Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

December 19, 2016

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

Tax Data: 57.09-2-5

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 9/2/2016 **Date Review Received:** 11/10/2016

Item: ***MONSEY REALTY GROUP, LLC. (R-2128F)***

Variances to permit a two-lot subdivision of .43 acres in the R-15C zoning district, and the construction of two semi-attached three-family dwellings with two accessory apartments. The variances for floor area ratio have increased because portions of the basement have greater than one-foot of exposed foundation. Variances were previously granted for lot area, lot width, side yard, street frontage, rear setback, maximum development coverage, maximum floor area ratio, number of accessory apartments, and outer court dimension for both lots.

South side of West Central Avenue, approximately 50 feet east of Herrick 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 The Village of Spring Valley is the reason this proposal was referred to this department for review. The municipal boundary is directly adjacent to the southern boundary of the site. This area of Spring Valley is zoned R-1, a low density residential zoning district consisting of mainly one-family residences. 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 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 Town of Haverstraw must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

2 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 applicant has been granted multiple variances including a 25.5 percent increase on Lot 1, and an 18 percent increase on Lot 2, over the maximum permitted development coverage, as well as an additional accessory apartment in each residential building. An increased variance of more than 22 percent is now sought for floor area ratio for both structures. The ability of the existing infrastructure to accommodate increased residential density on undersized, 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 Town must consider the cumulative and regional impacts of permitting such development.

3 The NYS Department of State has determined that the Town 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 Town's administration and enforcement of the State Uniform Fire Prevention and Building Code raised in the Executive Deputy Secretary of State's letter of July 15, 2016, the proposed residential buildings must be held to the requisite minimum standards and comply with all requirements of this code.

4 A NYS variance is required since the proposed sidewalks are within ten feet of the property line, and in violation of NYS Fire Code 1024.3.

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

6 The June 14, 2016 memorandum from the Town Fire Inspector includes the following comments:

1) the buildings must be sprinklered as per NFPA 13R;
2) the fire department connections must show on the street front of the building;
3) the applicant must show that there is sufficient water to meet fire flow requirements of NYS Fire Code 508.3;
4) a sprinkler plan must be provided;
5) the location of the nearest fire hydrant must be shown;
6) an exit access to the public way must be provided as per 1024.6 NYS Fire Code;
7) the applicant must provide sufficient parking so that fire department access is not blocked;
8) if any portion of the building is more than 30 feet above the lowest level of fire department access, an aerial apparatus road must be provided in compliance with appendix with NYS Fire Code D105; and
9) CO detectors must be provided.

Any outstanding concerns must be satisfactorily addressed.

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7 An aerial apparatus road is required since the proposed building is greater than 30 feet to the eaves. This road must be shown on the plans.

8 Since a shared driveway is proposed, Lot 2 will require an access easement over Lot 1. This easement must be shown on the map.

9 An updated review of the September 2, 2016 site plan shall be completed by the Rockland County Health Department. In addition, the applicant must comply with the conditions of the Health Department's letters of June 7, 2016 and July 19, 2016.

10 The applicant must comply with the conditions of the Rockland County Sewer District #1's letter of September 2, 2016.

11 It will be difficult for garbage carters to access the dumpster enclosures if vehicles are parked in space #3, as well as the handicapped space #10. The dumpster enclosure must be moved to a more accessible location.

12 Map Note 29 specifies that Planning Board approval will be required for additional accessory apartments. Since both parcels are less than 75 feet wide, only one accessory apartment is permitted in each three-family dwelling as per Section 376-65G. A variance has been granted to allow a second accessory apartment in both residential building. A third accessory apartment will require an additional variance for each structure from the ZBA. The map note must be corrected. This department is not in favor of allowing three accessory apartments on these lots. The current proposal already results in an overutilization of the site, as evidenced by the number and magnitude of the variances required to implement it.

13 The vicinity map must include a scale.

Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor Christopher St. Lawrence, Ramapo
Rockland County Department of Health
Rockland County Drainage Agency
Rockland County Sewer District #1
New York State Department of State
Rockland County Office of Fire and Emergency Services
Monsey Fire District

Lanc & Tully Engineering and Surveying, P.C.
Village of Spring Valley

Monsey Realty Group, 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.

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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.