

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

March 27, 2019

Ramapo Zoning Board of Appeals
237 Route 59
Suffern, NY 10901

Tax Data: 57.05-1-66

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

Map Date: 12/24/2018

Date Review Received: 2/14/2019

Item: **CONGREGATION BEIS YISROEL, INC./19 FANLEY AVENUE (R-2415A)**

Floor area ratio variance to allow the construction of a three-family dwelling with three accessory apartments on .2348 acres in an R-15C zoning district. Variances were previously granted for front setback, front yard, total side setback, rear setback, maximum development coverage and deck rear setback.

South side of Fanley Avenue, 20 feet west of Neil Road

Reason for Referral:

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:

****Disapprove***

1 Pre-existing, non-conforming lots are given special consideration under Section 376-131.D.(1) of the Town's Zoning Law. The bulk standards for several residential zoning districts are relaxed to accommodate the residential uses permitted by right in these zones. The subject site is 10,230 SF or 32 percent smaller than the 15,000 SF minimum lot area required for new three-family residences on conforming parcels in the R-15C zoning district. Several substantial variances were previously granted including a 56 percent increase over the maximum development coverage. Given that this site benefits from the application of Section 376-131.D.(1), the proposed building footprint and the number of units must be reduced to comply with the requisite standards. The variance for floor area ratio shall not be granted.

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2 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 applicant is now seeking a 21 percent increase over the maximum allowable floor area ration, after being granted six variances previously. These include a 56 percent variance for maximum development coverage, and yard and setback variances ranging from 17 percent to 50 percent. 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 Town must consider the cumulative and regional impacts of permitting such development. The proposed residential development shall be scaled back to more closely comply with the R-15C bulk requirements and the Section 376-131.D.(1) standards. The building footprint and the number of units must be reduced so that the floor area ratio standard is not exceeded.

The following comments address our additional concerns about this proposal.

3 The Village of Spring Valley is the reason this proposal was referred to this department for review. The municipal boundary is 200 feet east of the site. This area of the Village is zoned R-2, a medium-density residential zone characterized by one- and two-family residences. The maximum residential density permitted in this zone ranges from 4.84 to 8.71 units per acre. The applicant is proposing a residential density of 25.55 units per acre. 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 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 Village of Spring Valley must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

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

5 A review must be completed by the Rockland County Sewer District #1, and all required permits obtained.

6 The proposed residential building must comply with all requirements of the New York State Uniform Fire Prevention and Building Code.

7 A review must be completed by the Rockland County Office of Fire and Emergency Services, the Town of Ramapo Fire Inspector, or the Monsey Fire Department to ensure that there is sufficient maneuverability on site for fire trucks, in the event an emergency arises.

8 All proposed building entrances, exterior stairways, window wells and walkways must be delineated on the site plan demonstrating that they will not impact yard requirements or increase the development coverage. Parking maneuverability shall not be affected by the location of these features.

9 The development coverage and floor area ratio calculations must be provided on the site plan so their accuracy can be verified.

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10 It will difficult for vehicles parked in spaces 3 or 6 to maneuver out of the spots without a turnaround area. Building entrances, exterior stairways and walkways are not shown on the site plan, making it difficult to assess the parking area in relation to the pedestrian movement on site, and whether there will be safety issues for the residents. A turnaround area must be provided so that vehicles do not have to back out into the roadway. All building entrances, exterior stairways and walkways must be illustrated on the site plan so that safety issues can be properly evaluated.

11 It will be difficult for sanitation workers to access the dumpster enclosure if vehicles are parked in spaces 1 and 2. The dumpster enclosure must be moved to a more accessible location.

12 The purpose of the crosshatched area south of parking space 3 must be clarified. The central portion of the building extends four feet into the parking lot thereby blocking access to half of the crosshatched area. The remaining space is insufficient for someone in a wheelchair to navigate. It cannot be an access aisle for a handicapped parking space given its proximity to the residential structure. If a handicapped parking space is required, it must be completely accessible. The current configuration is unacceptable.

13 The site plan shall contain map notes that list all appropriate information, including the district details. The applicant's engineer has been reminded of this requirement, and the importance of providing these details.

14 The municipal boundary ends abruptly on the vicinity map. The boundary line must be extended in a southerly direction.

15 The project narrative does not distinguish between the variances previously granted and the one currently sought. Since this application is for the floor area ratio variance only, the narrative must specify that the front yard, front setback, rear setback, development coverage and deck rear setback variances were previously granted. The ZBA meeting date and resolution number must also be provided.

16 The GML Referral Form must include the map date to ensure that this department is reviewing the same information as the Town.

17 Pursuant to the Rockland County Sanitary Code, Article XIII, Section 13.8.1, all multiple dwellings with three or more rental units must register and obtain a Multiple Dwelling Rental Certificate (MDRC). If this proposed multi-family dwelling meets the requirements of the Multiple Dwelling Rental Registry requirement, then the owner must register and obtain the MDRC. Failure to comply is a violation of Article XIII, which may result in penalties of \$2,000 per day.

18 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.

19 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: Supervisor Michael B. Specht, Ramapo
Rockland County Department of Health

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Rockland County Sewer District #1
New York State Department of State
Rockland County Office of Fire and Emergency Services
Monsey Fire District

Anthony R. Celentano P.E.
Village of Spring Valley

Congregation Beis Yisroel, Inc.

Mona Montal, Chief of Staff
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.