

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene Miller
Deputy Commissioner

July 15, 2020

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

Tax Data: 57.24-1-35

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

Map Date: 7/6/2020

Date Review Received: 7/7/2020

Item: **131 BETHUNE BOULEVARD (SV-959B)**

A site plan application to construct an approximately 17,500-square foot, 15-unit multifamily structure on 0.53 acres in the RSH zoning district and PRD overlay district. Variances are required for lot width, front yard, side yard, rear yard, floor area ratio, and number of units per acre.

The western side of Bethune Boulevard, approximately 410 feet south of Ewing Avenue

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:

****Disapprove***

1 This proposal requires multiple, extensive variances. 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 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 required variances, therefore, do 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 lot width is 83% of the required minimum. The front, side, and rear yards are deficient by 17%, 25%, and 60%, respectively. The proposed floor area ratio exceeds the maximum standard by 27% and the number of units allowed based on lot area exceeds the maximum standard by 58%. 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. This proposal must be disapproved and the property developed in a manner that is consistent with the Village's requirements.

The following comments address our additional concerns about this proposal.

3 The Town of Ramapo is the reason this proposal was referred to this department for review. The municipal boundary is approximately 490 feet northwest 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 Department of Health in their letter of April 10, 2019.

5 The applicant must comply with all comments made by the Rockland County Sewer District No. 1 in their letter of April 8, 2019.

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 Prior to the start of construction or grading, all soil and erosion control measures must be in place for the site. These measures must meet the latest edition (November 2016) of the New York State Standards for Urban Erosion and Sediment Control.

8 There shall be no net increase in the peak rate of discharge from the site at all design points.

9 Water is a scarce resource in Rockland County; thus proper planning and phasing of this project are critical to supplying the current and future residents of the Villages, Towns, and County with an adequate supply of water. A letter from the public water supplier, stamped and signed by a NYS licensed professional engineer, shall be issued to the municipality, certifying that there will be a sufficient water supply during peak demand periods and in a drought situation.

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- 10 If any public water supply improvements are required, engineering plans and specifications for these improvements shall be reviewed by the Rockland County Department of Health prior to construction. In order to complete an application for approval of plans for public water supply improvements, the water supplier must supply an engineer's report pursuant to the "Recommended Standards for Water Works, 2003 Edition," that certifies their ability to serve the proposed project while meeting the criteria contained within the Recommended Standards for Water Works. These standards are adopted in their entirety in 10 NYCRR, Subpart 5-1, the New York State regulations governing public water systems. Further, both the application and supporting engineer's report must be signed and stamped by a NYS licensed professional engineer and shall be accompanied by a completed NYS Department of Health Form 348, which must be signed by the public water supplier.
- 11 Public sewer mains requiring extensions within a right-of-way or an easement shall be reviewed and approved by the Rockland County Department of Health prior to construction.
- 12 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.
- 13 All proposed signage shall be indicated on the site plan and shall conform to the Village's sign standards.
- 14 The snow storage area shown on sheet 1 is inadequate for the size of the proposed parking area. In addition, it is not depicted, and the play area dimensions are different, on the Landscaping and Lighting sheet of the site plan than on the rest of the site plan. All materials must be consistent. The snow storage area must be expanded and the Landscaping and Lighting sheet must be corrected.
- 15 The lighting plan must be amended to demonstrate that the intensity of the candle lumens is less than 0.1 at the property line.
- 16 A landscaping plan shall be provided that includes low evergreen shrubs along the northern property line to block the headlights of parked vehicles from shining into the neighboring property.
- 17 The parking lot is set only five feet back from the front property line. Vehicles exiting parking spaces 1 and 30 will be forced to back into the accessway, creating a potential conflict with vehicles entering the site. The parking area must be reconfigured to provide adequate distance between spaces and the roadway.
- 18 The dumpster location will force trucks making pick-ups to turn around within the parking area. The applicant must demonstrate that there is adequate room to maneuver or relocate the dumpster to an accessible location that does not encroach upon required yards. If the dumpster remains in its location, a turnaround area must be provided.
- 19 The access gate to the play area is blocked by the main structure. The gate must be moved to an accessible location.
- 20 Section 255.22.C of the village zoning regulations exempts open porches and decks from yard and coverage requirements. The village must confirm that the proposed rear decks comply with this section and do not include any enclosed spaces.
- 21 A previous version of the site plan that was forwarded to this department for review indicated that the proposed structure's dimensions were 153.57' by 38.0', for an overall footprint of 5,835.66 square feet. The current version of the site plan indicates that the proposed structure's dimensions will be 153.57' by 42.0', with an overall footprint of 6,449.94 square feet. However, the proposed Floor Area Ratio for both versions remains the same at 0.76. The applicant must clarify this discrepancy and provide an FAR calculation on the site plan. This calculation must include a floor by floor tally of gross floor area and, if applicable, a statement that the basement is exempt from FAR requirements due to its height. If the FAR exceeds 0.76, an application for an additional variance must be made and sent to this department for review.

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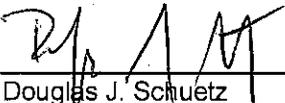
22 The middle deck on the southern façade straddles two units. It must be clarified if this deck is to be shared or not. If so, the Village must be satisfied that agreements for access and maintenance are in place.

23 The proposed residential building must comply with all requirements of the New York State Uniform Fire Prevention and Building Code. All entries, stairs, decks, and window wells must be shown on the site plan to ensure that there is sufficient access to the building for firefighting purposes. In addition, since no specific building height has been provided, it cannot be determined if the building is greater than 30 feet to the eaves. This information must be provided.

24 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.

25 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.

26 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.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.