Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
Dr. Robert L. Yeager Health Center
50 Sanatorium Road, Building T
Pomona, New York 10970
Phone: (845) 364-3434 Fax: (845) 364-3435

Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

February 26, 2019

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

Tax Data: 50.17-1-6.2

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 12/3/2018 **Date Review Received:** 1/9/2019

Item: ***SAMUEL D. OSHRY/13 VINCENT ROAD (R-2194A)***

Variances for front setback, side setback, total side setback, side yard (walkway), rear yard, maximum development coverage, floor area ratio, deck rear setback and side yard (shed) to allow an addition of one accessory unit to an existing condominium unit. The addition of this accessory unit will result in a three-family dwelling with three accessory units on .2745 acres in an R-15C zoning district.
North side of Vincent Road, 318 feet northwest of Ellish Parkway

Reason for Referral:

Village of Spring Valley, Pascack Brook

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**

In June of 2005, Congregation Chasidei Belz of Rockland applied to the Town of Ramapo's Zoning Board of Appeals (ZBA) for a side setback and total side setback variance in order to construct a two-family residence on this site. These variances were granted on July 14, 2005. Despite the fact that this property is immediately adjacent to the Village of Spring Valley and within 500 feet of the Pascack Brook, the ZBA application was not submitted to this department for review as required under the NYS General Municipal Law. The Town of Ramapo's Building Department was subsequently informed that the application for a two-family residence was in error and a three-family residence was actually proposed. The ZBA decided that the applicant should be allowed to proceed with an application for a three-family dwelling and that it would not be inconsistent with the findings of the Zoning Board.

The parcel was referred to this department in November 2007 for a review of the variances required for several decks proposed on each side of the three-family dwelling. We noted that a significantly larger residential building was constructed than the one depicted on the June 15, 2005 site plan approved by the ZBA, as evidenced in the field and on the August 27, 2007 site plan. A field visit to the site at that time indicated that the decks for which additional side setback and total side setback variances were sought as part of the application were already built. It appeared that the applicant was seeking to legitimize unauthorized construction. The five "decks" in question

provided access to five separate building entry points. It was unclear if these were primary or secondary means of access to individual units within this structure. We noted that there were four separate electric and gas meters serving this building, four parking spaces and three large trash receptacles on either side of the parcel. As a result, we asked for clarification as to the total number of units within this 10,760 SF residential building. This information was not provided.

1 According to the application materials, the current proposal to add one accessory unit will result in a three-family dwelling with three accessory apartments. It is unclear when the first two accessory units were added, as that site plan revision and any required variances were not referred to this department for review. The fact that this property is within our jurisdiction under the NYS General Municipal Law was addressed in our November 5, 2007 GML review. The land use applications for the addition of any and all accessory units must be submitted for our review.

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 extent of the development coverage variance has increased from 10 percent to 46 percent. A floor area ratio variance of almost 17 percent is now required. Additional yard and setback variances are also necessary. The ability of the existing infrastructure to accommodate increased residential density on non-complying 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 variances shall not be granted, and no additional units permitted.

3 As a pre-existing, non-conforming lot, this parcel is given special consideration under Section 376-131.D.(1) 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 11,957 SF or 20 percent smaller than the minimum lot area required for new three-family residences in the R-15C zoning district. This department is not in favor of new construction projects that do not meet the bulk standards of the zone in which they are proposed. Given that this site benefits from the application of Section 376-131.D.(1) and variances were previously granted, additional variations from the code requirements must not be permitted.

The following comments address our additional concerns about this proposal.

4 The Village of Spring Valley is one of the reasons this proposal was referred to this department for review. The municipal boundary is along the rear property line of the site. The adjacent residential neighborhood in Spring Valley is zoned R-1A, a low to medium density residential district. Single-family and two -family dwellings are permitted on 8,500 to 9,000 SF lots for a residential density of five to ten units per acre - considerably less than what is permitted in the R-15C zoning district. 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.

5 A review must be completed by the Rockland County Drainage Agency, and all required permits obtained.

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

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

8 The proposed residential building must comply with all requirements of the New York State Uniform Fire Prevention and Building Code. It appears that New York State variances are required as the structure is within 10 feet of the property line, and the porches are less than six feet from it.

9 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.

10 Insufficient information is provided about the third accessory apartment. It is not clear where it will be located or how it will be accessed. The square footage of the unit is not indicated. We cannot determine if it conforms to Section 376-65 of the Zoning Code. The applicant must submit appropriately detailed information about the accessory apartment.

11 It will be difficult for vehicles parked in space 3 and 4 to maneuver out of the spots without a turnaround area. The proximity of the entrance walkways is also a concern. The potential for traffic conflicts between pedestrians and vehicles is great. A resident exiting the building will walk directly behind parked vehicles. A turnaround area must be provided so that vehicles do not have to back out into the roadway, and the walkways should be re-oriented so that they do not lead directly behind parked vehicles.

12 It will be difficult for sanitation workers to access the dumpster enclosure if vehicles are parked in spaces 5 and 6. The dumpster enclosure must be moved to a more accessible location.

13 The concrete walk on the east side of the site appears to terminate in the middle of parking space 3. The southern terminus of the walk must be shortened on the site plan.

14 A chain link fence is shown along the rear property line and through the proposed shed. The final disposition of the fence must be clarified. Given that the rear property line is also the municipal boundary, we recommend that replacement fencing be installed to screen the view of the shed and the residential structure since they are both closer to the lot line than permitted.

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

16 The tax map designation on the map is for the parcel rather than the condominium unit. The GML referral form and application submission reference the tax map designation for the unit in which the accessory unit is proposed. All application materials must be consistent.

17 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.

18 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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19 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
New York State Department of State
Rockland County Office of Fire and Emergency Services
Monsey Fire District

Anthony R. Celentano P.E.
Village of Spring Valley

Samuel D. Oshry

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.