



COUNTY OF ROCKLAND

DEPARTMENT OF PLANNING

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EDWIN J. DAY
County Executive

THOMAS B. VANDERBEEK, P.E.
Commissioner

April 18, 2014

ARLENE R. MILLER
Deputy Commissioner

Spring Valley Zoning Board of Appeals
200 N. Main Street
Spring Valley, NY 10977

Tax Data: 57.32-1-27.2 57.32-1-27.1

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

Map Date: 11/4/2013

Date Review Received: 3/25/2014

Item: *VALLEY BLUE ESTATES (SV-807B)*

Variances for lot area, front yard, side yard, rear yard, parking and units per acre to allow the construction, maintenance and use of a three-story, multi-family dwelling containing 15 two-bedroom units on .4547 acres in a PRD zoning district.

West side of Bethune Avenue, 100 feet north of Ben Wild Road

Reason for Referral:

Town of Clarkstown

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:

****Recommend the following modifications***

1 The Town of Clarkstown is the reason this proposal was referred to this department for review. The municipal boundary is 100 feet south and 200 feet east of the site. The closest neighborhood in Clarkstown is zoned R-10, a medium-high density residential district, characterized by one- and two-family residences. An R-15 zoning district is located 450 feet east of the site. Single-family residences are permitted in this medium density residential district. The applicant is proposing a residential density of 33 units per acres. 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

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objectives of the general area.

The Town of Clarkstown has reviewed the proposal and its impact on community character, traffic, water quantity and quality, drainage, stormwater runoff and sanitary sewer service. In a letter dated April 10, 2014, the Chairwoman of the Clarkstown Planning Board opined that the current proposal will result in an overutilization of the site. The areas of countywide concern noted above that directly impact the Town of Clarkstown must be considered and satisfactorily addressed, as well as the concerns raised in the April 10, 2014 letter.

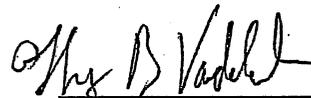
2 By definition, special permit uses are subject to a higher standard of review. This proposal must be scaled back to more closely conform to the special permit standards outlined in Article VII, as well as the use requirements listed in A-6.

3 As noted above, the residential density of this proposal is 33 units per acre. Section A-6.E.(2) states that the density for multi-family dwellings shall be a maximum of 18 units per acre. An eight-unit multi-family dwelling is permitted on this .4547-acre site. The applicant is seeking a 303 percent increase in the maximum permitted residential density. As a result, the minimum on-site parking requirement cannot be achieved and there is limited area for recreational amenities. The number of units must be reduced to more closely conform to the PRD standards.

4 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 proposing a four-fold increase over the maximum permitted residential density. The ability of the existing infrastructure to accommodate increased residential density on undersized sites 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 Village must consider the cumulative and regional impacts of permitting such development.

5 The Village shall consider the land use precedent that will be set if this multi-family development is approved as proposed. Adjacent and nearby property owners could submit similar proposals thereby changing the community character of the surrounding neighborhood, and undermining the intent of the zoning ordinance. For example, the two lots just north of these lots could also be combined for redevelopment purposes, resulting in a parcel equal in size to this application; and the lot to the south is already similarly sized and could easily request a similar use. The Village must comprehensively evaluate the vacant and under-developed parcels in the PRD zoning district in this neighborhood, to ensure that an undesirable land use precedent will not be set, and that the integrity of the zoning ordinance will not be compromised.

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



Thomas B. Vanderbeek, P.E.
Commissioner of Planning

cc: Mayor Demeza Delhomme, Spring Valley
Rockland County Department of Health
Rockland County Drainage Agency
Rockland County Sewer District #1
Anthony R. Celentano P.L.S.
Town of Clarkstown

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New York State Department of State,
Division of Code Enforcement and Administration
James Licata
Jonathon Weiss

**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.

