

DEPARTMENT OF PLANNING

Dr. Robert L. Yeager Health Center
50 Sanatorium Road, Building T
Pomona, New York 10970

Phone: (845) 364-3434 Fax: (845) 364-3435

Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

October 31, 2018

Spring Valley Planning Board
200 N. Main Street
Spring Valley, NY 10977

Tax Data: 50.80-1-22

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

Map Date: 5/22/2017

Date Review Received: 9/11/2018

Item: 68-84 EWING AVENUE (SV-840C)

A site plan application to use an existing building for retail and multifamily residential uses on a corner lot with 0.43 acres in the RSH zoning district and the PRD overlay zoning district. Variances have been granted for lot area, front yard (Bethune Boulevard), side yard, rear yard, and floor area ratio. A waiver of required parking by the Planning Board is requested. This is a re-approval of the site plan, as the initial review was not submitted to the Rockland County Department of Planning, as required under New York State General Municipal Law, Section 239L.

The southeastern corner of Ewing Avenue and Bethune Boulevard.

Reason for Referral:

Town of Ramapo

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 The parking calculation on the site plan indicates that six residential units are proposed. However, page 2 of 12 of the application review form indicates that eight dwelling units are proposed. The applicant must clarify the number of units being proposed. If the applicant is proposing eight units, then the site plan and parking calculation must be amended. In addition, earlier variance and special permit applications were based on six residential units. If the number of proposed units has been increased to eight, then the applicant must make new applications to the Zoning Board of Appeals and Village Board for the necessary variances and special permit. The new variance application must include a variance for number of units per acre, as section A-6E(2) would limit the number of units on this parcel to seven. Any new applications must be sent to this department for review, as required by General Municipal Law.

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2 The narrative provided states the applicant "is requesting to build a multi-family dwelling & retail stores." The site plan and previous applications indicate that an existing structure is to be used. The applicant must confirm that they are proposing to retain the existing structure and must amend the narrative.

3 The Town of Ramapo is the reason this proposal was referred to this department for review. The municipal boundary is along the centerline of Ewing Avenue to the north and east of the parcel. 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 Ramapo 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 Ramapo must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

4 The applicant must comply with all comments made by the Rockland County Sewer District No. 1 in their letter of October 15, 2018.

5 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.

6 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.

7 The bulk table indicates that the height of the building is 40 feet. Since the existing building is only two stories, this height must be verified and, if necessary, the bulk table must be corrected.

8 The map notes must include district information. The vicinity map must include a north arrow and a scale.

9 A landscaping plan must be provided that includes low evergreen landscaping or a berm in front of the parking spaces facing the roadway to shield headlights from shining into oncoming vehicles traveling on the road.

10 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.

11 All proposed signage shall be indicated on the site plan and shall conform to the municipality's sign standards.

12 The applicant has requested a waiver of the required number of parking spaces. As per section 255-29B, the applicant must demonstrate that the reduction of available parking spaces will not result in additional street parking or create a hazardous condition for vehicles and pedestrians. The village must be satisfied that the provided number of parking spaces can accommodate the peak demand for the property.

13 The application form indicates the property receives water service from United Water. The form must be corrected to Suez.

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

Civil Tec
Town of Ramapo Planning Board
Construction Expediting

**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.

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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.