Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

August 30, 2016

Orangetown Zoning Board of Appeals
21 Greenbush Road
Orangeburg, NY 10962

Tax Data: 70.14-4-7 70.14-4-6 70.14-4-5

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 7/5/2016 **Date Review Received:** 8/9/2016

Item: ***BAILEY'S SMOKE HOUSE (O-2070A)***

Variances to permit a restaurant use on a total of three parcels that are to be combined, on a total of 2.08 acres in the CS zoning district. Required variances include; rear yard, gravel parking instead of paved, and outdoor dining when all services shall be within completely enclosed buildings.
North side of Erie Street, east side of N. Moison Road, west side of the railroad right-of-way

Reason for Referral:

NYS Route 303

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 A review shall be completed by the New York State Department of Transportation, any concerns addressed, and any required permits obtained.

2 The comment in the August 15, 2016 letter from the Rockland County Department of Health must be met.

3 Details regarding the outdoor dining area should be provided, such as the number of tables and chairs proposed, hours of operation, duration of time to be used, etc.

BAILEY'S SMOKE HOUSE (O-2070A)

4 The parking calculation provided is based upon the square footage of the parking area and not on the gross floor area of the building, as required in Section 3.11, CS District Table, Column 6, #5. The square footage of the building must be provided, and the parking calculation derived from that measurement. It must be further clarified if the proposed outdoor dining area counts towards the floor area for the parking calculation. A parking variance may need to be required if the gross floor area exceeds 5,000 sq. ft., which is the measurement that was used for the parking calculation on the plans.

5 We are in possession of minutes from the Orangetown Planning Board for the re-subdivision and site plan. To date, the Rockland County Planning Department has not reviewed the application for either of these actions. We request the opportunity to review the re-subdivision and the site plan when it is referred back to the Planning Board for their review.

Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor Andrew Stewart, Orangetown
New York State Department of Transportation
Rockland County Department of Health

Anthony R. Celentano P.L.S.
D. P. Bailey LLC

**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 poiicy 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.