



Rockland County

Ed Day, Rockland County Executive

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 15, 2018

Spring Valley Zoning Board of Appeals

200 N. Main Street

Spring Valley, NY 10977

Tax Data: 50.62-1-13

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

Map Date: 8/19/2016

Date Review Received: 1/8/2018

Item: 19 VALLEY VIEW TERRACE (SV-864)

Variances to permit the demolition of an existing dwelling, and construction of a proposed two-family dwelling located on .147 acres in the R-2 zoning district. Required variances include: lot area, lot width, street frontage, front yard, side yard, total side yard, side yard (roof), total side yard (roof), and parking in the front yard.

Northwest side of Valley View Terrace, opposite Aselin Drive

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 lot area for this parcel is deficient in meeting the required lot area for a single-family dwelling. The construction of a two-family dwelling will only exacerbate the fact that this is already an undersized lot for the residential use. The surrounding neighborhood is characterized by similar sized residential dwellings on comparable dimensioned lots. Permitting an oversized building on an undersized parcel will set a precedent, resulting in others also requesting conversions of their residence to a more intense use. Permitting parking within the front yards will have a visual impact, as well as impact safety issues. In order to permit the proposed construction, 10 variances are required, further indicating that the two-family dwelling as designed is an over-utilization of the site. This will negatively impact such factors as community character, drainage, and traffic. The Village must not permit a more intensive use on a parcel that does not meet the minimal standards for a one-family dwelling. The proposal shall be scaled back to more closely conform to the R-1A bulk standards.

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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 lot area is deficient by close to 25% for the required minimum, the lot width is non-compliant by almost 19%, and the side yard and total side yards for the roof are over 66% deficient. Variances are also required for front yard, side yard, total side yards and street frontage, and the floor area ratio is at the maximum allowable ratio. 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, the proposal must be scaled back so that the proposal better conforms to the standards of the R-1A zoning district.

The following additional comments/conditions are other issues for the proposed variance application.

3 The Town of Ramapo is one of the reasons this proposal was referred to this department for review. The municipal boundary is approximately 168 feet to the east of the property. As required under Section 239nn of the State General Municipal Law, the Town of Ramapo must be given the opportunity to review the proposed variance and provide any concerns related to the project to the Village of Spring Valley.

4 A review must be completed by the Rockland County Department of Health to ensure compliance with Article XIX (Mosquito Control) of the Rockland County Sanitary Code.

5 A review must be completed by the Rockland County Sewer District #1, any comments or concerns addressed, 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 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.

As shown, the proposed residential building may require a variance from the New York State Uniform Fire Prevention and Building Code since the proposed roofs are located closer than ten feet to the property line. In addition, since no specific building height has been provided, it cannot be determined if the building is greater than 30 feet to the eaves. This information must be provided.

7 The use of tandem parking spaces prevents egress for vehicles parked behind 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 application and site plan indicate the proposed structure will have three stories and a FAR of 0.65. However, the site plan shows a building footprint of approximately 2,362 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 7,087 square feet. This would result in a FAR of 1.1087. Although this is an estimate, a FAR of 1.1087 is over 70% 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.

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9 Page 1 of 12 of the Application Review Form contains several errors that must be corrected. These include the Water District to be United Water; it should be Suez and the Zoning District is listed as R-2; it should be R-1A. These errors must be corrected.

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

11 The purpose of a Vicinity Map is to illustrate the surrounding parcels. In this instance, the subject parcel is not centrally located. The vicinity should be redrawn so that the subject parcel is actually positioned in the center of the map, enabling parcels to the north to be displayed.

12 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.

13 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
Rockland County Department of Health
Rockland County Sewer District #1
New York State Department of State

Anthony R. Celentano P.L.S.
Town of Ramapo

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.

