Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
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October 26, 2018

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

Tax Data: 57.54-1-2 57.54-1-1.3 57.54-1-1.2
57.54-1-1.1

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 8/14/2018 **Date Review Received:** 8/17/2018

Item: ***9-15 RIDGE AVENUE (SV-726C)***

A variance application to allow the construction of a 24-unit multifamily dwelling on 1.28 acres in the R-3 zoning district. The property is partially located within the FEMA floodplain. Variances are requested for front yard, building height, number of stories, floor area ratio, units per acre, and parking in the front yard. This is a re-approval of the application, as the initial review was not submitted to the Rockland County Department of Planning, as required under New York State General Municipal Law, Section 239L. The western side of Ridge Avenue, approximately 300 feet south of NYS Route 59.

Reason for Referral:

NYS Route 59

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 front yard is deficient by 33%. The building height exceeds the maximum standard by five feet and one story. The FAR exceeds the maximum standard by 16%. 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 property is partially located in the FEMA floodplain. The extent of the floodplain must be indicated on the site plan.

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3 The engineer of record shall certify to the floodplain administrator for the Village of Spring Valley that the proposed construction is in compliance with the floodplain regulations of the Village and the Federal Emergency Management Agency.

4 A review must be completed by the Rockland County Department of Health to ensure compliance with Article XIX (Mosquito Control) of the Rockland County Sanitary Code.

5 A review must be completed by the County of Rockland Sewer District No. 1 and all required permits obtained from them.

6 A review shall be completed by the New York State Department of Transportation and any required permits obtained.

7 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.

8 Pursuant to the Rockland County Sanitary Code, Article XIII, Section 13.8.1, all multiple dwellings with three or more rental units must register and obtain a Multiple Dwelling Rental Certificate (MDRC). If this proposed multi-family dwelling meets the requirements of the Multiple Dwelling Rental Registry requirement, then the owner must register and obtain the MDRC. Failure to comply is a violation of Article XIII, which may result in penalties of $2,000 per day.

9 The site plan shall have a north arrow and the map notes shall include district information. The property must be centered within the vicinity map.

10 The retaining wall along the northern property line on the grading and utility plan does not match the retaining wall on the landscape and lighting plan. All materials must be consistent.

11 The application review form indicates that all 24 units will have four bedrooms. As per section A-3E(3) of the Village regulations, a Special Permit, as well as a Site Plan review, are required for this project. We request the opportunity to review these applications, as required by New York State General Municipal Law, Section 239-m (3)(a)(v).

12 The site plan does not indicate how residents will access the proposed play area. The site plan must include walkways from the units to the play area so residents can safely access it.

13 Section 255.22.C of the village zoning regulations exempts open porches and decks from yard and coverage requirements. The village must confirm that the proposed rear decks comply with this section and do not include any enclosed spaces.

14 The site plan provided has been reduced in size and is not to-scale. A full-sized, to-scale site plan must be provided.

15 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.

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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 Health
Rockland County Sewer District #1
New York State Department of State
New York State Department of Transportation
Rockland County Office of Fire and Emergency Services
Spring Valley Fire District
Federal Emergency Management Agency

Anthony R. Celentano P.L.S.

**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.