

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

June 29, 2018

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

Tax Data: 57.62-1-26

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

Map Date: 4/12/2018

Date Review Received: 6/1/2018

Item: *RACHEL BROWN - 11 SINGER AVENUE (SV-889)*

A variance application to allow the construction of a two-family dwelling on 0.14 acres in the R-2 zoning district. Variances are requested for lot area, lot width, side yard, and total side yard.

The northern side of Singer Avenue, approximately 150 feet east of Madison 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 The subject site does not meet the minimum lot area standard of 8,500 square feet required for a single-family residence, and provides less than two-thirds of the lot area required for a two-family dwelling. The lot itself is non-conforming for width, as well. The proposed two-family residence will require substantial yard variances to accommodate an oversized residential building on an undersized parcel. 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. A doubling of the residential density in this neighborhood of non-conforming parcels will negatively impact its community character. Additional residents will generate more traffic on the local streets, leading to congestion and traffic conflicts. While two-family residences are permitted as of right in the R-2 zoning district, they are subject to stricter bulk requirements. This site is particularly deficient in meeting these more stringent standards. We recommend that the required variances be denied, and that only a single-family residence be permitted.

RACHEL BROWN - 11 SINGER AVENUE (SV-889)

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 lot area and width are 60% and 50% of the required minimums, respectively. The side and total side yards are deficient by 33%. 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. As indicated above, only a single-family dwelling can be constructed to maintain the integrity of the zoning ordinance.

The following comments address our additional concerns about this proposal.

3 Page 10 of the application form is incomplete. Specific bulk requirements and proposed dimensions must be included.

4 As proposed, this project also requires a variance of Section 255-22A of the village zoning regulations, which requires that a minimum street frontage of 70 feet. The application and bulk table must be amended. The public hearing notice must be reviewed and, if necessary, reissued.

5 The site plan indicates that 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 2,460 square feet. Assuming each story will have a gross floor area equal to the footprint, a two-story structure will have an overall gross floor area of approximately 4,920 square feet, which would result in a FAR of 0.82. A three-story structure would have an overall gross floor area of approximately 7,380, which would result in a FAR of 1.23. Although this is an estimate, a FAR of 1.23 is 89% 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. 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.

6 The applicant must comply with all comments made by the Rockland County Department of Health in their letter of June 5, 2018.

7 An updated review of the site plan dated April 12, 2018 must be completed by the Rockland County Sewer District No. 1 and all required permits obtained from them. In addition, the applicant must comply with all comments made by the Rockland County Sewer District No. 1 in their letter of May 9, 2018.

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

9 The village must review the comments made by the Rockland County Office of Fire and Emergency Services in their letter of June 4, 2018 and address all areas of concern.

10 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. In addition, parking space 1 is being encroached upon by a stairwell. The tandem parking spaces must be reconfigured to allow independent access for all parking spaces and to eliminate any encroachments.

11 The site plan shall contain map notes, including district information. The subject parcel must be centered within the vicinity map.

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

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13 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.

14 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.

15 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 Transportation
New York State Department of State
Rockland County Office of Fire and Emergency Services

Anthony R. Celentano P.L.S.

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.

