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 22, 2018

Spring Valley Village Board
200 N. Main Street
Spring Valley, NY 10977

Tax Data: 57.39-2-33

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 4/5/2018 **Date Review Received:** 5/24/2018

Item: ***CHURCH OF GOD OF SPRING VALLEY (SV-877C)***

Special permit for the proposed construction of an addition to an existing sanctuary, including a lower level for an existing church, located on .18 acres in the GB zoning district. The special permit is required since the parcel is located within the Floodplain Overlay District. Variances are also required to permit the addition.
North side of E. Church Street, west side of Centre Street/Veterans Drive

Reason for Referral:

NYS Route 45, 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:

***Disapprove**

1 The existing church, and the proposed addition, are almost entirely located within the floodplain of the Pascack Brook. The applicant has provided stormwater calculations from Bentley Systems, Inc., dated March 2, 2017. These calculations are not stamped and signed by an engineer and do not provide a narrative regarding their findings. In addition, no constructions details regarding a stormwater management system have been provided. The applicant must demonstrate that there will be no net run-off from the site, and that the proposed addition will not negatively impact any downstream flow, or capacity.

2 The comments and conditions in the March 21, 2018 letter from the Rockland County Drainage Agency must be addressed. Until this information is provided, the site plan cannot be approved.

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.

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4 As indicated above, the site is located with the Floodplain Overlay District, which requires a special permit from the Village Board, and is subject to more rigid standards, as listed in Section 255-28J. of the Village of Spring Valley Zoning Ordinance. Specifically, it must be demonstrated that Sections 255-38J.(2) and (3) have been done in accordance with the Overlay District requirements. This cannot be achieved without plans that illustrate elevations for the site. In addition, design standards must be provided demonstrating that Sections 255-38J. (4)-(8) have been complied with.

5 The subject site does not meet the minimum lot area standard of 25,000 square feet required for a church or other place of worship use, and is deficient by over 68%. The lot itself is non-conforming for width, as well. The proposed addition to the church will require substantial yard variances to accommodate an oversized building on an undersized parcel. The front yard is deficient by over 87%, the side yard by 55%, and total side yards by over 90%, and the rear yard by close to 95%. These variances reflect the fact that an extremely undersized parcel, that is located almost completely within a floodplain. The surrounding neighborhood is characterized by similarly-sized, or smaller parcels. Granting these bulk variances will set a precedent that may result in nearby property owners seeking the same relief. Permitting variances in an area that has been cited by the Village as having environmental constraints, and therefore, special additional development requirements, will undermine the intent of the Village's Zoning Ordinance. This site is particularly deficient in meeting these more stringent standards. We recommend that the required variances be denied.

6 As mentioned above, the site is located almost completely within the 100-year floodplain of the Pascack Brook. As such, the undersized parcel's lot area provided is overstated, as the special bulk requirements stated in Section 255-18A. have not been applied. A gross and net lot area calculation must be provided. The net lot area must include the deductions for the land area within the 100-year frequency floodplain. This results in greater non-conformities for both the lot area and maximum floor area ratio.

7 The maximum floor area ratio is understated. The ratio must be based on the net lot area, not the gross. Even without this reduction, the floor area ratio proposed is over 366% greater than permitted. The calculation must be updated to reflect the correct lot area after Section 255-18A. is applied. This floor area ratio is extreme, reflecting that the environmentally sensitive site is over-utilized. The addition must not be permitted.

The following additional comments address other concerns with the proposed site plan.

8 The comments in the May 31, 2018 letter from the Rockland County Sewer District No. 1 must be addressed.

9 A review must be completed by the New York State Department of Transportation, and any required permits obtained.

10 The applicant has not indicated where the parking for the church will be provided. The bulk table indicates that six parking spaces are provided, but none are shown on the property. The applicant must clarify where these spaces will be located. If offsite parking is proposed, then the location must be identified, and written permission from the property owner obtained. If the municipal lot is proposed to be used, then it must be identified as such. Lastly, the bulk table must indicate that a parking variance is required, or that parking is being provided offsite.

11 The vicinity map provided for the project is difficult to read, and is highlighting not only the wrong area in the Village, but also the wrong parcel. The vicinity map must be corrected, highlighting the subject parcel in context with the appropriate neighborhood.

12 The Zoning - Location Map has the correct parcel displayed, however no zoning districts are illustrated on the map. If the purpose of this map is to depict the zoning boundaries, then the zoning district lines must be illustrated.

13 A grading and drainage plan must be provided for the site. Without such, it is impossible to determine the impact of the proposed addition to the surrounding area, including the area downstream.

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14 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 commercial building must be held to the requisite minimum standards and comply with all requirements of this code.

15 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.

16 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
Federal Emergency Management Agency
New York State Department of State
New York State Department of Transportation
Rockland County Department of Health
Rockland County Drainage Agency
Rockland County Sewer District #1

Peter F. Gaito & Associates
Bishop Edner B. Ligonde

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.