Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

June 8, 2017

Spring Valley Village Board
200 N. Main Street
Spring Valley, NY 10977

Tax Data:

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: **Date Review Received:** 4/17/2017

Item: ***ZONING CODE AMENDMENT/ASSISTED LIVING FACILITIES (SV-849)***

Petition to amend the Zoning Code to allow Assisted Living Facilities as an as-of-right use in the HB zoning district. The petitioner owns a 1.37-acre site in the HB zone.
Throughout the HB zoning district

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, South Central Avenue (CR 37)

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**

The following are the reasons for our disapproval:

1) A property owner has submitted the petition to amend the zoning code to allow Assisted Living Facilities in the HB zone after his use variance application was denied. It is unclear if a comprehensive land use analysis was undertaken to determine what other parcels in the HB zone are appropriate sites for Assisted Living Facilities. This must be clarified to ensure that this zoning code amendment is not tantamount to spot zoning. The Village must consider whether Assisted Living Facilities are an appropriate land use within the HB zone, and whether any other parcels are suitable for this use.

2) It is our understanding that the Village Board denied the petition to amend the zoning code to allow assisted living residences as a permitted use in the HB zoning district at its March 28, 2017 meeting. The petition was before the Village Board at the April 11, 2017 meeting and no action was taken. This department is in receipt of a revised petition dated November 4, 2016. It is unclear if this is the most current version of the proposal. This must be clarified.

ZONING CODE AMENDMENT/ASSISTED LIVING FACILITIES (SV-849)

3) The proposed maximum building height of 75 feet (six stories) is significantly higher than what currently exists on Route 59 within the HB zoning district. For most uses within this district, the maximum permitted building height is 35 feet (3 stories). We believe this is a more appropriate standard.

4) The proposed floor area ratio (FAR) standard of 1.5 is 50 percent greater than the current maximum FAR permitted in the Village of Spring Valley. We believe this is excessive and must be reduced.

5) Since most parcels within the HB zoning district front on Route 59, it is imperative that the on-site parking requirement is achievable. The safe and efficient flow of traffic along the state highway will be impeded if insufficient on-site parking is provided. Parking variances must not be granted.

The following comments address our additional concerns about this proposal.

1 The standards for front yard depth and a landscaped buffer along residential districts shall not be modified by the Planning Board. These requirements are reasonable and must be upheld.

2 The proposed text amendment shall include a recreational space requirement. Outside seating areas are an appropriate amenity and must be provided.

3 The proposed text amendment must address pedestrian access. Sidewalks must be provided.

4 Approximately four parcels in the HB zoning district meet the proposed minimum lot area requirement of one acre. It is unclear whether assemblages of smaller properties will be allowed to achieve the one acre minimum. This must be clarified.

5 The on-site parking requirement of 100 spaces cannot be achieved on the petitioner's property. Given that the Sentinel proposal is the driving force behind this zoning code amendment, the bulk standards must be achievable.

Douglas J. Schuetz
Acting Commissioner of Planning

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

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.*

ZONING CODE AMENDMENT/ASSISTED LIVING FACILITIES (SV-849)

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.