Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

August 10, 2018

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

Tax Data: 57.54-1-17.2

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 1/26/2017 **Date Review Received:** 6/28/2018

Item: ***10 RIDGE AVENUE (SV-791C)***

A variance application to allow the construction of a two-family dwelling on an interior lot of 0.23 acres in the R-2 zoning district. Variances are requested for street frontage, side yard, rear yard, total side yard, no access to a public right-of-way (280A), and parking in the front yard. This is a re-approval of the variance application as the initial review was not submitted to the Rockland County Department of Planning as required under New York State General Municipal Law, Section 239L.

The eastern side of Ridge Avenue, approximately 245 feet south of NYS Route 59 and 100 feet east of the Ridge Avenue right-of-way.

Reason for Referral:

NYS Route 59

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 variances requested in the application form are not consistent with what is indicated on the site plan or the bulk table. The application form does not include a variance for net lot area, front yard, or floor area ratio, which the bulk table indicates are required. The measurements for the proposed side yard and total side yard in the application form do not match the bulk table, and the bulk table indicates that variances are not required for these yards. All materials must be consistent and accurate. Assuming the site plan accurately reflects the proposal, the application form must be revised. The public hearing notice must be reviewed and, if it contains inaccurate information, re-issued. In addition, the bulk table does not list street frontage or number of stories, and there are no notes referencing the need for variances for either parking in the front yard or New York Law 280-A. This information must be added to the site plan.

10 RIDGE AVENUE (SV-791C)

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 proposed front and rear yards are deficient by 40% and 25%, respectively. The floor area ratio exceeds the maximum standard by 20%. This property has none of the required street frontage. The ability of the existing infrastructure to accommodate increased residential density on undersized 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 Village must consider the cumulative and regional impacts of permitting such development. This property must be developed in a manner than more closely aligns with the zoning regulations.

3 The site plan indicates that two first and second floor decks are proposed on the southern side of the structure. Section 255-22C of the village zoning regulations states that "any two-story or any enclosed porch or deck or one having a roof and capable of being enclosed shall be considered a part of the building in determination of the size of yard or amount of lot coverage." As per this section, the proposed side yard must be measured to the decks, which would necessitate an additional variance. The site plan must either be amended so that the decks comply with section 255-22C, or the variance application must be amended to include them and a new public hearing notice must be issued.

4 The site plan includes several layers of information that, when combined on a single page, are difficult to decipher. Easements, drainage details, retaining wall details, existing and proposed topography, and proposed structures and parking are all included on a single page. The applicant must provide a multiple page site plan that presents this information in a more clear and readable format.

5 The site plan has notes regarding a proposed easement for ingress, egress, drainage and sewers, but the physical extent of this easement is not indicated. The location of the easement must be shown on the site plan.

6 A review shall be completed by the New York State Department of Transportation and any required permits obtained.

7 As per the July 12, 2018 letter from the Rockland County Department of Health, an application is to be made to them for compliance with the County Mosquito Code.

8 A review must be completed by the County of Rockland Sewer District No. 1 and all required permits obtained from them.

9 Since there is no direct access to the site from a public street, a review must be completed by the Rockland County Office of Fire and Emergency Services, the Village of Spring Valley Fire Inspector, or the Spring Valley Fire Department to ensure that there is sufficient maneuverability on site and access for fire trucks, in the event an emergency arises.

10 The site plan map notes shall include district information.

11 The site plan indicates that several sections of the proposed retaining walls will be over four feet in height. Retaining walls that are over four (4) feet in vertical height shall be designed by a licensed New York State Professional Engineer and be in compliance with the NYS Fire Prevention and Building Code. Design plans shall be signed and sealed by the licensed NYS Professional Engineer.

12 The site plan indicates that the proposed driveway will extend into the adjacent property to the east (tax parcel 57.46-2-20) and includes a partial site plan of that property. Any physical improvements to the neighboring property must first receive all appropriate approvals, including, if necessary, a review by the Rockland County Planning Department as required by General Municipal Law.

10 RIDGE AVENUE (SV-791C)

13 The subject property is located in the R-2 zoning district. The neighboring property to the east is located in the Professional Office District. Section 255-31H of the village zoning regulations states "No driveway shall provide access to a lot located in a nonresidential district across land in a residential district." Any driveway within the subject property cannot provide access to the adjacent parcel to the east unless a variance of section 255-31H is obtained. This variance must be submitted to the Zoning Board of Appeals, referred to the Rockland County Planning Department for review as required by General Municipal Law section 239L, and a public hearing held.

14 The application form indicates the property receives water service from United Water. The form must be corrected to Suez.

15 The use of tandem parking spaces prevents egress for vehicles blocked by other vehicles and creates an inconvenient situation for residents. This layout will encourage residents to park vehicles off-site or within the access easement instead of in their designated spaces and negates the purpose of on-site parking requirements. The tandem parking spaces must be reconfigured to allow independent access for all parking spaces.

16 The site plan includes a net lot area calculation based on areas of steep slope. The areas of steep slope must be indicated on the site plan. As indicated above, a variance of net lot area is required.

17 The NYS Department of State has determined that the Village is not administering or enforcing the State Uniform Fire Prevention and Building Code in accordance with minimum standards set forth in 19 NYCRR part 1203. Given the concerns about the Village's administration and enforcement of the State Uniform Fire Prevention and Building Code initially raised in the Executive Deputy Secretary of State's letter of July 15, 2016, and subsequently again in December 18, 2017, the proposed residential building must be held to the requisite minimum standards and comply with all requirements of this code.

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: Mayor Alan Simon, Spring Valley
New York State Department of Transportation
New York State Department of State
Rockland County Department of Health
Rockland County Sewer District #1
Rockland County Office of Fire and Emergency Services
Spring Valley Fire District

Sparaco & Youngblood, PLLC
Construction Expediting Inc.

10 RIDGE AVENUE (SV-791C)

**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.