

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

August 28, 2018

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

Tax Data: 57.54-1-15

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

Map Date: 5/7/2017

Date Review Received: 7/6/2018

Item: 14 RIDGE AVENUE (SV-919)

Variances for lot width, side yard, total side yard and street frontage to permit the construction of a two-family dwelling on .23 acres in an R-2 zoning district.
East side of Ridge Avenue, approximately 400 feet south of NYS Route 59

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 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 lot width and street frontage are deficient in meeting the minimum standards for two-family dwellings in the R-2 zoning district. A 50 percent variance is needed for lot width; a street frontage variance of almost 29 percent is required. The proposed side and total side yards are 70 percent of the required minimums. The ability of the existing infrastructure to accommodate increased residential density on nonconforming 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. The building footprint shall be reduced to more closely conform to the R-2 bulk standards.

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2 We have repeatedly brought to the Village's Zoning Board of Appeals a significant discrepancy of the floor area ratio (FAR) provided on the site plan, and that which is roughly calculated given the information provided. To date, we have not yet received any amended plans with revised FAR calculations or the request to review the more realistic FAR number. Once again, we are alerting the Zoning Board of Appeals to what we discern to be a noteworthy discrepancy with the FAR.

The bulk table on the site plan indicates the proposed structure will have three stories and a FAR of .65. However, the site plan shows a building footprint of approximately 2,667 square feet. Assuming each story will have a gross floor area equal to the footprint, the proposed structure will have an overall gross floor area of approximately 8,001 square feet. This would result in a FAR of .80. Although this is an estimate, a FAR of .80 is 23 percent greater than the allowed maximum FAR of .65. The magnitude of this discrepancy requires further attention. The applicant must positively demonstrate that the proposed structure will conform to the Village's FAR requirement; a FAR calculation must be provided on the site plan. If the FAR exceeds the allowable .65, the variance application must be amended and the public hearing notice must be reissued. Any application that is revised due to an increase in FAR must be sent to this department for review.

3 A review must be completed by the New York State Department of Transportation, and any required permits obtained.

4 The applicant must comply with the conditions of the Rockland County Health Department's letter of August 7, 2018.

5 A review shall be completed by the Rockland County Sewer District #1, and all required permits obtained.

6 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.

7 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 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.

8 The site plan shall contain map notes, including district information.

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

10 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.

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

Anthony R. Celentano, P.L.S.

Benzion Scharf, 14 Ridge LLC

**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.

