

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

July 19, 2018

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

Tax Data: 57.24-1-50

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

Map Date: 11/1/2012

Date Review Received: 6/21/2018

Item: 33 ROSE AVENUE (SV-848A)

A variance application to allow the construction of two multi-family buildings with a total of eight units. The parcel is a corner lot of 0.37 acres in the RSH zoning district and PRD overlay district. Variances are requested for lot area, front yards, rear yard, and floor area ratio.

The southwestern corner of the intersection of Rose Avenue and Crispus Attucks Street.

Reason for Referral:

Towns of Ramapo and Clarkstown

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 eastern structure 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 building 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.

2 The proposed driveways on the west side of the site front along an alleyway that is inadequate for traffic circulation and emergency access. The alleyway is only ten feet wide and does not appear to be paved. It is too narrow for two-way traffic and fire trucks and emergency vehicles will be unable to use this access. It is unclear whether vehicular traffic is permitted in this alleyway. If an access easement is required to use the alleyway, who is responsible for maintenance, and what rights do other property owners have to it? Vehicular access to this property must not be through this alleyway, which is physically inadequate and whose legal status is not clear.

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3 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 80% of the required minimum. The front yards for Rose Avenue and Crispus Attucks Street are deficient by 33% and 93% respectively. The rear yard is deficient by 60% and the floor area ratio exceeds the maximum by 67%. Multifamily dwellings in PRD overlay zoning district are limited to 18 units per acre, which would allow a maximum of six units on a parcel of this size. The proposed eight units exceeds this limit by 33%. 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. This proposal represents an overutilization of the site and must be disapproved.

The following comments address our additional concerns about the site plan proposal.

4 The Towns of Ramapo and Clarkstown are the reasons this proposal was referred to this department for review. The Ramapo municipal boundary is 215 feet east of the site; the Clarkstown municipal boundary is 290 feet southeast of the subject 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 Towns of Ramapo and Clarkstown 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 Towns of Ramapo and Clarkstown must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

5 The applicant must comply with all comments made by the Rockland County Department of Health in their letter of July 11, 2018.

6 The applicant must comply with all comments made by the Rockland County Sewer District No. 1 in their letter of December 29, 2017.

7 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.

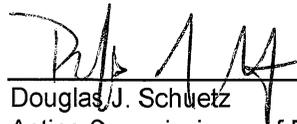
8 The specific height of the proposed building must be provided in the bulk table so that it can be determined if an aerial apparatus road is required.

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

10 The map notes on the site plan must contain district information.

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- 11 Providing parking spaces in a driveway that also serves as access to the garage prevents access and egress from the garage while vehicles are parked in the driveway 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 parking spaces must be reconfigured to allow independent access for all parking spaces.
- 12 The proposed driveways along Rose Avenue extend beyond the property line. The portion of the driveways that are not located on the parcel cannot fulfill the on-site parking requirement.
- 13 The driveways along Rose Avenue will require drivers to back out of their spaces into the street, across multiple curb cuts. This is an unacceptable hazard to pedestrians and motorists, and an impediment to the safe flow of traffic. The parking spaces must be reconfigured to minimize the number of points of ingress/egress and provide a turnaround area for motorists.
- 14 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.
- 15 The special permit required for this proposal is subject to a review by this department as mandated by the New York State General Municipal Law.
- 16 The proposed residential building must comply with all requirements of the New York State Uniform Fire Prevention and Building Code. All sidewalks, stairs, decks, and window wells must be shown on the site plan to ensure that there is sufficient access to the building for firefighting purposes.
- 17 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.
- 18 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.
- 19 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

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New York State Department of State
Rockland County Office of Fire and Emergency Services
Spring Valley Fire District

Anthony R. Celentano P.E.
Towns of Ramapo and Clarkstown
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.