Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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November 26, 2019

Ramapo Planning Board
237 Route 59
Suffern, NY 10901

Tax Data: 50.13-3-30 50.13-3-27 50.13-3-26

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 N
Map Date: 9/27/2019 **Date Review Received:** 10/10/2019

Item: ***BLUEFIELD EXTENSION (R-2421H)***

A four-lot subdivision of 1.05 acres in the R-15 zoning district. A 15-unit residential development is proposed. It will consist of a semi-attached, two family residence with two accessory apartments on Lot 1; a semi-attached, three-family residence with one accessory apartment on Lot 2; a semi-attached, three-family residence on Lot 3, and a semi-attached, two-family residence with two accessory apartments on Lot 4. Semi-attached two-family residences, three-family residences and accessory apartments are not permitted uses in the R-15 zoning district. Use variances are therefore required. The ZBA granted the use variances, as well as multiple bulk variances for each lot and structure. The new owner is now seeking final subdivision approval.

East side of Union Road, opposite Bluefield Drive and 360 feet south of Eckerson Road

Reason for Referral:

Village of Spring Valley, Eckerson Road (CR 74), Village of New Hempstead

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 The proposed subdivision results in four oddly-configured lots that do not conform to the R-15 or R-15C bulk standards. The bulk tables reflect the R-15 standards for Use Group x.3. Each lot requires variances for lot width, front setback, front yard, side setback, total side setback, rear setback, street frontage and floor area ratio. Rear setback variances are needed for the decks on Lots 1 and 4. Lots 2 and 3 require development coverage variances. A 280A variance is required for Lot 1; a side yard variance is necessary on Lot 2. The bulk standard non-conformities are compounded by the fact that the townhome configuration is not a permitted use in the R-15 or R-15C zoning districts. This type of residential development is only permitted in Ramapo's multi-family and mixed-use zones. The Town of Ramapo Department of Public Works (DPW) addressed these non-conformities in their February 1, 2019 comments. It is unclear why the Zoning Board of Appeals granted all of the requested variances in contradiction of the DPW's concerns. We continue to recommend that the proposed subdivision and

the multi-family development be denied, and that a proposal that conforms, both in use and bulk standards, be submitted.

2 While more than one residential structure is not permitted on lots in the R-15 or R-15C zoning districts, the Layout Plan depicts a townhome configuration rather than the two- and three-family structures permitted in the R-15C zoning district. The proposed five-unit structures, with accessory apartments, are not permitted, even with a use variance. The number and type of units must conform to the R-15 zoning district standards.

3 This assemblage has less than 50 feet of street frontage along Union Road. This is deficient in all residential zoning districts. The 49-foot wide strip of land extends roughly 144 feet from Union Road to the remainder of the proposed subdivision area. This approximately 7,000 SF land area will serve as the sole access to the rear portion of the site. As such, this land area should not be included in the minimum lot area calculation for any of the proposed lots. A private road is the most appropriate use for this land area. Only the remaining land area can be factored into a minimum lot area calculation for residential development purposes. We estimate this land area to be approximately 38,800 SF. Four semi-attached single-family residences or two detached, two-family residences are the most appropriate development proposals on this portion of the site. Accessory apartments are not permitted in the R-15 zoning district. One accessory apartment is permitted on parcels with a minimum lot width of less than 75 feet in the R-15C zoning district yet the applicant is proposing two on Lot 1, one on Lot 2 and two on Lot 4. Granting a use variance that requires multiple bulk variances undermines the integrity of the zoning ordinance and the Comprehensive Plan, and is not an appropriate land use planning tool. As presented, this proposal will result in a gross overutilization of the 1.05-acre site and is inconsistent with the community character of the surrounding neighborhood. A residential density of 16 units per acre is being proposed in an R-15 zoning district, where a maximum of just over four units per acre are permitted. Currently, one- and two-family residences are the predominant land use on Union Road, Ibeck Court, Stetner Street, Jacaruso Drive and Zuba Lane. While multi-family developments are located to the south and east of the subject site, and three-family, semi-attached residences make up the Bluefield Gardens development, this denser residential development is not the predominant land use. The number of lots and units must be reduced, and the requirements of the R-15 zoning designation achieved.

4 Eighteen on-site parking spaces are proposed for 15 residential units. This does not meet the R-15 standard of two spaces per unit; only 60 percent of the required on-site parking is provided. The bulk table specifies the R-15C parking standard rather than the R-15 requirement. The parking spaces are only eight-feet wide and require a variance for stall width. The current number of spaces is a reduction from previous submissions. The inability to provide additional on-site parking is a further indication that the proposed residential project will result in an overdevelopment of the property. As stated above, the number of lots and residential units must be reduced so that adequate on-site parking can be provided.

5 Eight parking spaces are shown along the north side of the access drive, and four are provided on the south side. These twelve spaces are not in close proximity to any of the residential units, and their location raises concerns about pedestrian safety. The proposed play area and garbage enclosures are also far removed from the residences. The potential for conflicts between vehicles entering or exiting the site along this narrow driveway, and residents navigating on foot is great. On-site parking for two- and three-family dwellings must be immediately proximate to the residential structures. As noted previously, the proposed residential development resembles a townhouse community in the building configuration, as well as the multi-space parking area. The number of lots and residential units must be reduced so that the required number of parking spaces are provided on each lot.

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6 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. This proposal does not conform to the R-15 or R-15C bulk standards. 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. Fewer lots shall be permitted, and the number of residential units must be limited to four.

7 The bulk tables on the September 27, 2019 Subdivision Plan for Bluefield Extension (Drawing No. 1 of 6) indicate that all required use and bulk variances were granted on September 16, 2019. Two additional notes specify that variances were also granted for parking space width and for more than four parking spaces within 75 feet of an intersection. The Draft ZBA Resolution does not include all the required bulk variances and misstates the reason for the use variances. These deficiencies give rise to concerns about the validity of the ZBA decision. The Planning Board shall not grant subdivision approval until the findings of the ZBA are reviewed and clarified. A ZBA resolution that does not correctly identify the required and granted variances is invalid. The Planning Board application cannot move forward if the ZBA resolution is incorrect.

The following comments address our additional concerns about the variances required for this subdivision proposal.

8 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.

9 The Villages of Spring Valley and New Hempstead are two of the reasons this application was referred to this department for review. The Spring Valley municipal boundary is along the southern property line of the site and along Union Road directly adjacent to the site, as well as 175 feet east of the site. The New Hempstead municipal boundary is 410 feet northeast 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 Villages of Spring Valley and New Hempstead must be given the opportunity to review the current proposal and its impact on community character, traffic, water quantity and quality, drainage, stormwater runoff and sanitary sewer service. In letters dated May 14, 2105, September 29, 2017 and June 19, 2019, the Village of New Hempstead Planning Board concurred with this department's previous recommendations. The board also expressed concerns about overutilization, community character and traffic. The areas of countywide concern noted above that directly impact the Villages of Spring Valley and New Hempstead must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

10 The applicant must satisfactorily address the conditions of the Rockland County Highway Department's October 21, 2019 letter.

11 The applicant must satisfactorily address the conditions of the Rockland County Health Department's October 21, 2019 letter.

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12 The applicant must satisfactorily address the conditions of the Rockland County Sewer District #1's October 16, 2019 letter.

13 The proposed residential buildings must comply with all requirements of the New York State Uniform Fire Prevention and Building Code.

14 A review must be completed by the Rockland County Office of Fire and Emergency Services, the Town of Ramapo Fire Inspector, or the Hillcrest Fire Department to ensure that there is sufficient maneuverability on site for fire trucks, in the event an emergency arises. A truck turning analysis must be provided demonstrating that emergency vehicles can access the residential structures.

15 Given the deficient on-site parking, designated parking spaces must be assigned to each residential unit, and clearly identified in the field.

16 Areas designated for snow removal must be clearly delineated on the site plan so that the plow drivers will know where to place the snow piles. Providing specific locations on the site for the snow piles will reduce the loss of available parking spaces meant to be used by residents and their guests. This is especially critical given that the minimum on-site parking requirement is not achieved. In addition, this will help to protect the proposed landscaping from damage due to the weight of the snow and salt intrusion.

17 A turnaround area must be provided at the southern end of the parking area on Lot 4 so that a vehicle can easily exit the handicapped space. The current configuration raises concerns about pedestrian safety given the proximity of the sidewalks and residential structure.

18 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. If any public water supply improvements are required, engineering plans and specifications for these improvements shall be reviewed and approved by the Rockland County Department of Health prior to construction in order to ensure compliance with Article II (Drinking Water Supplies) of the Rockland County Sanitary Code and Part 5 of the New York State Sanitary Code.

19 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.

20 Prior to the start of construction or grading, all soil and erosion control measures must be in place for the site. These measures must meet the latest edition (November 2016) of the New York State Standards for Urban Erosion and Sediment Control.

21 A stormwater pollution prevention plan (SWPPP) was not provided. The SWPPP, if required, shall conform to the current regulations, including the New York State Stormwater Management and Design Manual (January 2015) and local ordinances.

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

23 Map Note # 24 shall be eliminated as it is repetitive of Map Note # 7, and references an invalid section of the GML.

24 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.

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25 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.

26 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 Michael B. Specht, Ramapo
Rockland County Drainage Agency
Rockland County Department of Health
Rockland County Sewer District #1
Rockland County Department of Highways
New York State Department of State
Rockland County Office of Fire and Emergency Services
Hillcrest Fire District

Civil Tec Engineering & Surveying PC
Villages of Spring Valley and New Hempstead
Rockalnd County Law Department,
Office of the County Attorney
Bluefield Extension, LLC/Sunshine Gardens Realty

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.