# Rockland County

Ed Day, Rockland County Executive

**DEPARTMENT OF PLANNING**
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**Douglas J. Schuetz**
*Acting Commissioner*

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

September 2, 2016

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

**Tax Data:** 57.18-2-39

**Re: GENERAL MUNICIPAL LAW REVIEW:** Section 239 L and M
**Map Date:** 6/27/2016 **Date Review Received:** 8/9/2016

**Item:** ***VAN ORDEN, LLC. - LOT 39 (R-2226F)***

Variances to permit the construction of a single-family, semi-attached dwelling located in the R-15 zoning district on .09 acres. Required variances include: lot area, lot width, front setback, front yard, side setback, total side setback, rear setback, rear deck setback, street frontage, and maximum floor area ratio.

West side of Van Orden Avenue, 40 feet north of Noyes Avenue

**Reason for Referral:**

NYS Route 45, Old Nyack Turnpike (CR 52), Villages of Chestnut Ridge & 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**

In April 2008, the Rockland County Planning Department reviewed a proposal to re-subdivide fifteen lots into eight lots, each requiring numerous variances. We stated in our review that the 1.35-acre assemblage can yield only approximately four conforming lots, and that variances were required for lot width, street frontage, floor area ratio, and yards and setbacks. At the time, we suggested to the Town of Ramapo that if they were in favor of allowing denser, single-family development in this area, that they should amend the zoning ordinance accordingly, analyzing the existing land use and considering the overall development potential of all vacant and oversized parcels to determine the appropriate residential density.

The current application is one of fifteen that has been submitted on parcels that are generally 60% smaller than required for a single-family detached or semi-attached residence. The R-15 zoning district permits a residential density of 2.9 units per acre for a single-family detached residence and 4.36 units per acre for a semi-attached single-family residence; over 11 units per acre is proposed for this application. The adjacent R-2 zoning district within the Village of Spring Valley is approximately five units per acre; less than half of what is currently proposed.

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Each of the fifteen lots being reviewed for variances for the construction of a semi-attached or detached residence requires variances for almost every bulk standard. 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. Lot 39 exceeds the maximum permitted floor area ratio by 125%. The lot area is deficient by over 60%, the minimum lot width and street frontage are non-compliant by 37.6% and 36% respectively, and the yards and setback variances required range from almost 32% up to 50%. 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. The footprint and square footage of the building must be scaled back so as to reduce the magnitude and number of required variances.

The following recommendations address our additional concerns about the requested variances.

1 Individual site plans must be provided for each lot so as more details can be provided such as window wells, area ways, deck stairs and front stoops/entrances.

2 A variance is required for rear setback (deck) and maximum floor area ratio, but the bulk table does not indicate such. The bulk table must be updated to reflect the need for this additional variances.

3 The site plan is lacking several features that must be provided. These include a north arrow and scale for the Vicinity Map, and map notes that list all appropriate information, including the district information. These features must be included on the site plan.

4 It will difficult for a vehicle parked in the western parking space to maneuver out of the space without a turnaround area. No sidewalks, stairs, or exits have been shown on the site plan, making it difficult to assess the parking area in relation to the pedestrian movement on site, and whether there will be safety issues for the residents. A turnaround area must be provided so that vehicles do not have to back out into the roadway, and the stairs, walkways, and exits must be illustrated on the site plan so that safety issues can be properly evaluated and to show that all components of the site plan meet the SUFPBC. If these features encroach into the side or rear yards, then additional variances may be warranted.

5 The NYS Department of State has determined that the Town is not administering or enforcing the State Uniform Fire Prevention and Building Code (SUFPBC) 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 building must be held to the requisite minimum standards and comply with all requirements of this code.

6 A review shall be completed by the New York State Department of Transportation, any concerns addressed, and any required permits obtained.

7 A review must be completed by the County of Rockland Department of Highways and any concerns addressed and required permits obtained.

8 A review must be done by the Rockland County Department of Health to ensure compliance with the Rockland County Sanitary Code, Article XIX, Mosquito Control.

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9 A review must be completed by the County of Rockland Sewer District #1 and any required permits obtained.

10 The Villages of Chestnut Ridge and Spring Valley are two of the reasons this proposal was referred to this department for review. The municipal boundary for the Village of Spring Valley is 120 feet north of the site, in the center of Gerow Avenue; the boundary for the Village of Chestnut Ridge is approximately 390 feet south of the subject site. As indicated above a medium-density (R-2) zoning district is located to the north of the site in the Village of Spring Valley. The applicant is proposing a residential density of 11 units per acre, or more than two times the maximum residential density permitted in Spring Valley's R-2 zoning district. 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 Villages of Chestnut Ridge and 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 Villages of Chestnut Ridge and Spring Valley must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor Christopher St. Lawrence, Ramapo
Rockland County Department of Highways
Rockland County Department of Health
Rockland County Sewer District #1
Rockland County Office of Fire and Emergency Services
Rockland County Drainage Agency
New York State Department of Transportation
New York State Department of State,
Division of Code Enforcement & Administration
Spring Valley Fire District

Civil Tec Engineering & Surveying PC
Villages of Chestnut Ridge & Spring Valley

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.*

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*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.*