

DEPARTMENT OF PLANNING

Dr. Robert L. Yeager Health Center

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

December 9, 2019

New Hempstead Village Board
108 Old Schoolhouse Road
New City, NY 10956

Tax Data: 50.09-1-42

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

Map Date: 10/3/2019

Date Review Received: 11/5/2019

Item: *THE BREUER RESIDENCE/4 BAY COURT (NH-132)*

Special permit application to allow a Passover kitchen in a single-family dwelling on .37 acres in a 2R-15 zoning district. The Passover kitchen will be constructed within the existing living room. A multi-level deck is also proposed to be constructed at the rear of the residential structure.

South side of Bay Court, approximately 120 feet west of Brockton Road

Reason for Referral:

Town of Ramapo, Viola Road (CR 74), Village of Spring Valley

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:

****Recommend the following modifications***

- 1 Special permits, by definition, are subject to a higher standard of review. The Village Board must be satisfied that the proposed use complies with the applicable provisions of Article V, particularly Section 290-42 and 290-54. It is unclear if Section 290-54.C. is achieved as the survey submitted was last revised on May 20, 1965 so the proposed deck is not illustrated. This must be clarified. An updated survey must also be provided.
- 2 The applicant must comply with the conditions of the Rockland County Highway Department's letter of November 18, 2019.
- 3 A review must be completed by the Rockland County Health Department, and all required permits obtained.
- 4 A review must be completed by the Rockland County Sewer District #1, and all required permits obtained.
- 5 The residential building and special permit use must comply with all requirements of the New York State Uniform Fire Prevention and Building Code.

THE BREUER RESIDENCE/4 BAY COURT (NH-132)

6 The Town of Ramapo and the Village of Spring Valley are two of the reasons this proposal was referred to this department for review. The Ramapo municipal boundary is along the north side of Viola Road, approximately 145 feet south of the site; the Spring Valley municipal boundary is along the south side of Viola Road, approximately 205 feet south of the site. New York State General Municipal Law states that the purposes of Sections 239-l, 239-m and 239-n shall be to bring pertinent inter-community and county-wide planning, zoning, site plan and subdivision considerations to the attention of neighboring municipalities and agencies having jurisdiction. Such review may include inter-community and county-wide considerations in respect to the compatibility of various land uses with one another; traffic generating characteristics of various land uses in relation to the effect of such traffic on other land uses and to the adequacy of existing and proposed thoroughfare facilities; and the protection of community character as regards predominant land uses, population density, and the relation between residential and nonresidential areas. In addition, Section 239-nn was enacted to encourage the coordination of land use development and regulation among adjacent municipalities, and as a result development occurs in a manner which is supportive of the goals and objectives of the general area.

The Town of Ramapo and the Village of Spring Valley must be given the opportunity to review the proposal and its impact on community character, traffic, water quantity and quality, drainage, stormwater runoff and sanitary sewer service. The areas of countywide concern noted above that directly impact the Town of Ramapo and the Village of Spring Valley must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

7 As noted above, the 1965 survey does not include the deck addition. Given the size of the proposed deck, it is possible that bulk variances will be required. Updated plans must be submitted with a bulk table indicating any changes in the provided measurements resulting from the construction of the deck. If variances are required, the ZBA application will be subject to a review by this department as mandated under the NYS General Municipal Law.

8 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.

9 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 Abe Sicker, New Hempstead
Rockland County Department of Highways
Rockland County Department of Health
Rockland County Sewer District #1

Blueline Custom Design & Expediting
Town of Ramapo, Village of Spring Valley
Kenneth Irving, Architect P.C.

Nochum Goldmunzer, Blueline USA Inc.

THE BREUER RESIDENCE/4 BAY COURT (NH-132)

**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.

