Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

May 2, 2018

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

Tax Data: 49.76-1-29

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 9/8/2017 **Date Review Received:** 2/13/2018

Item: ***CONGREGATION VYOEL MOSHE (SV-883A)***

A variance application to allow the construction of an addition to an existing house of worship on 0.22 acres in the R-1A zoning district, on a corner lot. Variances are requested for lot area, lot width, front yard, side yard, rear yard, floor area ratio, number of parking spaces, and parking in the front yard. The northwestern corner of Yale Drive and Dr. Frank Road.

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 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 lot and existing structure are already non-conforming in several respects. The proposed addition will create additional non-conformities on a lot that lacks the sufficient size for the use. The lot area is deficient by 62%. The proposed lot widths are 71% and 91% of the required minimums. The front yards are 57% and 31% of the required minimums. The side yard is deficient by 48% and the rear yard is deficient by 74%. The FAR is 280% greater than the allowed maximum, and only 3 of the required 40 parking spaces are provided. The ability of the existing infrastructure to accommodate increased 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.

CONGREGATION VYOEL MOSHE (SV-883A)

2 This department has questions regarding the existing building. The application states the proposed addition is for an existing house of worship. However, aerial photographs from 2010 indicate the structure had a substantially smaller footprint and parking area than the current building. Images from Google Street View dated October 2013 show a building under construction. The current structure has several bulk non-conformities and the use, while a permitted use, is subject to site plan approval. However, this department has no record of having received any prior reviews for variances or site plan review for this property. We question how the existing structure and use were permitted without having gone through the proper review process. The village must confirm that the existing structure and use have met all the requirements of General Municipal Law prior to approval of this variance application. If it is determined that the GML requirements have not been met for the structure as it exists today, then the applicant must obtain the necessary approvals, including all required reviews, for the work that has already occurred.

3 The Town of Ramapo is the reason this proposal was referred to this department for review. The municipal boundary is approximately 160 feet south and 370 feet north of the 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.

4 The applicant must comply with all comments made by the Rockland County Department of Health in their letter of February 22, 2018.

5 A review must be completed by the County of Rockland Sewer District #1 and all required permits obtained from them.

6 The application form indicates the property receives water service from United Water and is located in the R-2 zoning district. The form must be corrected to Suez and the R-1A zoning district. In addition, the bulk table indicates the property is in the R-1 zoning district and must also be corrected.

7 The site plan map notes shall include district information.

8 It will be difficult to maneuver vehicles out of parking spaces 2 and 3 without a turnaround area. A turnaround area must be provided to prevent vehicles from backing out onto the street. In addition, the extent of the proposed parking area is not defined and no curb cuts are shown. The current configuration will allow and encourage vehicles to park within the village right-of-way. Curb cuts and the extent of the parking surface must be shown and a defined accessway must be established.

CONGREGATION VYOEL MOSHE (SV-883A)

9 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 addition must be held to the requisite minimum standards and comply with all requirements of this code.

10 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.

11 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 State

Anthony R. Celentano P.L.S.
Town of Ramapo
Construction Expediting

**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.