



# 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 15, 2018

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

**Tax Data:** 49.60-1-19

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

**Map Date:** 10/13/2016

**Date Review Received:** 5/17/2018

**Item:** 9 NORTH RIGAUD ROAD (SV-890)

A variance application to allow the construction of a two-family dwelling on 0.19 acres in the R-1A zoning district. Variances are requested for lot area and floor area ratio.

The western side of North Rigaud Road, opposite Merrick Drive.

### 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 The Town of Ramapo is the reason this proposal was referred to this department for review. The municipal boundary is adjacent to the western 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.

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- 2 The applicant must comply with all comments made by the Rockland County Health Department in their letter of March 21, 2018.
- 3 A review must be completed by the County of Rockland Sewer District No. 1 and all required permits obtained from them.
- 4 The architectural plans provided by InteliStruction, dated October 23, 2017, do not match the site plan. The architectural plans show balconies at the front and two utility rooms with decks above at the rear, which are not shown on the site plan. All materials must be consistent. The applicant must clarify their intentions regarding the proposal. In addition, the utility rooms would encroach upon the rear yard and would, therefore, require additional variances. Any application for additional variances must be sent to this department for review.
- 5 The architectural plans indicate that the basement level of each unit is proposed to contain living space that includes bedrooms, bathrooms and a kitchen. This living space is physically separated from the first and second floors, sharing only a common entry. The Spring Valley zoning regulations define a Dwelling Unit as "A building or entirely self-contained portion thereof containing complete housekeeping facilities for only one family... having no enclosed space (other than vestibules, entrances or other hallways or porches) or cooking or sanitary facilities in common with any other dwelling unit..." The living spaces shown on the basement floor plans meet this definition and must be considered separate dwelling units. Multifamily dwellings are not permitted in the R-1A zoning district. The application must be amended to remove the basement units from the structure.
- 6 The application and site plan indicate the proposed structure will have three stories and a FAR of 0.7141. However, the site plan shows a building footprint of approximately 3,000 square feet. 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 9,000 square feet. This would result in a FAR of 1.07. Although this is an estimate, a FAR of 1.07 is 50% greater than the allowed proposed FAR of 0.714. 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 proposed 0.714, 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 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.
- 8 The application form indicates the property receives water service from United Water. The form must be corrected to Suez.
- 9 The site plan shall contain map notes, including district information.
- 10 The proposed residential building must comply with all requirements of the New York State Uniform Fire Prevention and Building Code. All sidewalks, stairs, decks, and window wells must be shown on the map to ensure that there is sufficient access to the building for firefighting purposes.
- 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.

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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 V. Schuetz  
Acting Commissioner of Planning

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

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.*

