

**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

September 20, 2018

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

**Tax Data:** 57.37-1-13

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

**Map Date:** 1/29/2018

**Date Review Received:** 7/20/2018

**Item:** 15 NORTH COLE AVENUE (SV-923)

A variance application to allow the construction of a two-family dwelling on 0.18 acres in the R-2 zoning district. Variances are requested for lot area, lot width, side yard, total side yard, and parking in the front yard. This is a re-approval of the variances, 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 western side of North Cole Avenue, approximately 305 feet south of Church Street.

**Reason for Referral:**

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:

***\*Disapprove***

1 The subject site does not meet the minimum lot area standard of 8,500 square feet required for a single-family residence, and provides approximately three-quarters of the lot area required for a two-family dwelling. The lot itself is non-conforming for width, as well. The proposed two-family residence will require substantial yard variances to accommodate an oversized residential building on an undersized parcel. The surrounding neighborhood is characterized by similarly-sized parcels. Granting these bulk variances will set a precedent that may result in nearby property owners seeking the same relief. A doubling of the residential density in this neighborhood of non-conforming parcels will negatively impact its community character. Additional residents will generate more traffic on the local streets, leading to congestion and traffic conflicts. While two-family residences are permitted as of right in the R-2 zoning district, they are subject to stricter bulk requirements. This site is particularly deficient in meeting these more stringent standards. We recommend that the required variances be denied, and that only a single-family residence be permitted.

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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 lot area is 77% of the required minimum. The lot width is 50% of the minimum. The side and total side yards are deficient by 57%. 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. As indicated above, only a single-family dwelling can be constructed to maintain the integrity of the zoning ordinance.

The following comments address our additional concerns about this proposal.

3 The Town of Ramapo is the reason this proposal was referred to this department for review. The municipal boundary is adjacent to the western property line of the parcel. 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.

4 The application and narrative state that a two-family dwelling is proposed. The bulk table includes requirements for a two-family dwelling. However, the site plan and the bulk table indicate the proposed structure is a single-family dwelling. All materials must be consistent and the applicant must clarify their intentions. If the intended proposal is for a two-family dwelling, the site plan and bulk table must be amended. In addition, the public hearing notice must be reviewed and, if it contains inaccurate information, reissued.

5 The bulk table does not contain information regarding number of stories or number of parking spaces. The bulk table must be amended to provide this information. Moreover, a two-family dwelling requires four parking spaces, but only two parking spaces are indicated on the site plan. The applicant must clarify whether they will provide the required four parking spaces or if they are seeking a variance for number of parking spaces. The applicant must either amend the site plan to provide the required parking, or submit a revised application. Any revised application must be sent to this department for review and an amended public hearing notice must be reissued.

6 The bulk table and application form indicate that the proposed side yard and total side yard are 6.5 feet and 13 feet, respectively. However, the site plan indicates a distance of 10 feet between the side property lines and the principal structure, and distance of 5.8 feet between the southern side property line and a stairwell. All materials must be consistent. The applicant must clarify their intentions regarding the size of the proposed structure and the variances required. The applicant must either amend the site plan to reflect the requested variances, or a revised application must be submitted. Any revised application must be sent to this department for review and an amended public hearing notice must be reissued.

7 The site plan shall include map notes with district information, and the vicinity map shall include a north arrow and scale.

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8 As per the August 7, 2018 letter from the Rockland County Department of Health, an application must be made to them for review of the stormwater management system for compliance with the County Mosquito Code.

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

10 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 site plan indicates the proposed structure will a FAR of 0.65. Although the number of stories is not given in the bulk table, the proposed height is 35 feet, which is a sufficient height to allow three stores. The site plan shows a building footprint of approximately 2,760 square feet. Assuming the structure will have three stories, and each story will have a gross floor area equal to the footprint, the proposed structure will have an overall gross floor area of approximately 8,280 square feet. This would result in a FAR of 1.08. Although this is an estimate, a FAR of 1.08 is 66% greater than the allowed maximum FAR of 0.65. 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 0.65, 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.

11 All proposed building entrances, exterior stairways, window wells and walkways must be delineated on the site plan demonstrating that they will not impact yard requirements and parking maneuverability for the site.

12 Section 255.22.C of the village zoning regulations exempts open porches and decks from yard and coverage requirements. The village must confirm that the proposed rear deck and side stairwell comply with this section and do not include any enclosed spaces.

13 The two parking spaces indicated on the site plan have a tandem configuration. 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.

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

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 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.

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.

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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.



Douglas J. Schuetz  
Acting Commissioner of Planning

cc: Mayor Alan Simon, Spring Valley  
New York State Department of State  
Rockland County Department of Health  
Rockland County Sewer District #1

Civil Tec  
Town of Ramapo Planning Board  
Construction Expediting Inc.

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.*