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 9, 2018

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

Tax Data: 57.32-1-31 57.32-1-30 57.32-1-29
57.32-1-28

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 5/29/2018 **Date Review Received:** 6/27/2018

Item: ***42 - 48 BETHUNE BOULEVARD (SV-838D)***

A variance application to allow the construction of three multifamily structures with a total of 48 dwelling units on 1.98 acres, combined from four existing lots and the abandonment of Ben Wild Road, in the R-2 zoning district and the PRD Overlay District. Variances are requested for rear yard, units per acre, distance between buildings, parking space dimensions, and number of buildings per lot.
The eastern side of Bethune Boulevard, approximately 415 feet north of Clinton Street.

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**

1 The Village zoning regulations authorizes the Zoning Board of Appeals to "vary or modify the strict letter of this chapter, where its literal interpretation would cause practical difficulties or unnecessary hardships..." The subject property is a regularly-shaped parcel with sufficient lot area for multi-family use. There are no unusual conditions or hardships associated with this property for which a variance would be necessary to grant relief. The application, therefore, does not represent a request for relief from a hardship, but rather is a request to overdevelop the property. Bulk requirements, such as minimum yard size and limits on the number of residential units per acre, serve an important and necessary function, and should not be dismissed without cause or the identification of a legitimate hardship. We recommend that this application be disapproved, and that the property be developed within the requirements of the village zoning regulations.

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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 proposed 48 residential units are 37% more than the 35 units allowed on a parcel of 1.98 acres. As a result of the excess number of units, several other bulk variances are required. The proposed rear yard is deficient by 40%. In order to accommodate the required number of parking spaces, the stall width has been reduced by 11% to eight feet. In addition, the buildings have been constructed with 22% less than the required distance between structures. 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 number of units must be reduced to more closely conform to the village regulations.

3 While the proposal provides an appropriate number of parking spaces, the proposed reduction of stall width will result in an inadequate supply of parking for the site. An eight-foot wide stall width, usually dedicated to compact cars, is insufficient for a residential parking lot and will result in vehicles encroaching upon adjacent spaces, thereby effectively reducing the number of spaces available. A standard SUV is 6.5 feet wide, plus an additional 16 to 20 inches for side mirrors, resulting in an overall width that is greater than eight feet. The parking area must be reconfigured to provide full-width spaces so that all types of vehicles can be parked safely on the site.

The following comments address our additional concerns about this proposal.

4 In addition to the concerns about the width of the parking stalls, there are several parking spaces near the western property line that are inadequate due to their close proximity to the driveways. Vehicles parking in these spaces will back out into the same area that vehicles enter the property from the street, creating potential traffic conflicts. In addition, it will be difficult for vehicles entering the property to maneuver into parking spaces 1, 96, 54, and 53. The proposed trees are encroaching upon space 54. Lastly, a turnaround area has not been provided for spaces 61 and 70. The parking area must be reconfigured to eliminate potential traffic conflicts and improve the maneuverability of vehicles entering and exiting spaces.

5 The proposed play area is labelled with a gate that exits directly into the parking area. This is an unacceptable safety hazard. The play area must have a separate entry area that is physically separated from parking spaces. A pedestrian walkway across the parking lot, with appropriate signage, must also be provided.

6 The Town of Clarkstown Planning Board reviewed this proposal at their July 11, 2018 meeting. All comments and concerns raised in their letter of July 12, 2018 must be addressed.

7 The applicant must comply with all comments made by the Rockland County Sewer District No. 1 in their letter of July 17, 2018.

8 The applicant must comply with all comments made by the Rockland County Health Department in their letter of July 12, 2018.

9 The fire truck turning radius shown on the site plan indicates the southern dumpster enclosure will impede the access of emergency vehicles. A review must be completed by the Rockland County Office of Fire and Emergency Services, the Village of Spring Valley Fire Inspector, or the Spring Valley Fire Department to ensure that there is sufficient maneuverability on site for fire trucks, in the event an emergency arises.

10 The site plan map notes must include district information. In addition, the site plan includes existing curb cuts and does not show the entirety of the proposed curbs and sidewalks. The site plan must include curbs and sidewalks throughout the entire length of the project.

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11 The application form indicates the property receives water service from United Water. The form must be corrected to Suez. In addition, page 10 of 12 of the application form indicates that a variance of the front yard, not the rear yard is required, and must be corrected. The public hearing notice must be reviewed and, if it contain inaccurate information, re-issued.

12 The tax map designation on the site plan below the surveyor's stamp is incorrect and must be corrected. All lots must be listed individually as well, and not hyphenated.

13 The proposed property is the result of the merger of four existing lots and the abandoned right-of-way of Ben Wild Road. The applicant and the Village must confirm that the deeds have been properly filed with the Rockland County Clerk and the Village's official map has been amended to reflect the road abandonment prior to approving this project.

14 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.

15 The NYS Department of State has determined that the Village is not administering or enforcing the State Uniform Fire Prevention and Building Code in accordance with minimum standards set forth in 19 NYCRR part 1203. Given the concerns about the Village's administration and enforcement of the State Uniform Fire Prevention and Building Code initially raised in the Executive Deputy Secretary of State's letter of July 15, 2016, and subsequently again in December 18, 2017, the proposed residential building must be held to the requisite minimum standards and comply with all requirements of this code.

16 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.

17 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 Alan Simon, Spring Valley
New York State Department of State
Rockland County Department of Health
Rockland County Office of Fire and Emergency Services
Rockland County Sewer District #1
Spring Valley Fire District

Anthony R. Celentano P.L.S.
Town of Clarkstown Planning Board
Construction Expediting

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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.