



Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

July 15, 2019

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

Tax Data: 57.09-1-59.5	57.09-1-59.4	57.09-1-59.3
57.09-1-59.2	57.09-1-59.1	57.09-1-25.2
57.09-1-25.1		

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

Map Date: 4/16/2019

Date Review Received: 5/31/2019

Item: *WESTGATE ESTATES, LLC. (R-2486F)*

Variations to permit a seven-lot subdivision of 1.67 acres in the R-15C zoning district, and the construction, maintenance, and use of 21 residential units, including a semi-attached three-family residence with three accessory apartments on Lots 1 and 2; a detached three-family residence with three accessory apartments on Lots 3, 25.1, and 25.2; a semi-attached three-family residence with two accessory apartments on Lot 4; and a semi-attached three-family residence with one accessory apartment on Lot 5. The variations requested for Lot 3 include lot area, lot width, front setback, front yard, side setback, rear setback, and street frontage. Lots 25.1 and 25.2 require variations for lot area, lot width, front setback, front yard, side setback, rear setback, rear setback deck, and street frontage. Lot 4 needs variations for lot area, rear setback, street frontage, and development coverage. No additional variations are sought for Lots 1, 2, and 5 since there is no increase in the number of units proposed on these lots.

North side of West Central Avenue, approximately 135 feet west of 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 combined land area of the parcels proposed to be subdivided is 72,891 SF. This assemblage can yield four 15,000 SF lots or seven 10,000 SF lots without deductions for any other site improvements. Lot 1 has 175 feet of frontage along West Central Avenue and Lot 25.1 has 60 feet; the other five lots are all landlocked. In order to provide access to the landlocked lots, a 24-foot wide interior road is proposed. This road is approximately 303 feet long with a 48-foot extension to Lot 3. Given that the area of the interior road is roughly

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8,500 SF, only 65,391 SF is available for residential development. By our calculations, four conforming 15,000 SF or six conforming 10,000 SF lots are achievable. The applicant is proposing seven lots ranging from 8,578 SF to 12,231 SF. A combination of semi-attached and detached residential structures are proposed. Five lots (3, 4, 5, 25.1, and 25.2) are undersized; four lots (3, 5, 25.1, and 25.2) do not meet the lot width requirement. Lots 2, 3, 4, 5, 25.1, and 25.2 do not meet the street frontage requirements with five of those lots (2, 3, 4, 5, and 25.2) not having any street frontage on a public street. Front setback and front yard variances are required for lots 3, 25.1, and 25.2 with lots 1 and 2 also not complying. Lots 3, 25.1, and 25.2 require side setbacks. Rear setbacks are required for Lots 3, 4, 25.1, and 25.2 with lots 1, 2, and 5 also not complying; Lots 25.1 and 25.2 need rear deck setback variances with lot 2 also not complying. A maximum development coverage variance is needed for Lot 4 while Lots 1, 2 and 5 also do not meet this requirement. We believe that this proposal will result in a gross overutilization of the site as evidenced by the number and the extent of the variances required. We recommend that both the number of lots and residential units be reduced to more closely conform to the R-15C bulk requirements.

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 ability of the existing infrastructure to accommodate increased residential density on undersized, 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 number of lots must be reduced so that the newly created lots are less deficient in achieving the R-15C standards. The building footprints and number of units shall also be reduced to allow for closer conformance with the yard and setback standards, as well as the maximum permitted development coverage.

The following recommendations address our additional concerns regarding this proposal.

3 The Village of Spring Valley is the reason this proposal was referred to this department for review. The municipal boundary is approximately 110 feet south and 300 feet east 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 county-wide 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 which 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.

4 The applicant must comply with the conditions of the Rockland County Sewer District No. 1's letter of July 3, 2019.

5 An updated review of the April 16, 2019 ZBA Plan must be completed by the Rockland County Health Department. In addition, the condition of their February 20, 2019 letter must be satisfactorily addressed.

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

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7 The proposed private road is essentially a dead-end street providing access to Central Avenue for 21 residential units. It is unclear whether the Town limits the number of residential units on dead-end street. This must be clarified. A secondary, emergency access is no longer illustrated on the layout plan. The applicant must demonstrate that emergency vehicles can safely navigate the private road. A review must be completed by the County of Rockland Office of Fire and Emergency Services, the Town Fire Inspector, and the Monsey Fire District to ensure that there is sufficient access and maneuverability on-site for emergency vehicles.

8 The September 24, 2017 resolution for XBA-4256 (Westgate Estates, LLC) granted the variances sought at that time with the condition that the maximum development coverage on Lots 1, 2 and 5 be limited to .70. The bulk table on the current ZBA Plan indicates that the proposed development coverage exceeds .70 for each of these lots. The application materials indicate that no additional variances are required for Lots 1, 2 and 5 despite the fact that the development coverage exceeds the limitation imposed. The applicant must adhere to the condition of the resolution. The Town's Building, Planning and Zoning Department must enforce the condition of the resolution.

9 As per Section 376-65G, only one accessory apartment is permitted on parcels with a lot width of less than 75 feet. The lot width of Lot 25.1 is 60 feet. Therefore, only one accessory apartment is allowed. A variance is required for the second and third accessory apartments. This variance is not noted on the bulk table, the May 29, 2019 project narrative or the Building Department's February 21, 2019 CDRC comments. The second and third accessory apartments must be eliminated. This will allow for closer conformance with the R-15C bulk requirements. The required on-site parking will be reduced to four spaces resulting in a lower development coverage. A smaller building footprint will also be possible with fewer accessory units.

10 The Building Department's February 21, 2019 CDRC comments note that a 280 A variance is required for Lots 3, 4 and 25.2. Lots 2 and 5 do not have frontage on a public street so they will also need a 280 A variance. The 280 A variances are not included in the bulk table. All application materials must be consistent. If the public hearing notice did not include all required variances, it will have to be reissued.

11 The development coverage calculation must be provided on the site plan so its accuracy can be verified.

12 Given the size of the building footprints, we believe the FAR may be understated. The gross floor area must be indicated on the site plan, as well as the floor area ratio calculation. If a variance is required for FAR, a revised ZBA application must be referred to this department for review as mandated by the New York State General Municipal Law.

13 According to the Legend, the parking spaces on Lots 1, 2, 3, 4 and 5 have a parking lot pavement that differs from the roadway pavement. It is unclear if it is a porous pavement. This must be clarified. No special pavement is proposed for the parking spaces on Lots 25.1 and 25.2. A reason for the different treatment must be provided.

14 The bulk table provided on the layout plan contains numbers in parentheses that appear to refer to the notes adjacent to the table. These notes are not numbered making it difficult to accurately read the table. Each note must be numbered and correlate to the numbers on the bulk table. An explanation must also be provided for the double asterisks included in the bulk table.

15 General Note 14 is a cause for concern in terms of traffic safety. Snow storage adjacent to the curbs along West Central Avenue is unacceptable. Piles of snow along the curb that impede site access and limit visibility will create unsafe driving conditions and must not be permitted. 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. These areas must be at a sufficient distance from the site entrance. Snow storage areas will help to protect any proposed landscaping from damage due to the weight of the snow and salt intrusion. In addition, providing specific locations on the site for the snow piles will reduce the loss of available parking spaces meant to be used by residents.

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16 The proposed play area is located in the southwestern corner of the site. It includes a long, narrow area that will be difficult to access. The overall recreational space is insufficient for 21 families. A larger play area must be designated in a central location. Amenities including playground equipment and seating areas must be provided.

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.

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 Department of Health
Rockland County Sewer District #1
Rockland County Office of Fire and Emergency Services
Monsey Fire District
Rockland County Drainage Agency
New York State Department of State

Civil Tec Engineering & Surveying PC
Village of Spring Valley

Westgate Estates, LLC

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.

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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.

