



Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

February 14, 2018

Spring Valley Village Board
200 N. Main Street
Spring Valley, NY 10977

Tax Data: 57.56-2-8
57.65-1-6

57.56-2-10

57.56-2-15

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

Map Date: 8/16/2016

Date Review Received: 1/8/2018

Item: 67 EAST ROUTE 59, LLC - ZONING CODE AMENDMENT (SV-849A)

A petition to amend village zoning regulations to allow Assisted Living Residences as a permitted use within the Highway Business (HB) zoning district.
Throughout the HB zoning district.

Reason for Referral:

State and County roads, New York State Thruway (I-87/287), Pascack Brook, Town of 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***

The addition of Assisted Living Residences as a permitted use is supported by the County. Demographic and housing trends in the County point to an increasing need for more affordable housing options for senior residents. The Rockland County Comprehensive Plan specifically recommends that the County "encourage zoning that addresses senior housing needs."

However, this department has significant concerns regarding the height and bulk requirements that have been proposed. The suggested height and FAR for this use is significantly greater than any other allowed use in the HB zoning district. The proposed maximum building height of 85 feet is over 30% more than the current limit of 65 feet permitted for use groups C and D. Similarly, the proposed maximum FAR of 1.5 is 50% greater than the 1.0 FAR allowed for those use groups. The proposed bulk requirements represent a significant increase over the current requirements, and are not necessary to allow Assisted Living Residences as a permitted use. The maximum height and FAR of the proposed use must be reduced to more closely conform to the existing bulk requirements of the zoning district.

The following comments address our additional concerns about this proposal.

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1 The proposed parking requirement is one parking space for every ".0.5 units." This typo must be corrected.

Assuming the intended parking requirement is one space per every 0.5 units, the proposed figure is significantly higher than what was recommended in the report that was provided as supporting materials. The April 15, 2015 report by John L. Sarna to the Village Board of Chestnut Ridge regarding the Artis Senior Living Center recommended a ratio of 0.50 spaces per bed. In general, Assisted Living Facilities have little to no parking demand from residents. Peak parking demand usually occurs around the time of one employee shift ending and the next shift beginning, when employees of the upcoming shift begin to arrive but before employees of the current shift leave. Parking requirements for this use should be based on the needs for employee parking.

2 Since most parcels within the HB zoning district front on Route 59, it is imperative that the on-site parking requirement is achievable. The safe and efficient flow of traffic along the state highway will be impeded if insufficient on-site parking is provided. Parking variances must not be granted.

3 The definition of "Assisted Living Unit" must specify that the unit is within an Assisted Living Residence.

4 Proposed section E.(7)H, which removes basements from height measurements, must be eliminated. The village's existing definition of height is adequate, and should remain uniform and consistent throughout the village.

5 The proposed text amendment is a Type I action as indicated in section 617.4(b)(2) of the New York State Environmental Quality Review Act (SEQRA). The EAF provided as part of this application does not address the proposed text amendment. Rather, it is for a specific project on an individual site. A full EAF, addressing the impacts of the zoning amendment, must be completed. This department is an interested agency in the SEQRA process. Should a positive declaration be made, a Draft Generic Environmental Impact Statement must be submitted to this department for review and comment.

6 The Town of Clarkstown is one of the reasons this proposal was referred to this department for review. 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 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 Town of Clarkstown must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

7 A review must be completed by the County of Rockland Sewer District #1 and their comments considered.

8 A review must be completed by the County of Rockland Drainage Agency and their comments considered.

9 A review must be completed by the New York State Thruway Authority and their comments considered.

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

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11 The Village shall take into consideration all comments made by the Rockland County Highway Department in their letter of January 18, 2018.

12 The standards for front yard depth and landscaped buffers along residential districts shall not be modified by the Planning Board. These requirements are reasonable and must be upheld. Standards for lighting must be incorporated into the buffer requirement to ensure that there is no spillage of light into residential areas. Additionally, landscaped buffers must be required for any site within the HB zone in order to shield the residents of the facility from the impacts of non-residential uses.

13 The proposed text amendment shall include a recreational space requirement. Outside seating areas are an appropriate amenity and must be provided.

14 The proposed text amendment must address pedestrian and public transportation access. Requirements for sidewalks and accessibility to county TRIPS vehicles must be incorporated into the text amendment. Specific project proposals must be referred to the Rockland County Department of Public Transportation for review to ensure compliance with county design standards.

15 Approximately four parcels in the HB zoning district meet the proposed minimum lot area requirement of one acre. It is unclear whether assemblages of smaller properties will be allowed to achieve the one acre minimum. This must be clarified.

16 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.

17 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 Highways
Rockland County Drainage Agency
Rockland County Sewer District #1
New York State Department of Transportation
New York State Thruway Authority
Rockland County Department of Public Transportation

Town of Clarkstown
Ira M. Emanuel, P.C.

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.*

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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.