Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

November 26, 2018

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

Tax Data: 49.60-1-38

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 8/31/2018 **Date Review Received:** 10/9/2018

Item: ***6 FOX LANE (SV-943)***

Variances to permit the construction of a two-family dwelling located on .20 acres in the R-1A zoning district. Required variances include: front yard, side yard, rear yard, total side yard, and parking in the front yard.

Northeast side of Fox Lane, approximately 153 feet south of Blueberry Hill Road

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 proposal requires variances for front yard, side yard, rear yard, total side yard and parking in the front yard. The side and total side yards are 67% of the required minimums, and the rear yard is deficient by 50%. 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 building must be reduced so that no variances are required to implement the proposed two-family dwelling.

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2 Recently the Rockland County Planning Department has been raising an issue regarding a significant discrepancy of the floor area ratio (FAR) provided on the site plan. The attorney for the Village's ZBA wrote to the County explaining that the FAR does not include the basement if it is 7.5' or less in height. While we are cognizant of the definition for FAR regarding the basement height for the Village, we still have questions regarding the calculation provided on the plans. To date, we have still not received any plans that provide the needed information to make an informed decision regarding the FAR calculation. Given the information provided, we believe that this application has a noteworthy discrepancy with the FAR that must be addressed.

The floor plans show a two story building with a basement that is 7'6" in height (from floor to ceiling), which would count towards the FAR, and therefore, the residence would be a three-story residence. A very rough estimate (using only a 55' x 59' building), and assuming that each story will have a gross floor area equal to the footprint, the proposed structure will have an overall gross floor area of approximately 9,735 sq. ft., and have a FAR over 1.11. (Even if the basement were to be below the 7'5" height, the FAR would be greater than .74.) However, the bulk table indicates that the FAR will be only .65. Although this is an estimate, a FAR of 1.11 is 70.8% greater than the allowed maximum FAR of 0.65. 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. This calculation must include a floor by floor tally of gross floor area and, if applicable, a statement that the basement is exempt from FAR requirements due to its height. 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 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. Such an increase in density would alter and negatively impact the community character in this neighborhood. The proposal shall be scaled back to more closely conform to the R-1A bulk standards.

4 All of the information provided with the application indicates that a two-family detached dwelling is proposed. However, both the site plan and floor plans provided illustrate that three decks are proposed. In addition, four entrances are provided on the basement plan, and two on the first floor plan. Each dwelling also contains extra space such as a study and office, a huge den area for the smaller unit; and two guest rooms, a huge play room, and another area that is undefined on the basement floor plan for the larger unit. The Village must ensure that only two units will be built and occupied, as permitting a building with more than two units will require variances. As stated above, and to ensure that only two units are developed, the size of the building must be reduced so that no yard or parking variances are required.

5 The comments in the October 16, 2018 letter from the Rockland County Sewer District No. 1 must be addressed.

6 As indicated in the October 17, 2018 letter from the Rockland County Department of Health, if a stormwater management system is required to remediate the increase in impervious coverage, an application must be made to them for review of the system to ensure compliance with the County Mosquito Code.

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7 The Town of Ramapo is the reason this proposal was referred to this department for review. The municipal boundary is approximately 282 feet north of the 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.

8 The use of tandem parking spaces prevents egress for vehicles blocked by 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.

9 The site plan shall contain map notes, including district information. In addition, the parcel must be centered in the vicinity map to better depict the surrounding neighborhood of the parcel.

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

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 residential building must be held to the requisite minimum standards and comply with all requirements of this code.

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.

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Douglas J. Schuetz
Acting Commissioner of Planning

cc: Mayor Alan Simon, Spring Valley
Rockland County Department of Health
Rockland County Sewer District #1
New York State Department of State

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

**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.