

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

July 7, 2016

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

Tax Data: 57.65-1-6

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

Map Date: 5/16/2016

Date Review Received: 6/3/2016

Item: *THE SENTINEL AT SPRING VALLEY (SV-685J)*

Use variance to allow the construction of an Assisted Living Facility (ALF) on 1.3658 acres in an HB zoning district. A five-story, 78,000 SF building is proposed to contain the 200-bed ALF. South side of Route 59, west side of Pascack Road

Reason for Referral:

NYS Route 59, Pascack Road (CR 35), Town of Clarkstown, Pascack Brook, Perlman Drive (CR 35C), New Clarkstown Road (CR 35A), New York State Thruway

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 This department is not generally in favor of granting use variances because of the land use precedent that can be set. This site is located within an HB (Highway Business) zoning district. The surrounding area is characterized by a variety of commercial land uses. Mixed use development is also permitted in the HB zone pursuant to Section 255-28.K. of the Spring Valley Zoning Code. The allowable mixed uses include all uses permitted in the PLI zone. This greatly expands the development options for this parcel.

An applicant must prove that applicable zoning regulations and restrictions have caused unnecessary hardship in order for a use variance to be granted. To prove such unnecessary hardship the applicant shall demonstrate to the board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:

- A. The applicant cannot realize a reasonable return, provided the lack of return is substantial as shown by competent financial evidence.
- B. The alleged hardship is unique and does not apply to a substantial portion of the district or neighborhood.

THE SENTINEL AT SPRING VALLEY (SV-685J)

- C. The requested variance will not alter the essential character of the neighborhood.
- D. The alleged hardship is not self-created.

The applicant has not demonstrated that an unnecessary hardship exists. The application materials do not include any financial evidence. They do not address the feasibility of developing this property as permitted under HB or PLI zoning. Given this lack of evidence, we recommend that the use variance not be granted.

2 The on-site parking is deficient by almost 38 percent. Since the site is located directly on a heavily traveled State highway, inadequate on-site parking will affect the safe and efficient flow of traffic. The building must be scaled back so that the floor area ratio and parking standards are achieved.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Mayor Demeza Delhomme, Spring Valley
New York State Department of Transportation
Rockland County Department of Highways
Rockland County Drainage Agency
New York State Thruway Authority
Rockland County Department of Health
Rockland County Sewer District #1
New York State Department of State,
Division of Code Enforcement & Administration
Rockland County Office of Fire and Emergency Services
Spring Valley Fire District

Atzl, Nasher & Zigler P.C.
Town of Clarkstown

Doc Sai, LLC

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.