



# 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 2, 2019

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

**Tax Data:** 50.78-2-45 50.78-2-44

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

**Map Date:** 7/5/2019

**Date Review Received:** 7/11/2019

**Item:** *BRUNO WEST - 53 UNION ROAD (SV-316B)*

A variance application to allow the construction of a four-story office building with parking under the building, which comprises the first floor. The site is located on 1.12 acres in the GB zoning district. Variances are requested for front yard, number of stories, building height, floor area ratio, and number of parking spaces.

The western side of Union Road, approximately 240 feet south of Jasinski Road.

### Reason for Referral:

Town of Ramapo, Pascack Brook

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 This proposal requires substantial bulk variances to be granted and would result in a general overuse of the property. The Village zoning regulations authorize 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 all allowed uses in the GB zoning district. There are no unusual conditions or hardships associated with this property for which a variance would be necessary to grant relief. Any variance 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 floor area ratios, serve an important and necessary function, and should not be dismissed without cause or the identification of a legitimate hardship. We recommend that this proposal 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 front yard is deficient by 47%. The height of the structure exceeds the maximum limit by 29% and an additional story. The floor area ratio is 2.76 times greater than permitted. Even though the proposed parking spaces extend to the edge of the side and rear property lines, with no landscaped buffer provided, the number of spaces provided is only 76% of the required minimum. 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 overall size of the structure must be reduced to comply with the Village's bulk requirements.

3 The proposed site plan provides 39 fewer spaces than required. This is a significant deficiency and Union Road is a busy road with no capacity to accommodate overflow parking. The building must be reduced in size so that the site can accommodate the required number of parking spaces. The application must be disapproved and the property developed with an adequate number of on-site parking spaces.

4 The site plan indicates that parking will be located at grade level underneath the proposed structure. These spaces are shown to occupy the entirety of the building footprint, with the exception of a stairwell in the northwestern corner. The site plan makes no allowance for structural supports, storage or mechanical spaces, or entry doors to the front lobby. This department must conclude that, once these necessary features are incorporated, the proposed parking layout will not be feasible and the deficit of parking spaces will increase. This application must be disapproved and the property developed with an adequate and feasible parking plan, and building size that conforms to the site.

The following comments address our additional concerns about this proposal.

5 The Town of Ramapo is one of the reasons this proposal was referred to this department for review. The municipal boundary is approximately 60 feet west 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.

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 A review must be completed by the County of Rockland Sewer District No. 1 and all required permits obtained from them.

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

9 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.

**BRUNO WEST - 53 UNION ROAD (SV-316B)**

10 The parcel must be centered within the vicinity map.

11 A site plan approval is required for this proposal. We request the opportunity to review the site plan application for this proposal, as required by New York State General Municipal Law, Section 239-m (3)(a)(v).

12 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.

13 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.

14 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  
Rockland County Drainage Agency  
New York State Department of State  
Rockland County Office of Fire and Emergency Services  
Spring Valley Fire District  
  
Anthony R. Celentano P.E.  
Town of Ramapo Planning Board

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.*

