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 5, 2018

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

Tax Data: 57.62-1-12

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 N
Map Date: 4/28/2016 **Date Review Received:** 7/2/2018

Item: ***69 SOUTH MADISON AVENUE (SV-921)***

Two-lot subdivision of .379 acres, and construction of a two-family dwelling on each lot. Variances are required for lot area, lot width, side yard, total side yard for both lots and parking in the front yard; and front yard for proposed Lot #2. This is a re-approval of the subdivision, as the initial review was not submitted to the Rockland County Department of Planning, as required under New York State General Municipal Law, Section 239 l & n.

East side of Ridge Avenue, west side of South Madison Avenue, opposite Castle Avenue

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:

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 lot area is 78% of the required minimum for lot #1, and 87% for lot #2. The lot width is deficient by 19% for lot #1, and almost 13% for lot #2. The side yard for lot #1 is deficient by 20%, and 33% for lot #2. The total side yards are 80% and 28% for lots #1 and #2 respectively of the required minimums. 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. The size of the buildings must be reduced so as to minimize the required variances necessary for the two-lot subdivision.

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2 We have repeatedly brought to the Village's Zoning Board of Appeals a significant discrepancy of the floor area ratio (FAR) provided on the site plan, and that which is roughly calculated given the information provided. To date, we have not yet received any amended plans with revised FAR calculations or the request to review the more realistic FAR number. Once again, we are alerting the Zoning Board of Appeals to what we discern to be a noteworthy discrepancy with the FAR.

The application and site plan indicate that both proposed structures will have three stories and a FAR of 0.65. However, the site plan shows a building footprint of approximately 2,325 square feet for lot #1, and 2890 square feet for lot #2. 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 6,975 square feet for lot #1, and 8,670 square feet for lot #2. This would result in a FAR of .897 for lot #1 and .995 for lot #2. Although this is an estimate, a FAR of .897 is 38% greater than the allowed maximum FAR of 0.65 for lot #1, and over 53% for lot #2. The magnitude of this discrepancy requires further attention. The applicant must positively demonstrate that the proposed structures will conform to the Village's FAR requirement; a FAR calculation must be provided on the site plan. 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.

3 The Town of Ramapo is the reason this proposal was referred to this department for review. The municipal boundary is approximately 288 feet southwest 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 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.

5 It will difficult for a vehicle parked in space #1 or #4 to maneuver out of the space without a turnaround area. Sidewalks depicted on the plans end terminate at the parking spaces, creating a conflict with pedestrians and vehicles. A turnaround area must be provided so that vehicles do not have to back out into the roadway, and the walkways must be relocated so as to provide a safe pedestrian access into the dwellings.

6 As required by the Rockland County Stream Control Act, the subdivision plan must be reviewed and signed by the Chairman of the Rockland County Drainage Agency before the County Clerk can accept the plan to be filed.

7 A review must be completed by the County of Rockland Sewer District #1, any comments or concerns addressed, and all required permits obtained.

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8 As indicated in the August 3, 2018 letter from the Rockland County Department of Health, an application must be made to them for review of the stormwater management system to ensure compliance with the County Mosquito Code.

9 The site plan shall contain map notes that include district information.

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

11 Water is a scarce resource in Rockland County; thus proper planning and phasing of this project are critical to supplying the current and future residents of the Villages, Towns, and County with an adequate supply of water. The water system must be evaluated to determine if the additional water supply demands of the proposed development can be met. Domestic and fire demands of the project must be determined by a Licensed Professional Engineer and provided to the supplier of water for analysis. Demand calculations and results of the analysis must be provided to the Rockland County Department of Health for review.

12 Public sewer mains requiring extensions within a right-of-way or an easement shall be reviewed and approved by the Rockland County Department of Health prior to construction.

13 Prior to the start of construction or grading, a soil and erosion control plan shall be developed and in place for the entire site that meets the latest edition of the New York State Guidelines for Urban Erosion and Sediment Control.

14 There shall be no net increase in the peak rate of discharge from the site at all design points.

15 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.

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

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

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**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.