



Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

March 28, 2019

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

Tax Data: 57.09-1-6

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M

Map Date: 12/24/2018

Date Review Received: 2/27/2019

Item: *FIFTY SEVEN DECATUR CORP. (R-2275A)*

Variances for front setback (Decatur Avenue and Stephen Place), front yard (Decatur Avenue and Stephen Place), side setback, rear setback and deck rear setback to permit the construction of a three-family dwelling with three accessory apartments on .3813 acres in an R-15C zoning district.

Southwest corner of Stephen Place and Decatur 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:

****Disapprove***

1 The subject site exceeds the minimum lot area requirement by 1,609 SF or nearly 11 percent. The lot width is conforming on both frontages, as is the street frontage. Given that the parcel is complying and regularly shaped, it is possible to design a conforming structure. Setback variances are required on each side of the building. Based on the aforementioned items, this is unacceptable, and a clear example of overdeveloping a parcel, as the difficulty is self-created. The proposal does not pass the balancing test for area variances, and must be scaled back so that the generous R-15C standards are achieved.

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2 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 is seeking yard and setback variances ranging from 29 percent to 60 percent. The ability of the existing infrastructure to accommodate increased residential density in nonconforming 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 building footprint shall be reduced to conform to the R-15C setback standards.

The following comments address our additional concerns about this proposal.

3 The Village of Spring Valley is the reason this proposal was referred to this department for review. The Spring Valley municipal boundary is 200 feet east of the subject site. A medium-density residential zone is located in this section of the Village. 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; the protection of community character as regards predominant land uses, population density, and the relation between residential and nonresidential areas; drainage; community facilities; official municipal and county development policies, as may be expressed through comprehensive plans, capital programs or regulatory measures; and such other measures as may relate to the public convenience, to governmental efficiency, and to achieving and maintaining a satisfactory community environment. 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 this proposal.

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

5 A review must be completed by the Rockland County Sewer District #1, and all required permits obtained.

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

7 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.

8 The relevant fire district must be clarified, and corrected, if appropriate. Map Note 7 specifies that the site is within the Monsey Fire District. Information available to this department indicates that the site is in the Spring Valley Fire District.

9 All proposed building entrances, exterior stairways, window wells and walkways must be delineated on the site plan demonstrating that they will not impact yard requirements or increase the development coverage. Variances of a greater magnitude may be required, and parking maneuverability affected.

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10 The maximum development coverage standard listed on the bulk table is incorrect. The development coverage cannot exceed .50 for Use Group x.1. The ZBA application submitted in 2009 for an earlier version of this proposal required a maximum development coverage variance; .58 was proposed where .50 was required. The bulk table must be corrected. The development coverage calculation must be provided on the site plan so its accuracy can be verified. If a development coverage variance is required, as the bulk table lists it as .65, then the ZBA application must be re-submitted for our review.

11 The 2009 proposal was for an addition to, and the conversion of a single-family dwelling, to a three-family dwelling with three accessory apartments. The footprint of the residential structure proposed at that time was smaller than the current building, yet the floor area ratio (FAR) is the same. The gross floor area of the proposed new construction must be provided, as well as an FAR calculation so its accuracy can be verified. An FAR variance may now be required. The ZBA application must be resubmitted for our review if that is the case.

12 It will difficult for vehicles parked in spaces 3 or 6 to maneuver out of the spots without a turnaround area. No building entrances, exterior stairways or walkways are 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 building entrances, exterior stairways or walkways must be illustrated on the site plan so that safety issues can be properly evaluated.

13 A dumpster enclosure must be shown on the site plan and easily accessible to sanitation workers. Parked vehicles must not block access.

14 The purpose of the crosshatched area south of parking space 6 must be clarified. It appears to be an access aisle for a handicapped parking space. However, space 6 is not labeled as such. Since no building entrances, exterior stairways or walkways are shown on the site plan, it is not possible to determine if this area is fully accessible for someone in a wheelchair. Additional details must be provided on the map. If a handicapped parking space is required, it must be wheelchair accessible.

15 The Building Department's January 25, 2019 denial letter does not include a variance for side setback though one appears to be required. This must be clarified. All application materials must be consistent. The public notice will have to be revised and reissued if it did not include all required variances.

16 There is a discrepancy with the street name for Stephen(s) Place. The GML referral form, application form and site plan indicate Stephen Place. The December 27, 2018 project narrative and the January 25, 2019 Building Department denial letter reference Stephens Place. Neighborhood street signs exist for both Stephen Place and Stephens Place. A Google search generates results for Stephen Place and Stephens Place. The County GIS file has the road listed as Stephens Place. The Town must reaffirm the street name, and resolve the street sign inconsistency by a resolution, to avoid future confusion.

17 The GML referral form must include the map date so this department can verify that it is reviewing the same drawings as the Town.

18 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.

19 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.

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20 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 Department of Health
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.E.
Village of Spring Valley

Fifty Seven Decatur Corp.

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.