

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

October 4, 2018

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

Tax Data: 57.22-2-1

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

Map Date: 1/19/2016

Date Review Received: 7/23/2018

Item: **34 UNION ROAD (SV-858A)**

A variance application to allow the construction of a two-family residence on 0.195 acres in the R-2 zoning district. Variances are requested for lot area, lot width, side yard, total side yard, rear yard, street frontage, and parking in the front yard. This is a re-approval of the application, 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.

The eastern side of Union Road, approximately 575 feet north of North Myrtle Avenue.

Reason for Referral:

Pascack Brook

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 area and width are only 85% and 60% of the required minimums, respectively. The rear yard is deficient by 50%, and the side and total side yards are deficient by 67%. Street frontage is 86% of the required minimum. 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.

2 The large number and scope of the requested variances suggest a general overdevelopment of the site. In order to bring the use of the property more in line with its capacity to be developed, the size of the building must be reduced.

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3 The surrounding neighborhood is characterized by similarly-sized parcels. Granting these bulk variances will set a precedent that may result in nearby property owners seeking the same relief. The increase of residential density in this neighborhood will negatively impact its community character. The proposal must be scaled back to more closely conform to the R-2 bulk standards.

4 The applicant must comply with all comments in the December 26, 2017 letter from the Rockland County Sewer District No. 1.

5 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.

6 As per the January 4, 2018 letter from the Rockland County Drainage Agency, the property is within their jurisdiction and any development requires a permit from them.

7 Section 255.22.C of the village zoning regulations exempts open porches and decks from yard and coverage requirements. The village must confirm that the proposed rear decks comply with this section and do not include any enclosed spaces.

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

9 The use of tandem parking spaces prevents egress for vehicles blocked by 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.

10 The site plan and architectural drawings provided has been reduced in size and are not to scale. A full-sized, to scale site plan must be provided. In addition, site plan shall contain map notes, including district information.

11 There are inconsistencies between the site plan and the architectural plans provided. The architectural plans indicate that the gross floor area will be 4,766 square feet, which will result in a FAR of 0.56. The site plan indicates the FAR will be 0.65. In addition, the architectural plans indicate two stairwells to the basement are proposed along the northern façade, which are not included on the site plan. One of these stairwells would encroach upon parking space 2, as well. All materials must be consistent. The site plan must also include a detailed FAR calculation and all parking spaces must be free from encroachment.

12 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.

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

Anthony R. Celentano P.L.S.

**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.

