

**DEPARTMENT OF PLANNING**

Dr. Robert L. Yeager Health Center  
50 Sanatorium Road, Building T  
Pomona, New York 10970  
Phone: (845) 364-3434 Fax: (845) 364-3435

**Douglas J. Schuetz**  
*Acting Commissioner*

**Arlene R. Miller**  
*Deputy Commissioner*

February 27, 2018

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

**Tax Data:** 50.70-1-14

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

**Map Date:** 5/16/2016

**Date Review Received:** 2/1/2018

**Item:** **14 ASELIN DRIVE - TWO FAMILY DWELLING (SV-878)**

A variance application to allow the construction of a two-family residence on 0.29 acres in the R-1A zoning district. A variance is requested for minimum lot width.

The southern side of Aselin Drive, approximately 220 feet east of Stanley Place.

**Reason for Referral:**

Pascack Brook, Town of Ramapo

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 This application, which is dated February 23, 2016, was received by this department on February 1, 2018. A site inspection conducted on February 6, 2018 showed that the proposed structure had already been largely completed, including the installation of driveways and landscaping. In addition, the project, as constructed, differs from the proposed plan in that the driveway configuration has been altered and cantilevered living space has been added to the third floor. The variation in the plans will impact yard requirements and may now require additional variances. The Village must work in conjunction with the Rockland County Department of Planning to take all appropriate actions to ensure that they are complying with New York State General Municipal Law, Sections 239-l and 239-m.

2 The February 6, 2018 field inspection showed that each dwelling unit has multiple points of entry. Although this is not conclusive evidence, it raises the possibility that additional dwelling units have been added to the structure. The Village must confirm that the building under construction is a two-family dwelling, with no additional residential units or any underlying infrastructure installed for the purpose of creating additional units. The site cannot accommodate additional units nor is there adequate room on site for any additional parking.

#### **14 ASELIN DRIVE - TWO FAMILY DWELLING (SV-878)**

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 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.

4 The Village Building Inspector must re-review the project to ensure that the building, as built, does not require additional variances, such as for side yard or total side yards. If additional variances are required, a revised application must be submitted to the Village Zoning Board of Appeals, as well as the County, as required by the New York State General Municipal Law.

5 The Town of Ramapo is one of the reasons this proposal was referred to this department for review. The municipal boundary is adjacent to the rear 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 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 objectives of the general area.

The Town of Ramapo 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 Town of Ramapo must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

6 The minimum lot width for a two-family dwelling in the R-1A zoning district is 80 feet. The bulk table and page 10 of 12 of the application form indicate that the required minimum width is 85 feet. The table and application form must be corrected and the public hearing notice reviewed and, if necessary, re-issued.

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

8 The site plan provided has been reduced in size and is not to scale. A full sized, to-scale site plan, with map notes with district information and vicinity map with a scale and north arrow, must be provided.

9 The southeastern corner of the property is within the FEMA AE floodplain. The floodplain must be shown on the site plan and lot adjustment calculations must be provided.

10 The Floodplain Administrator for the Village of Spring Valley shall certify that the proposed construction is in compliance with the floodplain regulations of the Village and the Federal Emergency Management Agency.

11 A review must be completed by the County of Rockland Sewer District #1 and all required permits obtained from them.

12 A review must be completed by the County of Rockland Drainage Agency and all required permits obtained from them.

13 The applicant must comply with the comments made by the Rockland County Department of Health in their letter of February 6, 2018.

**14 ASELIN DRIVE - TWO FAMILY DWELLING (SV-878)**

14 A review must be completed by the New York State Department of Environmental Conservation and any required permits obtained from them.

15 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 raised in the Executive Deputy Secretary of State's letter of July 15, 2016, the proposed residential building must be held to the requisite minimum standards and comply with all requirements of this code.

16 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.

17 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.

  
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Douglas J. Schuetz  
Acting Commissioner of Planning

cc: Mayor Alan Simon, Spring Valley  
Rockland County Department of Health  
Rockland County Drainage Agency  
Rockland County Sewer District #1  
New York State Department of Environmental Conservation  
New York State Department of State  
Federal Emergency Management Agency  
  
Civil Tec  
Town of Ramapo  
Construction Expediting

*\*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.*

