Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

June 27, 2018

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

Tax Data: 50.70-1-26

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 5/9/2016 **Date Review Received:** 5/30/2018

Item: ***98 UNION ROAD (SV-906)***

A variance application to allow the construction of a two-family dwelling on 0.13 acres in the R-1A zoning district. Variances are requested for lot area, lot width, front yard, side yard, total side yard, parking in the front yard, and street frontage.
The eastern side of Union Road, approximately 100 feet south of Valley View Terrace.

Reason for Referral:

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:

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 and width are 65% and 63% of the required minimum, respectively. Street frontage is 71% of the required minimum. The side and total side yards are deficient by 33% and the front yard is deficient by 12%. 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 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.

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3 A review must be completed by the County of Rockland Drainage Agency and all required permits obtained from them.

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

5 As per the June 7, 2018 letter from the Rockland County Department of Health, an application is to be made to them for compliance with the County Mosquito Code.

6 The site plan indicates the proposed structure will have less than three stories and a FAR of 0.65. However, the site plan shows a building footprint of approximately 2,040 square feet. Assuming each story will have a gross floor area equal to the footprint, a two-story structure would have overall gross floor area of approximately 4,080 square feet and have a FAR of 0.74. At three stories, the gross floor area would be approximately 6,120 square feet and the FAR would be 1.11. Although these are estimates based on incomplete information, the FAR of a two-story structure is 14% greater than the allowed maximum FAR of 0.65, and a three-story structure is 71% greater. 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. 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.

7 The parking area does not provide adequate back up space. Since the lot is only 50 feet wide, each space can only be allotted a total of 25 feet for the space and back up area. The parking layout must be reconfigured to provide adequate room to maneuver.

8 The bulk table and page 10 of the application form indicate that the minimum lot width in the R-1A zoning district is 85 feet. The required lot width is 80 feet. The bulk table and form must be corrected.

9 The site plan shall contain map notes, including district information.

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 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.

12 The proposed residential building must comply with all requirements of the New York State Uniform Fire Prevention and Building Code. All sidewalks, stairs, entries, and window wells must be shown on the map to ensure that there is sufficient access to the building for firefighting purposes.

13 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.

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

Anthony R. Celentano P.L.S.
Construction Expediting Inc.

**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.