



Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

October 22, 2019

New Hempstead Zoning Board of Appeals
108 Old Schoolhouse Road
New City, NY 10956

Tax Data: 50.09-1-14.2

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

Map Date: 7/25/2019

Date Review Received: 9/19/2019

Item: *UNION AVE REALTY NY LLC/573 UNION ROAD (NH-103E)*

Variations for lot area, street frontage, lot width, side yard and total side yards to permit the construction of a single-family dwelling on .3548 gross acres (.2912 net acres) in a 2R-15 zoning district.

West side of Union Road, opposite Naomi Lane, approximately 509 feet north of the intersection with Viola Road

Reason for Referral:

Town of Ramapo, Viola Road (CR 74), Village of Spring Valley

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 Town of Ramapo and the Village of Spring Valley are two of the reasons this proposal was referred to this department for review. The Ramapo municipal boundary is approximately 390 feet south of the site; the Spring Valley municipal boundary is approximately 465 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 Town of Ramapo and the Village of Spring Valley 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

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sewer service. The areas of countywide concern noted above that directly impact the Town of Ramapo and the Village of Spring Valley must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

- 2 The applicant must comply with the conditions of the Rockland County Highway Department's September 25, 2019 letter.
- 3 The applicant must comply with the conditions of the Rockland County Health Department's September 4, 2019 letter.
- 4 The applicant must comply with the conditions of the Rockland County Sewer District #1's September 9, 2019 letter.
- 5 In a May 4, 2016 GML review, we cautioned the Village against granting the variances required for the proposed subdivision and the creation of two undersized lots. We noted that similar lots are located further north along Union Road. Granting these variances for the creation of undersized lots will set a precedent. Nearby property owners will seek to subdivide their lots that are slightly larger than the required 15,000 SF, which can lead to a change in the community character of the surrounding neighborhood. Our concerns are still valid.
- 6 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 proposed subdivision results in a parcel that requires a 15.4 percent variance for lot area, and a 31.8 percent variance for lot width. The side yard and total side yard are deficient by 40 and 52 percent respectively. The ability of the existing infrastructure to accommodate non-compliant structures on undersized and non-conforming 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.
- 7 The impervious surface calculation must be provided on the site plan so its accuracy can be verified.
- 8 Additional information must be provided about the wetlands on the west side of the site. While they are delineated on the site plan and the appropriate land area deductions are indicated, it is unclear if they are federal, state or local wetlands. Clarification must be provided.
- 9 The site plan is difficult to read because it contains information that should be depicted on separate sheets. Individual drawings must be provided for existing conditions, drainage and grading, utilities, construction details, lighting and landscaping.
- 10 The site plan shall contain map notes that list all appropriate information, including the district details. The applicant's engineer has been reminded of this requirement, and the importance of providing these details.
- 11 A vicinity map must be provided on the site plan; it shall include a scale and north arrow.
- 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 Abe Sicker, New Hempstead
Rockland County Department of Highways
Rockland County Department of Health
Rockland County Sewer District #1

Anthony R. Celentano P.E.
Town of Ramapo, Village of Spring Valley

Union Ave Realty NY LLC

**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.

