Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
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August 29, 2018

Spring Valley Planning Board
200 N. Main Street
Spring Valley, NY 10977

Tax Data: 57.30-2-14 57.30-2-13 57.30-2-12

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 5/17/2018 **Date Review Received:** 7/3/2018

Item: ***26 NORTH MYRTLE AVENUE (SV-716B)***

A site plan application to construct two multifamily buildings with a total of 48 residential units on three parcels totaling 1.598 acres in the GB zoning district. Variances are required for front yard, side yard, total side yard, rear yard, number of stories, floor area ratio, and units per acre.

The northeastern corner of North Myrtle Avenue and Sherwood Street.

Reason for Referral:

North Main Street (NYS Route 45)

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 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, side, rear and total side yards are deficient by 17%, 50%, 80% and 50%, respectively. A fourth story is proposed above the allowed three stories. The FAR exceeds the maximum limit by 133%. The 48 proposed units exceeds the number of units allowed on a parcel of this size by 71%. 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.

The number and scope of variances required for this proposal suggest a gross overdevelopment of the site. The proposal must be reduced in size and number of units to more closely conform to the bulk requirements of the village zoning regulations.

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2 Nine of the proposed parking spaces are located within the Sherwood Street right-of-way and must not be allowed. In addition, no curbs, sidewalks, or curb cuts are shown along the southern property line. Vehicles parked in spaces 1 through 9 and 61 through 66 will back directly onto Sherwood Street, creating a hazardous situation and must not allowed. As a result of attempting to include more units than allowed on an undersized parcel, the parking layout is inadequate and presents an unacceptable safety hazard. As indicated in comment #1, the number of units must be reduced and the size of the buildings must be reduced so that no variances are required.

3 The site plan includes the parcel to the south and the parking spaces on it are numbered. The applicant presumably intends to use the parcel to the south to provide the required parking for the residential units. The application form, bulk table, and narrative do not mention or include any information regarding this property or building. Not even the section, block and lot number or ownership of this property are provided. The only information provided regarding the existing building is a site plan note that indicates the building will be converted to an office building. In addition, the parking spaces required by the residential units would eliminate all remaining parking spaces for any proposed uses within this southern parcel, effectively removing any possible use of the site. The Village must not allow the required parking for the residential units to be provided on this parcel. There has been no formal application to do so and there is a complete absence of information regarding this site, including the existing and proposed uses.

4 A significant portion of the site is within the 'A' floodplain designated by FEMA. The extent of the floodplain must be shown on the site plan. Calculations for lot area adjustment must be provided as required by Section 255-18.A of the village zoning regulations. The subsequent reduction in lot area will result in an increased floor area ratio, further demonstrating the general overdevelopment of the site. In addition, the public hearing notice must be reviewed and, if it contains inaccurate information, reissued. The revised application must be referred to this office for review, since the magnitude of variances will increase.

5 The proposal does not comply with Section 255-22.H of the village zoning regulations, which prohibits impediments to visibility at intersections. This is an unacceptable hazard to motorists and pedestrians. The proposal must be reconfigured to comply with this section of the regulations, and the number of units and size of the building reduced to better comply with the zoning ordinance.

6 The proposed structures appear to be in violation of Section 255-22.O of the village zoning regulations, which states that distance between buildings shall be no less than the height of the buildings. No specific height or distance between buildings were given on the site plan. However, the coverage play area between the buildings appears to be approximately 24 feet, which is presumably less than the height of a proposed 4-story buildings. The site plan must be reconfigured to comply with this requirement or a variance obtained.

The following comments address our additional concerns about this proposal.

7 All sidewalks, stairs, decks, window wells, entrances, terraces and porches, and dumpster/refuse containment areas must be shown on the map to ensure that there is sufficient access to the building for firefighting purposes and to demonstrate that they will not impact yard requirements or parking maneuverability. If any such features expand the building envelope of the principal structures, such as the terraces or porches, the application must be amended and the public hearing notice reissued.

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

9 The applicant must comply with all comments made by the Rockland County Sewer District No. 1 in their letter of August 8, 2018.

10 The applicant must provide a downstream sanitary sewer capacity analysis, as indicated in the Rockland County Department of Health letter of August 7, 2018.

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11 The engineer of record shall certify to the floodplain administrator for the Village of Spring Valley that the proposed construction is in compliance with the floodplain regulations of the Village and the Federal Emergency Management Agency.

12 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 for fire trucks, in the event an emergency arises.

13 Prior to the start of construction or grading, a soil and erosion control plan shall be developed and in place for the entire site that meets the latest edition of the New York State Guidelines for Urban Erosion and Sediment Control.

14 There shall be no net increase in the peak rate of discharge from the site at all design points.

15 Water is a scarce resource in Rockland County; thus proper planning and phasing of this project are critical to supplying the current and future residents of the Villages, Towns, and County with an adequate supply of water. A letter from the public water supplier, stamped and signed by a NYS licensed professional engineer, shall be issued to the municipality, certifying that there will be a sufficient water supply during peak demand periods and in a drought situation.

16 If any public water supply improvements are required, engineering plans and specifications for these improvements shall be reviewed by the Rockland County Department of Health prior to construction. In order to complete an application for approval of plans for public water supply improvements, the water supplier must supply an engineer's report pursuant to the "Recommended Standards for Water Works, 2003 Edition," that certifies their ability to serve the proposed project while meeting the criteria contained within the Recommended Standards for Water Works. These standards are adopted in their entirety in 10 NYCRR, Subpart 5-1, the New York State regulations governing public water systems. Further, both the application and supporting engineer's report must be signed and stamped by a NYS licensed professional engineer and shall be accompanied by a completed NYS Department of Health Form 348, which must be signed by the public water supplier.

17 Public sewer mains requiring extensions within a right-of-way or an easement shall be reviewed and approved by the Rockland County Department of Health prior to construction.

18 Pursuant to the Rockland County Sanitary Code, Article XIII, Section 13.8.1, all multiple dwellings with three or more rental units must register and obtain a Multiple Dwelling Rental Certificate (MDRC). If this proposed multi-family dwelling meets the requirements of the Multiple Dwelling Rental Registry requirement, then the owner must register and obtain the MDRC. Failure to comply is a violation of Article XIII, which may result in penalties of $2,000 per day.

19 A lighting plan shall be provided that shows fields of illumination. This plan must demonstrate that the intensity of the candle lumens is less than 0.1 at the property line.

20 A landscaping plan must be included that provides a buffer to the neighboring residential properties.

21 The application form and site plan must include district information.

22 The site plan shall contain a north arrow. The vicinity map is illegible and is also missing a north arrow and scale. A revised, legible vicinity map with a north arrow and scale must be provided. The site plan must include metes and bounds for the property lines, as well.

23 The tax parcel information in note #1 on the site plan is incorrect and must be corrected. All three subject tax parcel numbers must be included in the information above the title block of the site plan.

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24 A specific building height must be provided in order to determine if an aerial apparatus road is required.

25 The bulk table indicates that one structure is proposed. The table must be corrected to two.

26 There are two parallel lines running north/south through the property whose significance is not clear. The nature of these lines must be clarified.

27 We request the opportunity to review any variances that may be needed to implement the proposed site plan, as required by New York State General Municipal Law, Section 239-m (3)(a)(v).

28 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.

29 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.

30 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

Anthony R. Celentano P.L.S

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.

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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.