



Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING

Dr. Robert L. Yeager Health Center

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Pomona, New York 10970

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Douglas J. Schuetz

Acting Commissioner

Arlene R. Miller

Deputy Commissioner

February 18, 2020

Ramapo Zoning Board of Appeals

237 Route 59

Suffern, NY 10901

Tax Data: 50.13-2-4.28

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

Map Date: 11/5/2019

Date Review Received: 1/17/2020

Item: *LAZER TEMPLER/10 WIDMAN COURT (R-279U)*

Variations for total side setback, side yard and development coverage to permit the addition of an exterior staircase to Unit 1 of a three-family dwelling on .2298 acres in an R-15C zoning district. East side of Widman Court, approximately 425 feet north of Dorset Road

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 On August 12, 2005, this department issued GML comments on the variances required to construct a three-family residence on 20 of the 35 residential lots comprising the Bluefield Gardens subdivision proposal. At that time, only front yard and front setback variances were sought for Lot 4.28. The bulk table included on the ZBA Plan indicates that the non-compliant front setback, front yard, side setback, development coverage and floor area ratio are existing, non-conforming conditions. It is unclear if variances were actually granted. A ZBA application for side setback, development coverage or floor area ratio variances was not referred to this department for review as mandated under the NYS General Municipal Law. The 37 percent increase over the maximum permitted floor area ratio is particularly troubling. It has always been the position of this department that new construction must conform to the bulk standards of the zone in which it is proposed. A revised ZBA application must be referred to this department that includes all variances required for this structure.

2 The Building Department's December 9, 2019 denial letter questions whether the proposed staircase is a required means of egress, and notes that a NYS variance will be necessary if that is the case. This gives rise to the question of whether an additional unit is being created. An accessory unit will require a designated parking space resulting in the need for additional variances as the site is fully developed. An explanation must be provided as to why the exterior staircase is needed. Additional variances will be subject to a review by this department as mandated by the NYS General Municipal Law.

LAZER TEMPLER/10 WIDMAN COURT (R-279U)

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 ability of the existing infrastructure to accommodate dense residential development 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. Additional units shall not be permitted.

The following comments address our additional concerns about this proposal.

4 The residential building must comply with all requirements of the New York State Uniform Fire Prevention and Building Code. It appears that a NYS variance is required since building features are within ten feet of the property line.

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

6 The Village of Spring Valley is the reason this proposal was referred to this department for review. The municipal boundary is along the eastern property line 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.

7 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.

8 A review shall be completed by the Rockland County Sewer District #1 and any required permits obtained.

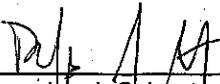
9 The ZBA Plan shall contain map notes that list all appropriate information, including the district details.

10 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.

11 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.

LAZER TEMPLER/10 WIDMAN COURT (R-279U)

12 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
Moleston Fire District

Sparaco & Youngblood, PLLC
Village of Spring Valley

Lazer Templer

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.