Rockland County

Ed Day, Rockland County Executive

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

January 29, 2020

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

Tax Data: 57.24-1-40 57.24-1-52 57.24-1-38

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 8/15/2016 **Date Review Received:** 1/10/2020

Item: ***UPPER ROOM HOUSE OF WORSHIP - 118 BETHUNE BOULEVARD (SV-992A)***

A variance application to allow the construction a 125-seat place of worship with three parking spaces on 0.17 acres in the R-2 zoning district and PRD overlay district. An additional 20 parking spaces are proposed on a 0.17-acre parcel approximately 50 feet north and east (parcel number 57.24-1-52), and 16 additional spaces are proposed on a 0.20-acre parcel approximately 200 feet south of the principal lot (parcel number 57.24-1-40). Variances are required for lot area, lot width, side yard, total side yard, rear yard, and floor area ratio. A waiver for 25% of the required number of parking spaces by the Planning Board is requested. This is a re-approval of the application, 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 eastern side of Bethune Boulevard, approximately 150 feet north of Crispus Attucks Street (principal structure); the western side of Rose Avenue, approximately 250 feet north of Crispus Attucks Street (parking); and southeastern corner of Crispus Attucks Street and Bethune Boulevard (parking).

Reason for Referral:

Towns of Ramapo and 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 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 principal lot area is less than the required minimum of 8,500 square feet for a single-family residence and provides only 33% of the required minimum lot area for a place of worship. The lot width, side yard, and total side yard are deficient by 50%. The proposed floor area ratio exceeds the maximum limit by 134%. The ability of the existing infrastructure to accommodate increased activity 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 proposal must be disapproved, and the property

developed in a manner that more closely conforms to the bulk requirements of the overlay district.

The following comments address our additional concerns about this proposal.

2 The proposal includes the construction of a walking path with a retaining wall and bollard lights between the principal parcel and the parking area on parcel 57.12-1-52. This path traverses a 10-foot wide unnamed alleyway that appears to be within the village right-of-way. The applicant must clarify the ownership of this alleyway and obtain permission to utilize it either through purchasing the land or creating an access easement.

3 The proposal includes the creation of a 16-space parking lot on parcel 57.24-1-40. Section 225-31.E of the Village's zoning regulations allows accessory parking to be located on nearby lots. However, the Village's regulations require that the lots be in the same ownership as the use to which they are accessory, and shall be subject to deed restrictions. Based on information provided with the application, parcel 57.24-1-40 is not owned by Upper Room House of Worship. In order for accessory parking to be located on this parcel, the applicant must acquire it.

The County wishes to note that, according to available information, parcel 57.24-1-40 is non-conforming for width and appears to be in the same ownership as the adjacent lot, parcel 57.24-1-41, which is also non-conforming. As per section 255-52.C of the Village's regulations, any two non-conforming, adjacent lots in common ownership shall be deemed merged. Any proposed sale and subsequent use of parcel 57.24-1-40, must be in conformance with section 255-52.C of the Village's regulations.

4 The proposed parking area on parcel 57.24-1-38 is inadequate. A five-foot pedestrian path is located within the driveway. No curb cuts are shown for the driveway, only a drop curb for the pedestrian path. Vehicles parked in all three proposed parking spaces will be forced to back out over and exit through the pedestrian path, creating a safety hazard for pedestrians. Lastly, the use of a chain link fence with privacy slats, with no landscaped buffer is inadequate. The parking area and pedestrian path must be modified to provide vehicle access, turnaround areas for vehicles, additional landscaping to shield neighboring properties, and safe access for pedestrians.

5 The parking area on parcel 57.24-1-40 is inadequate. No turnaround area is provided for the easternmost parking space. The westernmost parking space is adjacent to and partially within the accessway, creating a conflict between vehicles backing out of the space and vehicles entering the lot. There is no proposed landscaped buffer along the southern property line. The parking area must be modified to provide turnaround areas, avoid conflicts with vehicles entering the parcel, and provide additional landscaping to shield neighboring properties.

6 The proposed parking area on parcel 57.24-1-52 is inadequate. No turnaround area is provided for the westernmost parking space. The easternmost parking space is adjacent to and partially within the accessway, creating a conflict between vehicles backing out of the space and vehicles entering the lot. The two light fixtures are proposed to be located in the middle of the asphalt with no bollards or curbs to prevent vehicles from striking them. No landscaped buffer is proposed to shield neighboring properties from vehicle headlights. The parking area must be modified to provide turnaround areas, avoid conflicts with vehicles entering the parcel, and provide additional landscaping to shield neighboring properties.

7 The parking calculation provided states that 31 parking spaces are required for the proposed 125-seat house of worship. The parking requirement of one space per four seats results in a requirement of 31.25 parking spaces. Since a fraction of a parking space cannot be provided, this calculation must be rounded up to 32 parking spaces. In addition, a waiver of 25% of the required parking would result in 24 required spaces, not 23. The parking calculations must be corrected. The proposal must include 24 parking spaces that are provided in conformance with the village's regulations and the required modifications that were indicated in previous comments.

UPPER ROOM HOUSE OF WORSHIP - 118 BETHUNE BOULEVARD (SV-992A)

8 The Towns of Ramapo and Clarkstown are the two reasons this proposal was referred to this department for review. The Ramapo boundary is approximately 370 feet east of the principal parcel, and 210 feet east of parcel 57.24-1-52. The Clarkstown boundary is approximately 440 feet southeast of parcel 57.24-1-40. 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 Towns of Ramapo and 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 these municipalities must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

9 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.

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

11 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.

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

13 The application review form and the GML referral form do not mention parcel 57.24-1-40. The submitted site plan depicts proposed improvements and uses for this parcel. All materials must be consistent. Relevant information for parcel 57.24-1-40 must be included on both forms. The public hearing notice must be reviewed and, if it contains incomplete or inaccurate information, re-issued.

14 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.

15 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.

UPPER ROOM HOUSE OF WORSHIP - 118 BETHUNE BOULEVARD (SV-992A)

16 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 Sewer District #1
Rockland County Office of Fire and Emergency Services
Spring Valley Fire District

Arden Consulting Engineers, PLLC
Town of Ramapo Planning Board
Town of Clarkstown 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.