

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

October 18, 2016

Orangetown Planning Board
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: 9/27/2016

Item: ***BAILEY'S SMOKE HOUSE - SITE PLAN (O-2070C)***

Site plan for an expansion of an existing restaurant located on .33 acres, with a 1.75-acre parking lot adjacent to the site, all located within the CS zoning district. An outdoor seating area, addition, covered concrete portico, walkway fencing, gravel parking area, detention pond, dumpster, landscaping, and gates are proposed. The existing parking spaces along Erie Street are to be removed (the handicapped space will remain), and a freezer is to be relocated.

North side of E. Erie Street, east side of N. Moison Road

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 bulk table must be provided on the site plan, listing all bulk measurements. In addition, the parking calculation note provided on the subdivision plat, seems to be 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.

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- 2 Details regarding the outdoor dining area should be provided, such as the hours of operation, duration of time to be used, etc.
- 3 The comments in the September 30, 2016 letter from the Rockland County Sewer District #1 must be met.
- 4 As indicated in the September 29, 2016 letter from the Rockland County Department of Health, an application must be made to them for review of the stormwater system to ensure compliance with the County Mosquito Code.
- 5 It appears that the re-subdivision is only to merge Tax Lots 70.14-4-5 & 6 together. It is not clear if Tax Lot 70.14-4-7 is in the same ownership since it is owned by an LLC. If Mr. Bailey also owns this parcel, then all three parcels should be merged into one, especially since the restaurant use is reliant on this parcel for the parking needs. If this lot is not under the same ownership, then a cross easement, parking easement, map note, or some other legal means must be provided to guarantee that the parking will be available in the future for use of the restaurant.
- 6 A legend must be provided that clearly illustrates the meaning of the different symbols used on the site plan.
- 7 The proposed dumpster is located very far from the restaurant use. In addition, it seems to be located outside of the gravel area. How will access to the dumpster be provided? This must be clarified.
- 8 It must be clarified what materials will comprise the proposed walkway.
- 9 Additional landscaping should be provided in the front of the building on Erie Street, where the parking spaces are to be removed. This will reduce the likelihood of patrons trying to park in this area.
- 10 Areas that were paved or in gravel, that are no longer needed for the site, should be landscaped or seeded for a lawn, so as to reduce the amount of impervious area. These areas include: the parking area to be removed along Erie Street as noted above, the area south of the proposed walkway, which will make the outside dining area more inviting, and any of the gravel parking area that is not to be used for parking, particularly the section east of the detention basin. No notes are provided on the site plan regarding the disposition of this gravel area.
- 11 A review shall be completed by the New York State Department of Transportation, any concerns addressed, and any required permits obtained.
- 12 A lighting plan shall be provided that shows fields of illumination. This plan must demonstrate that the intensity of the candle lumens is less than 0.1 at the property line.
- 13 Prior to the start of construction or grading, a soil and erosion control plan shall be developed and in place for the entire site that meets the latest edition of the New York State Guidelines for Urban Erosion and Sediment Control.
- 14 There shall be no net increase in the peak rate of discharge from the site at all design points.
- 15 All proposed signage shall be indicated on the site plan and conform to the municipality's sign standards.

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16 If variances have been granted, then Map Note #15 on the site plan must be updated to accurately reflect the date and ZBA hearing in which they were approved.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor Andrew Stewart, Orangetown
New York State Department of Transportation
Rockland County Department of Health
Rockland County Sewer District #1

Anthony R. Celentano P.L.S.

**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.

