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 17, 2020

West Haverstraw Zoning Board of Appeals
130 Samsondale Avenue
West Haverstraw, NY 10993

Tax Data: 26.08-3-30

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 7/13/2020 **Date Review Received:** 7/30/2020

Item: ***SILOE CHURCH OF GOD - 87 SAMSONDALE AVENUE (WH-193)***

A special permit and variance application to convert an existing non-conforming pizzeria to a place of worship on 0.27 acres in the R-3 zoning district. The existing parcel is non-conforming for lot area, lot width, total impervious lot coverage, front setback, side setback, total side setback, rear setback, side yard, and rear yard. A variance is required for parking in the front yard.
The southern side of Samsondale Avenue, opposite Knox Street

Reason for Referral:

Minisceongo Creek, Village of Haverstraw

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 Despite the removal of a portion of the existing asphalt on the western side of the structure and the installation of a landscaping bed at the front of the property, the impervious lot coverage of the parcel is over 96%, which exceeds the maximum coverage limit by 129%. In addition, five of the proposed parking spaces, including a handicapped-accessible space, are located within the front setback. Vehicles parking in these spaces will be forced to back out into the roadway, creating a hazard to pedestrians and motorists. These spaces are also unable to comply with section 250-25.C(2) of the Village's regulations, which requires parking lots across from residential districts to be screened by a hedge and landscaping. The layout of the remaining parking spaces also has other inadequacies, with no turnarounds provided for parking spaces 8 and 14, making them difficult to maneuver into and out of, as well as parking space 13 having insufficient backup distance because of the proximity of the structure.

The parcel is unable to accommodate the required parking for the proposed use. Village regulations require one parking space per 4 seats. The interior of the proposed church must be reduced in capacity so that the required number of parking spaces can be accommodated on site. The five parking spaces within the front setback must be removed and the area landscaped, thereby preventing vehicles from backing into the roadway, reducing the degree of non-compliance for impervious lot coverage, and providing the required screening for properties across

Samsondale Avenue. The remaining spaces must be reconfigured to provide adequate turnaround spaces and backup distances.

2 The Village of Haverstraw is one of the reasons this proposal was referred to this department for review. The municipal boundary is approximately 350 feet south of the site. 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 county-wide 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 which is supportive of the goals and objectives of the general area.

The Village of Haverstraw 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 Village of Haverstraw must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

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

4 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.

5 A review must be completed by the Rockland County Office of Fire and Emergency Services, the Village of West Haverstraw Fire Inspector, or the West Haverstraw Fire Department to ensure that there is sufficient maneuverability on site for fire trucks, in the event an emergency arises.

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

7 The Village shall be satisfied that the proposal complies with the general standards for special permit uses outlined in Section 250-75.C of the zoning regulations.

8 Areas designated for snow removal must be clearly delineated on the site plan so that the plow drivers will know where to place the snow piles. This will help to protect the proposed landscaping from damage due to the weight of the snow and salt intrusion. In addition, providing specific locations on the site for the snow piles will reduce the use of parking spaces meant for the parishioners for this purpose, especially since only the required number of parking spaces are being proposed.

9 The site plan must be amended to include a trash receptable that complies with all yard and setback requirements, and does not block, or is blocked by, parked vehicles.

10 The Village must consider requiring the applicant to provide a parking plan for high-demand events, which includes agreements with the owners of nearby properties in order to provide additional parking.

11 The removal of asphalt along the side of the structure must be extended up to parking spaces 1 and 16.

12 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.

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13 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 Robert D'Amelio, West Haverstraw
Rockland County Department of Health
Rockland County Drainage Agency
Rockland County Office of Fire and Emergency Services

Anthony R. Celentano P.E.
Village of Haverstraw Planning Board
West Haverstraw Fire Department

**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.