Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

May 3, 2018

Ramapo Planning Board
237 Route 59
Suffern, NY 10901

Tax Data: 56.12-3-6.2 56.12-3-6.1

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 N
Map Date: 2/8/2018 **Date Review Received:** 4/4/2018

Item: ***NESHER DEVELOPMENT (R-2240D)***

Revised two-lot subdivision of .4594-acres in an R-15C zoning district. The subdivision was originally approved in 2011. A semi-attached, three-family residence, with three accessory apartments, was proposed on each parcel. Variances granted for Lot 1 include front setback, side setback, total side setback, rear setback, front yard, side yard, rear yard, maximum development coverage and deck rear setback. Lot 2 received variances for front setback, rear setback, front yard, side yard, rear yard, development coverage and deck rear setback. Changes in the field and site plan revisions necessitated rear setback variances for both residential buildings, and a turnaround area variance for Lot 6.1. These variances were granted on January 18, 2018.

North side of the Nesher Court cul-de-sac, 140 feet south of West Central 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 approximately 180 feet south and west 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 recently 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 revised subdivision proposal.

2 As required by the Rockland County Stream Control Act, the subdivision plan must be reviewed and signed by the Chairman of the Rockland County Drainage Agency before the County Clerk can accept the plan to be filed.

3 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 was permitted to exceed the maximum development coverage by 31 percent on Lot 1 and 35 percent on Lot 2, and also granted numerous yard and setback variances. The floor area ratio and number of units are the maximum allowed. The ability of the existing infrastructure to accommodate increased residential density 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. We recommend that the building footprints be reduced and fewer units be permitted.

4 The narrative summary states that Nesher Court is a short residential cul-de-sac that experiences very little traffic. We believe the traffic may be substantial given the current uses. Nesher Court provides access to 16 lots. The 15 residential lots contain two- and three-family dwellings, some with up to three accessory apartments. By our calculations, the total number of residential units will range from 40 to 48. The 16th parcel contains a house of worship with minimal parking. Aerial and street side photography available to this department show multiple vehicles parked along both sides of Nesher Court and within the cul-de-sac bulb, including head-in rather than parallel to the curb. This raises serious concerns about emergency access to the multiple lots on this dead-end street. We continue to recommend that the building footprints and number of units be reduced. Additionally, the Town must consider implementing parking restrictions along Nesher Court to ensure that fire trucks and other emergency vehicles can safely maneuver.

5 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.

6 The October 13, 2017 CDRC comments indicate that there are multiple violations of the State Uniform Fire Prevention and Building Code. A review of these deficiencies must be completed by the New York State Department of State, Division of Code Enforcement and Administration, and the required variances obtained.

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

8 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.

9 An updated review of the February 8, 2018 final revised subdivision layout plan shall be completed by the Rockland County Sewer District #1, and all required permits obtained. The applicant must also comply with Sewer District #1's letter of January 16, 2018.

10 Five of the proposed 12 parking spaces straddle the property line between the two lots, and must be accessed via the driveway on Lot 2. A cross easement for parking must be provided. In addition, two of these parking spaces must be reserved for residents of the residential structure on Lot 1.

11 It appears that parking space #2 is a handicapped space given the diagonally striped access aisle immediately to the west. Access to the garage (space #1) is only possible over the access aisle. This is an undesirable arrangement and must be reconfigured. If a handicapped parking space is proposed on Lot 1, it must be located near the building entrance.

12 Access to the refuse area must be unimpeded by parked vehicles. It may be difficult for sanitation workers to access the refuse area on Lot 1 if a vehicle is parked in space 5. Access to the refuse area on Lot 2 may be difficult if a vehicle is parked in space 12. The proposed location of the refuse areas must be evaluated to determine if they should be moved to more accessible locations.

13 As noted in the project narrative, the provision of a fire access road will require the paving of much of the front yard on Lot 1. The applicant shall consider using pervious pavers or permeable concrete for the fire access road to reduce the development coverage on this parcel. A development coverage calculation must be provided. In addition, the fire access road must be appropriately signed to prevent it from being used for parking. The Town shall monitor the situation and take appropriate action if vehicles are parked in the fire access road.

14 Window wells are shown protruding from the rear of both buildings. Are setback variances required for these building features? This must be clarified.

15 Retaining walls that are over four (4) feet in vertical height shall be designed by a licensed New York State Professional Engineer and be in compliance with the NYS Fire Prevention and Building Code. Design plans shall be signed and sealed by the licensed NYS Professional Engineer.

16 The current drawings indicate that a mikvah is proposed in the basement of the residential structure to be constructed on Lot 1. No additional information is provided. The narrative summary must address whether this is a community or neighborhood mikvah, requiring a conditional use permit from the Planning Board, or a private mikvah for the use of the homeowner only.

17 Water is a scarce resource in Rockland County; thus proper planning and phasing of this project are critical to supplying the current and future residents of the Villages, Towns, and County with an adequate supply of water. The water system must be evaluated to determine if the additional water supply demands of the proposed development can be met. Domestic and fire demands of the project must be determined by a Licensed Professional Engineer and provided to the supplier of water for analysis. Demand calculations and results of the analysis must be provided to the Rockland County Department of Health for review.

18 For installation of a sanitary sewer system, engineering plans and specifications shall be reviewed and approved by the Rockland County Department of Health prior to construction.

19 Prior to the start of construction or grading, a soil and erosion control plan shall be developed and in place for the entire site that meets the latest edition of the New York State Guidelines for Urban Erosion and Sediment Control.

20 There shall be no net increase in the peak rate of discharge from the site at all design points.

21 A north arrow must be provided on the vicinity map.

22 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.

23 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.

24 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.

Arlene Miller
for Douglas J. Schuetz
Deputy ~~Acting~~ Commissioner of Planning

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

Brooker Engineering, PLLC
Village of Spring Valley

7 Nesher, LLC

Mona Montal, Chief of Staff

**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.

NESHER DEVELOPMENT (R-2240D)

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.