



**COUNTY OF ROCKLAND**  
DEPARTMENT OF PLANNING

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EDWIN J. DAY  
County Executive  
January 17, 2014

THOMAS B. VANDERBEEK, P.E.  
Acting Commissioner

ARLENE R. MILLER  
Deputy Commissioner

Ramapo Zoning Board of Appeals  
237 Route 59  
Suffern, NY 10901

**Tax Data:** 57.13-1-11.2

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

**Map Date:** 11/5/2013

**Date Review Received:** 12/20/2013

**Item:** *GREGORIO FRANCISCO (R-1758A)*

Use variance to allow a two-lot subdivision of .428 acres in the R-15 zoning district with a semi-attached, two-family residence on each parcel.

West side of South Cole Court, south side of Wolfe Drive

**Reason for Referral:**

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:

***\*Disapprove***

This department is not generally in favor of granting use variances because of the land use precedent that can be set. The existing two-family residence is situated on an undersized parcel. The applicant is seeking to further subdivide this non-conforming parcel and double the residential density. Multiple bulk variances will be required. While there are multi-family housing developments in close proximity to this site, the surrounding neighborhood is characterized predominantly by semi-attached, single-family residences. The proposal before us is not consistent with the surrounding land uses and has the potential to change the community character of this neighborhood. The Town must consider the nearby oversized and undeveloped parcels when evaluating this application. Owners of these properties may seek similar relief if the use variance is granted.

An applicant must prove unnecessary hardship in order for a use variance to be granted. The Otto test requires the demonstration of the following:

- A. The applicant cannot realize a reasonable return, provided the lack of return is substantial as shown by competent financial evidence.
- B. The alleged hardship is unique and does not apply to a substantial portion of the district or

**GREGORIO FRANCISCO (R-1758A)**

neighborhood.

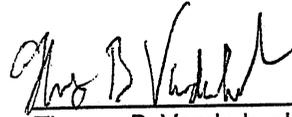
C. The requested variance will not alter the essential character of the neighborhood.

D. The alleged hardship is not self-created.

The applicant has not demonstrated that an unnecessary hardship exists. The use variance shall not be granted.

The following additional comment is offered strictly as an observation and is not part of our General Municipal Law (GML) review. The board may have already addressed this point or may disregard it without any formal vote under the GML process.

The application materials including the GML referral form, the application form, the project narrative and the site plan all identify the property address as South Cole Avenue. This department's mapping records indicate that the street name is South Cole Court. This discrepancy should be resolved.



Thomas B. Vanderbeek, P.E.  
Commissioner of Planning

cc: Supervisor Christopher St. Lawrence, Ramapo

Rockland County Drainage Agency  
Rockland County Department of Health  
Rockland County Sewer District #1  
Centerpoint Engineering PLLC  
Village of Spring Valley

Gregorio Francisco

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.*