Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
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March 9, 2018

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

Tax Data: 50.17-2-7

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 1/28/2018 **Date Review Received:** 2/1/2018

Item: ***YITZCHOK ALTMAN (R-2550A)***

Variances for side yard, rear setback and floor area ratio to allow the construction, maintenance and use of a semi-attached, three-family residence on .1401 acres in an R-15C zoning district. A detached, three-family residence was previously proposed. Variances were granted for lot area, lot width, front setback, front yard, rear setback, street frontage, maximum development coverage and deck rear setback. Since the applicant also owns the adjacent property and recently acquired the subject site, he proposes to build semi-attached structures on each parcel.

West side of Twin Avenue, approximately 275 feet south of Elm 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

1 Pre-existing, non-conforming lots are given special consideration under Section 376-131 of the Town's Zoning Law. The bulk standards for several residential zoning districts are relaxed to accommodate the residential uses permitted by right in these zones. The subject site is 3,899 SF or 39 percent smaller than the minimum lot area required for new three-family residences in the R-15C zoning district. Variances were required for not only lot area, but also lot width, front setback, front yard, side yard, rear setback, street frontage, development coverage floor area ratio, and rear setback deck. The applicant now wants to increase the extent of the variances for side yard, rear setback, and floor area ratio. The very generous floor area ratio is exceeded by over 42%.

The surrounding neighborhood is characterized by similarly-sized parcels. Granting these bulk variances will set a precedent that may result in nearby property owners seeking the same relief, ultimately changing the character of the neighborhood. Traffic, drainage, stormwater runoff, and infrastructure capacities must all be assessed as well before granting variances to permit an oversized building on an undersized lot. The footprint of the building must be decreased to eliminate or reduce the number and degree of variances required to implement the

proposed three-family semi-attached dwelling.

2 The applicant proposes to extend the previously-approved, detached three-family residence by ten feet, to the property line, in order to construct a semi-attached, three-family residence. While the floor area ratio has increased by 42 percent, the development coverage has not changed from .75. Given that the building footprint is larger, an increased development coverage seems evident. This must be clarified. A development coverage calculation must be provided. If in fact a development coverage variance is required, the application must be re-referred back to us, and the public hearing notice corrected and re-issued.

3 The proposed semi-attached structure on Lot 50.17-2-8 must also be illustrated on the site plan. The Town of Ramapo Building, Planning and Zoning Department's December 13, 2017 denial letter includes the variances required for this parcel. In order to complete a proper evaluation of this proposal, a map showing both parcels is required.

4 The undated narrative summary indicates that variances are required for floor area ratio and development coverage. As noted above, a development coverage variance is not included in the bulk table. The narrative summary neglects to mention the required side yard and rear setback variances. The three variances noted in the bulk table are included in the Town of Ramapo Building, Planning and Zoning Department's December 13, 2017 denial letter. In addition, we believe the extent of the lot area variance has increased so an additional variance may be required. All application materials must be consistent. The required variances must be clarified. The public hearing notice will have to be reissued if it did not include all applicable variances.

5 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. As noted above, the applicant is seeking a 42 percent increase over the maximum allowable floor area ratio, as well as yard and setback variances. The lot area is only 61 percent of the required minimum; the lot width and street frontage are also deficient. The ability of the existing infrastructure to accommodate increased residential density on undersized, non-conforming lots 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 building footprint must be reduced and fewer units permitted.

The following additional comments reflect our concerns and conditions regarding the proposed three-family, semi-attached residence.

6 The Village of Spring Valley is the reason this proposal was referred to this department for review. The municipal boundary is 320 feet north, 430 feet east and 270 feet south 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.

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

8 An updated review of the January 28, 2018 site plan must be completed by the Rockland County Sewer District #1, and all required permits obtained. The applicant must also comply with the conditions of the Sewer District's letter of April 14, 2016.

9 An updated review of the January 28, 2018 site plan must be completed by the Rockland County Drainage Agency, and all required permits obtained. The applicant must also comply with the conditions of the Drainage Agency's letter of April 13, 2016.

10 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.

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

12 It will be difficult for a vehicle parked in space #1 to maneuver out of the space without a turnaround area. No exterior stairs, walkways or exits are shown on the site plan, making it challenging 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.

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

14 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.

15 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.

16 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.

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Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor Michael B. Specht, 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

Yitzchok Altman

Mona Montal, Chief of Staff
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.