and a vicinity map with a north arrow and scale.

9 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.

10 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.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Mayor Michael Kohut, Haverstraw Village
Rockland County Department of Health

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New York State Department of Transportation
Palisades Interstate Park Commission

Atzl, Scatassa & Zigler P.C.
Town of Haverstraw Planning Board
Village of West Haverstraw Planning Board

Rockland County Planning Board Members

**NYS General Municipal Law Section 239 requires a vote of a 'majority plus one' of your agency to act contrary to the above findings. The review undertaken by the Rockland County Planning Department is pursuant to, and follows the mandates of Article 12-B of the New York General Municipal Law. Under Article 12-B the County of Rockland does not render opinions, nor does it make determinations, whether the item reviewed implicates the Religious Land Use and Institutionalized Persons Act. The Rockland County Planning Department defers to the municipality forwarding the item reviewed to render such opinions and make such determinations if appropriate under the circumstances.*

In this respect, municipalities are advised that under the Religious Land Use and Institutionalized Persons Act, the preemptive force of any provision of the Act may be avoided (1) by changing a policy or practice that may result in a substantial burden on religious exercise, (2) by retaining a policy or practice and exempting the substantially burdened religious exercise, (3) by providing exemptions from a policy or practice for applications that substantially burden religious exercise, or (4) by any other means that eliminates the substantial burden.

Proponents of projects are advised to apply for variances, special permits or exceptions, hardship approval or other relief.

Pursuant to New York State General Municipal Law §239-m(6), the referring body shall file a report of final action it has taken with the Rockland County Department of Planning within thirty (30) days after final action. A referring body which acts contrary to a recommendation of modification or disapproval of a proposed action shall set forth the reasons for the contrary action in such report.