



Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

March 1, 2018

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

Tax Data: 50.70-1-74.4

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

Map Date: 9/30/2015

Date Review Received: 1/8/2018

Item: 68 UNION ROAD (SV-583E)

A variance application to allow a three-lot subdivision and the construction of two 2-family dwelling on 0.49 acres in the R-1A zoning district, with an existing single-family dwelling to remain. Variances are requested for: lot area and rear yard for lots 1, 2, and 3; street frontage for lots 1 and 2; and lot width, front yard, and side yard for lot 3.

The northern side of Union Road, approximately 50 feet northwest 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:

****Disapprove***

This parcel was created as part of an earlier subdivision and associated variance applications. On November 13, 1991, a General Municipal Law review was done by this department, which disapproved a variance required for a 6-lot subdivision and recommended reducing the number of lots. A subsequent 4-lot subdivision created the current parcel. This department maintains its position that the creation of additional lots will result in a general overdevelopment of the site, with negative impacts on the nearby Pascack Brook and Town of Ramapo. None of the proposed three lots meets the minimum lot size. In addition, the absence of street frontage requires substantial easements for utilities and access, which results in a loss of usable, open space, thereby exacerbating the impacts of the reduced lot sizes. Because of the number and scope of variances required, along with the challenges of maintaining access to landlocked parcels, we recommend the required variances be denied.

The following comments address our additional concerns about this proposal.

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- 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. Lot 1 has only 67% of the required area, 58% of the required rear yard, and no street frontage. Lots 2 and 3 have only 50% of the required rear yard and are deficient in meeting the lot area requirement. Lot 2 also has no street frontage. The front and side yards for lot 3 are 43% and 67% of the required minimums, respectively. 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 Town of Ramapo is one of the reasons this proposal was referred to this department for review. The municipal boundary lies along the centerline of a section of Union Road, just south and west of the property. 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.
- 3 The use of tandem parking spaces prevents egress for vehicles parked behind 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.
- 4 The number of stories for the proposed structures on lots 2 and 3 is given as "< 3 story" and their proposed FAR is 0.65. However, each building footprint is approximately 2,520 square feet, which represents approximately one-half of the gross floor area allowed for lots of this size. If each structure is assumed to have two stories, the resulting FAR will be 0.64, which is just under the maximum limit of 0.65. If each structure were to have three stories, the resulting FAR would be 0.96, which is 48% greater than the allowed maximum. The applicant must clarify the number of stories of each structure and positively demonstrate that the proposed structure will conform to the Village's FAR requirement. If the FAR exceeds the allowable 0.65, 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.
- 5 The applicant must comply with all comments made by the Rockland County Sewer District #1 in their letter of January 11, 2018.
- 6 The applicant must comply with all comments made by the Rockland County Highway Department in their letter of January 23, 2018.
- 7 The applicant must comply with all comments made by the Rockland County Department of Health in their letter of February 1, 2018.
- 8 The site plan map notes must be expanded to include district information.
- 9 The specific height of the proposed buildings must be provided in the bulk table so that it can be determined if an aerial apparatus road is required.

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10 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.

11 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.

12 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 Drainage Agency
Rockland County Sewer District #1
Rockland County Department of Highways

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

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.

