

**DEPARTMENT OF PLANNING**

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**Douglas J. Schuetz**  
*Acting Commissioner*

**Arlene R. Miller**  
*Deputy Commissioner*

April 10, 2018

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

**Tax Data:** 57.55-1-54

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

**Map Date:** 6/12/2017

**Date Review Received:** 1/17/2018

**Item:** *SHMYER BREUER - 3 JOHN STREET (SV-852B)*

A variance application to allow a two-lot subdivision and construction of 2 two-family dwellings on 0.296 acres in the R-2 zoning district. Variances are requested for lot area, lot width, front yard, side yard, rear yard, total side yard, and street frontage.

The southwestern corner of John Street and East Funston Avenue.

**Reason for Referral:**

South Main Street (NYS Route 45)

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:

***\*Disapprove***

1 With approximately 12,899 sq. ft., the existing parcel is only slightly larger than the minimum lot area of 10,000 sq. ft. for a two-family use in this zone. The 6,471 and 6,427 sq. ft. proposed lots are 35.3% and 35.7% smaller than the required minimum, respectively. In addition, this proposal requires significant variances for lot width, street frontage, front yard, side yard, total side yard, and rear yard. The County has concerns about not just the overdevelopment of this specific property, but for the precedent set by this development. Should neighboring property owners seek similar relief, it will negatively impact the community character and result in a higher residential density than what is prescribed by the zoning regulations. The variance must be disapproved.

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2 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 lots are 35.3% and 35.7% smaller than the required minimum lot area. Side and total side yards are 33% smaller than required. Lot widths are 38.3% smaller than required. The rear yard of lot 2 is 50% deficient and its front yards are 20% and 8% smaller than required. 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. In addition, the Village must consider modifying this application to only permit single-family residences, which would mitigate these impacts and bring the parcels more in line with the Village's bulk requirements.

The following comments address our additional concerns about this project:

3 The bulk table indicates the required lot width for Lot 2 is 100 feet. Lot 2 is a corner lot. Village regulations state that a two-family residence on a corner lot must have a width of 105 feet. The bulk table must be corrected.

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

5 The applicant must comply with all comments made by the Rockland County Sewer District #1 in their letter of March 22, 2018.

6 The applicant must comply with all comments made by the Rockland County Health Department in their letter of February 1, 2018.

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

8 The use of tandem parking spaces prevents egress for vehicles parked behind 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 bulk tables indicate that the proposed structures will each have three stories and a FAR of 0.65. However, the site plan shows building footprints of approximately 2,200 square feet for lot 1 and 2,100 square feet for lot 2. Assuming each story will have a gross floor area equal to their respective footprints, the proposed structures will have an overall gross floor area of approximately 6,600 and 6,300 square feet for lots 1 and 2, respectively. This would result in FARs of 1.03 and 0.97. Although these are estimates, the FARs of lots 1 and 2 are 58% and 50% greater than the allowed maximum FAR of 0.65, respectively. 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; FAR calculations must be provided on the site plan. If either 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.

10 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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11 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.

12 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  
New York State Department of Transportation  
New York State Department of State  
Rockland County Department of Health  
Rockland County Drainage Agency  
Rockland County Sewer District #1  
  
Anthony R. Celentano P.L.S.  
Construction Expediting Inc.

Rockland County Planning Board Members

*\*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.*

