Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
Dr. Robert L. Yeager Health Center
50 Sanatorium Road, Building T
Pomona, New York 10970
Phone: (845) 364-3434 Fax: (845) 364-3435

Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

January 2, 2019

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

Tax Data: 50.78-2-34

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 10/21/2018 **Date Review Received:** 11/8/2018

Item: ***52 UNION ROAD (SV-915A)***

A variance application to allow the construction of a local house of worship with a residence on 0.65 acres in the R-2 zoning district. Variances are requested for side yard, total side yard, floor area ratio, and number of parking spaces.

The eastern side of Union Road, approximately 30 feet south of Jasinski Road.

Reason for Referral:

Town of Ramapo, 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 proposed side yard and total side yards are deficient by 25%. The proposed floor area ratio exceeds the maximum standard by 117%. The number of parking spaces provided is deficient by 29 spaces, providing only 44% of the required number. The ability of the existing infrastructure to accommodate an oversized building 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, along with the significant shortage of required parking spaces, 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 and to better comply with the Village's regulations, the size of the building shall be reduced.

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3 The Town of Ramapo is one of the reasons this proposal was referred to this department for review. The municipal boundary is approximately 150 feet west 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 site plan does not match the architectural plans by Hy Garfinkel, dated October 18, 2018. The site plan indicates that there are wall jogs at the northeastern and southwestern corners of the building, which are not indicated on the architectural plans. All materials must be consistent. The applicant must clarify their intentions regarding the design of the structure. The Village must verify that the proposed structure conforms to the criteria stated in the application form and on the site plan. Proposed yards, floor area ratio, and number of parking spaces required must either remain as proposed, or a new application must be made. Any new application must be sent to this department for review.

5 An updated review must be completed by the County of Rockland Drainage Agency and all required permits obtained from them.

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

7 The applicant must comply with all comments made by the Rockland County Sewer District No. 1 in their letter of December 5, 2018.

8 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.

9 The bulk table on the site plan indicates that the building is proposed to be 35 feet in height. The architectural plans indicate the structure will have a flat roof 32 feet in height, with a decorative parapet. Since the building is more than 30 feet in height to the lowest point of fire department access, an aerial access road is required. This road must be shown on the site plan.

10 The map notes must contain district information. In addition, the parcel must be centered within the vicinity map.

11 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 local house of worship and rabbi residence must be held to the requisite minimum standards and comply with all requirements of this code.

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12 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.

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

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

**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.