Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

June 29, 2018

Piermont Planning Board
Village Hall
478 Piermont Avenue
Piermont, NY 10968

Tax Data: 75.70-1-48

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 5/21/2018 **Date Review Received:** 6/1/2018

Item: ***BRENDER RESIDENCE - 215 PIERMONT AVENUE (P-151C)***

A site plan application to construct additions to an existing single-family dwelling on 0.022 acres in the R-7.5 zoning district. Improvements to make the structure compliant with flood requirements are also proposed. Variances are required for lot area, lot width, front yard, side yard, total side yard, rear yard, building height, FAR, and lot coverage.

The southern side of Piermont Avenue, approximately 450 feet west of the Ferdon Avenue bridge.

Reason for Referral:

Sparkill Creek, Town of Orangetown

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 Permitting development that does not comply with the applicable bulk standards can set an undesirable land use precedent and result in the overutilization of individual sites. The existing lot area and width are deficient by 87% and 62%, respectively. The proposed front, side, total side, and rear yards provide only 16%, 3%, 4%, and 24% of the required minimums, respectively. The proposed FAR is 197% greater than the allowed maximum. The lot coverage exceeds the limit by 145%. The ability of the existing infrastructure to accommodate increased residential density on undersized parcels is a countywide concern and must be evaluated. This evaluation must consider whether local roads will become more congested and the sewer system, stormwater management systems and the public water supply will be overburdened. The Village must consider the cumulative and regional impacts of permitting such development. The additions must not be permitted as proposed.

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The following comments address our additional concerns about this project.

2 The bulk table indicates that the proposed rear yard will be 7.3 feet. However, the site plan only gives a measurement of 3.1 feet from the rear property line to the structure. This discrepancy must be clarified, and the site plan or bulk table amended. In addition, the public hearing notice must be reviewed and, if necessary, reissued.

3 A review must be completed by the County of Rockland Drainage Agency and all required permits obtained from them.

4 The engineer of record shall certify to the floodplain administrator for the Village of Piermont that the proposed construction is in compliance with the floodplain regulations of the Village and the Federal Emergency Management Agency.

5 The Town of Orangetown is one of the reasons this proposal was referred to this department for review. The municipal boundary is approximately 380 feet south of the property line. 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 countywide 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 that is supportive of the goals and objectives of the general area.

The Town of Orangetown 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 Orangetown must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

6 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.

7 Prior to the start of construction or grading, all soil and erosion control measures must be in place for the site. These measures must meet the latest edition (November 2016) of the New York State Guidelines for Urban Erosion and Sediment Control.

8 There shall be no net increase in the peak rate of discharge from the site at all design points.

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.

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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 Bruce E. Tucker, Piermont
Rockland County Department of Health
Rockland County Department of Highways
Rockland County Drainage Agency
Rockland County Sewer District #1

Gdanski Consultants Inc.
Town of Orangetown

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.