

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

August 17, 2018

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

Tax Data: 57.31-1-16

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

Map Date: 5/1/2017

Date Review Received: 6/29/2018

Item: *31 NORTH MADISON (SV-844C)*

Variance application to allow the construction of a nine-unit, multi-family development on .5487 acres in a GB zoning district with a Floodplain Overlay. Required variances include: lot width, side yard, rear yard, total side yard, floor area ratio, rear to the steps, and side yard to the steps. This is a re-approval of the variances required to implement the site plan, 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.

West side of North Madison Avenue, approximately 95 feet north of Grove Street

Reason for Referral:

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 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 is only 33.33% of the required minimum. The side yard is deficient by 25%, the rear yard by 70%, and the total side yard by 12.5%. The floor area ratio is exceeded by over 31%. In addition, the proposed steps decrease the non-conformity even more for both the rear (73.6%) and side (48.5%) yards. 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 size of the building must be reduced so that fewer variances are required, especially for the floor area ratio, which is underestimated since the deductions for the lands within the floodplain have not been applied. A smaller footprint and fewer units will negate the need for the variances.

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2 The 100-year floodplain must be indicated on the site plan. There shall be no structures located within the floodplain area. As required in Section 255-28J, all new construction must be above the base flood elevation.

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. Any bulk measurements that increase in magnitude, or any new variances required as a result of the deduction must be resented to the County for a General Municipal Law referral, as required under Section 239-l. The number of units will have to be reduced to comply with the zoning ordinance, once the net lot area calculation is provided.

3 This proposal is deficient in meeting both the special permit and bulk standards. The multi-family development must be scaled back so that it more closely conforms to the requisite standards, particularly as they relate to the Floodplain Overlay District. It is not possible to determine if the proposed construction is in compliance with floodplain regulations based on the information provided. An environmentally constrained site should better conform to the zoning ordinance requirements, instead of a proposal for an oversized building.

4 A review shall be completed by the New York State Department of Transportation and any comments considered.

5 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.

6 An updated review of the May 1, 2017 Layout Plan must be completed by the Rockland County Drainage Agency. In addition, the recommendations in their July 25, 2016 must be addressed, particularly as they relate to the 100-year flood hazard area and stormwater runoff.

7 The comments in the August 2, 2018 letter from the Rockland County Department of Health must be addressed.

8 A review must be completed by the County of Rockland Office of Fire and Emergency Services, Village of Spring Valley fire inspector, or the Spring Valley Fire District to ensure that there is sufficient maneuverability on site for emergency vehicles.

9 An updated review must be completed by the Rockland County Sewer District No. 1. In addition, the applicant must comply with the conditions of the Rockland County Sewer District No. 1's letter of October 25, 2016.

10 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.

11 The site plan shall contain map notes, including district information. In addition, a map note indicating that the special permit has been granted must be provided on the plans.

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

13 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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14 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
Federal Emergency Management Agency
Rockland County Drainage Agency
Rockland County Office of Fire and Emergency Services
Spring Valley Fire District

Anthony R. Celentano P.L.S.
Construction Expediting

**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.

