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 6, 2017

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

Tax Data: 57.05-1-28.2

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 6/14/2017 **Date Review Received:** 8/4/2017

Item: ***90 HERRICK DEVELOPMENT, LLC (R-2135H)***

Variance to permit three accessory apartments in a proposed semi-attached, three-family residence on a .291-acre parcel, with only a 50-foot lot width, in an R-15C zoning district. A .582-acre parcel was subdivided in April of 2017; variances were granted for lot width, rear setback, street frontage and maximum development coverage in July of 2014.
East side of Herrick, 150 feet north of First Street

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**

The recent subdivision of the .582-acre parent parcel resulted in two non-conforming lots with deficient lot width and street frontage measurements. As per Section 376-65G, only one accessory apartment is permitted on parcels with a lot width of less than 75 feet. The lot width of the subject site is 50 feet. Therefore, a maximum of one accessory apartment is allowed. The second and third accessory apartments must be eliminated. This will allow for closer conformance with the R-15C bulk requirements. The required on-site parking will be reduced to four spaces resulting in a lower development coverage. A smaller building footprint will also be possible with fewer accessory units. It is inappropriate to undermine the integrity of the zoning ordinance by permitting more than the allowed number of accessory units when the non-conformity is self created.

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 subdivision created two non-conforming lots. The proposed residential development also received rear setback and development coverage variances. The applicant is now seeking an increase in the maximum number of accessory units. The ability of the existing infrastructure to accommodate increased residential density on 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 second and third accessory apartments shall not be permitted. The building footprint shall be reduced and the three additional parking spaces eliminated for closer compliance with the R-15C bulk standards.

The following comments address our additional concerns about this proposal.

1 The Village of Spring Valley is the reason this proposal was referred to this department for review. The municipal boundary is approximately 435 feet east of the subject property line. As required under Section 239nn of the State General Municipal Law, the Village of Spring Valley must be given the opportunity to review the proposal and provide any concerns related to the project to the Town of Ramapo.

2 An updated review of the June 14, 2017 plot plan must be completed by the Rockland County Health Department, and all required permits obtained. In addition, the applicant must satisfactorily address the conditions of the Health Department's December 29, 2015 letter.

3 An updated review of the June 14, 2017 plot plan must be completed by the Rockland County Sewer District #1, and all required permits obtained. In addition, the applicant must satisfactorily address the conditions of the Sewer District's December 29, 2015 letter.

4 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 building must be held to the requisite minimum standards and comply with all requirements of this code.

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

6 The applicant must satisfactorily address the 17 comments in the Town Fire Inspector's August 8, 2017 memorandum.

7 The plot plan submitted with this application is very difficult to read. Separate drainage and landscaping plans must be prepared.

8 The bulk table indicates that seven parking spaces are provided. Four parking spaces are proposed along the south side of the site, and three spaces are shown to the west of the residential building. Only spaces 1 through 5 are labeled on the plot plan. No turnaround area is provided. Without the second and third accessory apartment, only four parking spaces will be required allowing for a safer parking space configuration and a turnaround area.

9 It will not be possible for sanitation workers to access the dumpster enclosure if vehicles are parked in the westernmost spaces. The dumpster enclosure must be moved to a more accessible location.

10 The plot plan shall contain map notes that list all appropriate information, including the district details.

11 A vicinity map shall be provided on the plot plan.

12 The tax parcel identification number on the plot plan is incorrect. The correct information must be provided.

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13 Pursuant to the Rockland County Sanitary Code, Article XIII, Section 13.8.1, all multiple dwellings with three or more rental units must register and obtain a Multiple Dwelling Rental Certificate (MDRC). If this proposed multi-family dwelling meets the requirements of the Multiple Dwelling Rental Registry requirement, then the owner must register and obtain the MDRC. Failure to comply is a violation of Article XIII, which may result in penalties of $2,000 per day.

14 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.

15 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: Supervisor Yitzchok Ullman, 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
Spring Valley Fire District

Anthony R. Celentano P.L.S.
Village of Spring Valley

90 Herrick Development, LLC

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.

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.