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 25, 2018

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

Tax Data: 57.37-1-4

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 5/17/2016 **Date Review Received:** 7/23/2018

Item: ***41 NORTH COLE AVENUE (SV-930)***

A variance application to allow the construction of a two-family dwelling on 0.16 acres in the R-2 zoning district. Variances are requested for lot area, lot width, street frontage, front yard, side yard, total side yard, floor area ratio, and parking in the front yard. This is a re-approval of the variances, 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 western side of North Cole Avenue, approximately 300 feet south of Stephen Place.

Reason for Referral:

Town of Ramapo

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 subject site does not meet the minimum lot area standard of 8,500 square feet required for a single-family residence, and provides less than three-quarters of the lot area required for a two-family dwelling. The lot itself is non-conforming for width, as well. The proposed two-family residence will require substantial yard variances to accommodate an oversized residential building on an undersized parcel. 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. A doubling of the residential density in this neighborhood of non-conforming parcels will negatively impact its community character. Additional residents will generate more traffic on the local streets, leading to congestion and traffic conflicts. While two-family residences are permitted as of right in the R-2 zoning district, they are subject to stricter bulk requirements. This site is particularly deficient in meeting these more stringent standards. We recommend that the required variances be denied, and that only a single-family residence be permitted.

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2 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 71% of the required minimum. The lot width is 50% of the minimum. The front yard is deficient by 12%. The side and total side yards are deficient by 67%. The ability of the existing infrastructure to accommodate increased residential density on undersized and non-conforming 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. As indicated above, only a single-family dwelling can be constructed to maintain the integrity of the zoning ordinance.

The following comments address our additional concerns about this proposal.

3 The Town of Ramapo is the reason this proposal was referred to this department for review. The municipal boundary is adjacent to the western property line of the 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 Town of Ramapo 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 Town of Ramapo must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

4 The architectural plans provided by DrawRITE, dated April 11, 2018, do not match the site plan. The architectural plans show protruding decks at the front, a wall jog at the rear, and a rear deck that is larger and has a different configuration, all of which are not shown on the site plan. In addition, the overall length of the building is not consistent. The site plan indicates the building footprint is proposed to be 100 feet, and the architectural plans indicate the footprint is to be 88.85 feet. All materials must be consistent. The applicant must clarify their intentions regarding the proposal.

5 The proposed FAR of 0.6758 appears to be consistent with gross floor area of the structure shown in architectural plans dated April 11, 2018. However, as previously noted, the site plan is inconsistent with the architectural plans. These inconsistencies, particularly the larger footprint indicated by the site plan, call into question the accuracy of the proposed FAR. As a result, we are once again alerting the Zoning Board of Appeals to what we discern to be a noteworthy discrepancy with the FAR, based on estimates derived from information provided by the site plan.

The site plan indicates the proposed structure will have three stories and a FAR of 0.6758. However, the site plan shows a building footprint of approximately 3,000 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 9,000 square feet. This would result in a FAR of 1.27. Although this is an estimate, a FAR of 1.27 is 88% greater than the proposed FAR of 0.6758. 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 proposed 0.6758, the variance application must be amended 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.

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6 As per the August 7, 2018 letter from the Rockland County Department of Health, an application must be made to them for review of the stormwater management system for compliance with the County Mosquito Code.

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

8 All proposed building entrances, exterior stairways, window wells and walkways must be delineated on the site plan demonstrating that they will not impact yard requirements and parking maneuverability for the site.

9 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 deck complies with this section and does not include any enclosed spaces.

10 The site plan and architectural drawings have been reduced in size and are not to scale. In addition, the vicinity map is not legible. Full sized, to-scale plans must be provided with a legible vicinity map.

11 The site plan shall contain map notes, including district information.

12 The application form indicates the property receives water service from United Water. The form must be corrected to Suez. In addition, the requested variances listed on page 10 of the application form do not include a variance for parking in the front yard. The application form must be corrected. The public hearing notice must be reviewed, as well. If it does accurately describe all required variances, it must be reissued.

13 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.

14 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.

15 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 State
Rockland County Department of Health
Rockland County Sewer District #1

Anthony R. Celentano P.L.
Town of Ramapo Planning Board

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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.