Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

September 13, 2018

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

Tax Data: 50.79-2-10 50.79-2-9

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 5/27/2015 **Date Review Received:** 7/19/2018

Item: ***2 EWING AVENUE & 11 HOMER LEE AVENUE (SV-741H)***

A site plan application to construct two multifamily buildings with a total of 18 units on two parcels totaling 1.10 acres in the GB zoning district. Variances are required for front yard, side yard, and number of structures per lot. Approvals were previously granted in 2015, but have since expired.

A through-lot with frontages on the southern side of Ewing Avenue and the northern side of Homer Lee Avenue, approximately 100 feet west of Lake 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:

Recommend the following modifications

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

2 The applicant must comply with all comments made by the Rockland County Department of Health in their letter of August 23, 2018.

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

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

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5 The western portion of the property is located within the FEMA floodplain. The floodplain must be indicated on the site plan. In addition, a lot area adjustment calculation must be provided as required by Section 255.18.A of the village zoning regulations, and the bulk table updated. A reduced lot area will result in an increase in floor area ratio and the number of units per acre. Variances must be obtained if the floor area ratio exceeds the allowed 0.6 or if the number of units per acre exceeds 18. Any revised applications must be referred to this office for additional review.

6 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.

7 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 front and side yards are deficient by 33% and 50%, respectively. 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.

8 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 Village to what we discern to be a noteworthy discrepancy with the FAR.

The application and site plan indicate the proposed structure will have three stories and a FAR of 0.6. However, the site plan shows a total building footprint of approximately 11,911 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 35,733 square feet. Using the unadjusted lot area, this would result in a FAR of 0.74. Although this is an estimate, a FAR of 0.74 is 23% greater than the allowed maximum FAR of 0.6, and this calculation does not take into consideration any lot area reductions due to the presence of floodplains. 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 0.6, a variance must be obtained 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.

9 The site plan appears to indicate that several decks are proposed on the rear facades of both buildings. These decks encroach into the parking lot and backup area for the required parking spaces. These structures, including any supporting columns, must not interfere with the safe and efficient flow of vehicles on the site. The applicant must provide additional details to determine that these structures provide sufficient clearance for the unencumbered maneuverability of vehicles.

10 Turnaround areas must be provided at the western ends of both parking lots.

11 To ensure the safety of residents entering and exiting the play area, access must be provided from the landscaped median between the parking lots, and must be shown on the site plan.

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

13 Prior to the start of construction or grading, all soil and erosion control measures must be in place for the site. These measures must meet the latest edition (November 2016) of the New York State Guidelines for Urban Erosion and Sediment Control.

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14 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.

15 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.

16 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.

17 The map notes on the site plan shall contain district information.

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

19 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.

20 A portion of the proposed project consists of property from an adjacent parcel. There is a notation on the site plan that states "piece obtained from Tax Lot 50.79-2-13." No other information is provided. Additional information must be provided regarding this land transfer and the current use of tax lot 50.79-2-13. Any subdivision application for Tax Lot 50.79-2-13 must be forwarded to this department for review.

21 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.

22 The specific height of the proposed buildings must be provided in the bulk table so that it can be determined if an aerial apparatus road is required.

23 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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24 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 Drainage Agency
Rockland County Sewer District #1

Anthony R. Celentano P.E.
Construction Expediting Inc.

**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.