



COUNTY OF ROCKLAND
DEPARTMENT OF PLANNING

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DOUGLAS J. SCHUETZ
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August 7, 2015

Spring Valley Zoning Board of Appeals
200 N. Main Street
Spring Valley, NY 10977

Tax Data: 57.32-1-29 57.32-1-28

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

Map Date: 6/15/2015

Date Review Received: 7/24/2015

Item: **BETHUNE GARDENS (SV-838A)**

Variances to permit construction of two apartment buildings, which will house 10 units each, for a total of 20 units in the PRD zoning district. The proposed development consists of two parcels that total .87 acres, plus includes a right-of-way for Ben Wild Road (Prospect Street) which is .22 acres. Required variances include front yard and rear yard. In addition, it seems that a variance for density may also be required.

East side of Bethune Boulevard, north and south sides of Ben Wild Road; project also includes a portion of the right-of-way for Ben Wild Road

Reason for Referral:

Town of Clarkstown

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***

As a first step in permitting this proposed apartment development, the applicant must appear before the Spring Valley Village Board to officially have Ben Wild Road (Prospect Street) abandoned, and purchased/transferred to their ownership. Until that action is taken, it is not feasible to review the proposed special permit, site plan, lot line mergers, and variance applications.

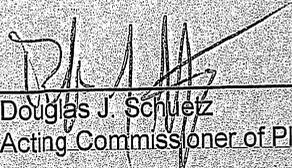
We request the opportunity to review the proposed development once the land within the right-of-way has been abandoned as a public roadway, and purchased/transferred to the applicant. The following recommendations address our additional concerns about the required variances.

BETHUNE GARDENS (SV-838A)

- 1 The maximum permitted density is 18 units per acre. If Ben Wild Road is abandoned and transferred to the applicant as part of the development, then the total lot area will be 1.09 acres, which can only legally contain 19 units. The number of dwelling units must be decreased so that no variances are required for the residential density. If a variance for density is required, and sought by the applicant, then the public hearing notice will need to be updated to reflect this additional required variance.
- 2 The Town of Clarkstown is the reason this proposal was referred to this department for review. The municipal boundary is along the eastern property line of the two parcels. 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 Clarkstown 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 Clarkstown must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.
- 3 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 ability of the existing infrastructure to accommodate increased residential density 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.
- 4 The comments in the July 28, 2015 letter from the Rockland County Sewer District No. 1 must be met.
- 5 Map Note #7 of the General Notes must be revised to indicate that the plans do not conflict with Section 239 l & m of the General Municipal Law.
- 6 The proposed residential buildings must comply with all requirements of the New York State Uniform Fire Prevention and Building Code.
- 7 The narrative dated June 24, 2015 submitted by Civil Tec Engineering & Surveying PC states that a use variance will be required, as well as these two variances for front and rear yard. If a use variance is required, then the narrative should clarify why.
- 8 A special permit use is required for this proposed apartment development according to Section 255-14, Appendix A, Subsection A-6. Multifamily dwellings are listed as a special permit of the Village Board in Subsection A-6 B(10) of the PRD zoning district. We request the opportunity to review the proposed multifamily development when it is transmitted to the Village Board for the special permit use.

BETHUNE GARDENS (SV-838A)



Douglas J. Schuez
Acting Commissioner of Planning

cc: Mayor Demeza Delhomme, Spring Valley
Rockland County Department of Health
Rockland County Drainage Agency
Rockland County Sewer District #1
Rockland County Planning Board
Civil Tec Engineering & Surveying PC
Town of Clarkstown Planning Board
New York State Department of State,
Division of Code Enforcement & Administration
Construction Expediting

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.

