



# Rockland County

Ed Day, Rockland County Executive

## DEPARTMENT OF PLANNING

Dr. Robert L. Yeager Health Center  
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**Douglas J. Schuetz**  
*Acting Commissioner*

**Arlene R. Miller**  
*Deputy Commissioner*

November 15, 2016

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

**Tax Data:** 50.18-1-27

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

**Map Date:** 4/13/2016

**Date Review Received:** 10/6/2016

**Item:** *GREEN STARS REALTY, LLC./EWING PROPERTIES (R-2580)*

Use variance to permit parking on a .20-acre parcel in the R-15 zone to serve a 15-unit multi-family residential development on an adjacent lot in the Village of Spring Valley. Nineteen of the required 30 on-site parking spaces are proposed on the Ramapo parcel.

South side of Ewing Avenue, 150 feet east of Rose Avenue

### 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:

### *\*Recommend the following modifications*

1 This department is not generally in favor of granting use variances because of the land use precedent that can be set. An applicant must prove that applicable zoning regulations and restrictions have caused unnecessary hardship in order for a use variance to be granted. To prove such unnecessary hardship the applicant shall demonstrate to the board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:

- 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 neighborhood.
- C. The requested variance will not alter the essential character of the neighborhood.
- D. The alleged hardship is not self-created.

The Town must be satisfied that the applicant has satisfactorily demonstrated that an unnecessary hardship exists, and that granting this use variance will not set an undesirable land use precedent for the surrounding neighborhood.

**GREEN STARS REALTY, LLC./EWING PROPERTIES (R-2580)**

2 As noted in our GML reviews of the special permit and site plan applications, as well as the variances required for the proposed multi-family housing development, the land area within the Town of Ramapo cannot be used to calculate the maximum permitted residential density. The floor area ratio must also be based only on the Spring Valley lot area. A use variance is sought to allow this parcel to be used for parking, not for multi-family housing. The Village of Spring Valley allows a residential density of up to 18 units per acre for multi-family residential development. The lot area of the Spring Valley parcel is .44 acres; a maximum of eight residential units is permitted. Therefore, the number of units shall be limited to eight. This will result in closer compliance with the floor area ratio standards. A reduced building footprint will also allow for the provision of on-site amenities appropriate for multi-family housing.

3 The ZBA Plan does not include a bulk table so it is not possible to determine if the proposed parking conforms to the applicable bulk standards. The bulk table must be provided.

4 The site plan for the parking lot is also subject to review and approval by the Ramapo Planning Board. These actions are subject to a review by this department as mandated by the New York State General Municipal Law.

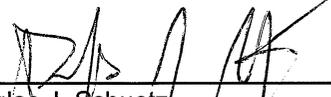
5 The Village of Spring Valley is the reason this proposal was referred to this department for review. The municipal boundary is along the western property line of the site. New York State General Municipal Law states that the purposes of Sections 239-l, 239-m and 239-n shall be to bring pertinent inter-community and 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 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 sewer service. The areas of countywide concern noted above that directly impact the Village of Spring Valley must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

6 General Note 7 must be revised to reference Section 239L and M of the General Municipal Law as this is an application for variances not a subdivision plat.

7 A north arrow must be provided on the ZBA Plan.

8 The vicinity map must include a scale and a north arrow.

9 Additional map notes must be provided that specify district information for the site.

  
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Douglas J. Schuetz  
Acting Commissioner of Planning

cc: Supervisor Christopher St. Lawrence, Ramapo  
Rockland County Department of Health  
Rockland County Drainage Agency

**GREEN STARS REALTY, LLC./EWING PROPERTIES (R-2580)**

Rockland County Sewer District #1  
New York State Department of State  
Rockland County Office of Fire and Emergency Services  
Spring Valley Fire District

Civil Tec Engineering & Surveying PC  
Village of Spring Valley

Jacob Grunwald

*\*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.*

