Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

February 8, 2018

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

Tax Data: 50.53-1-30

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 6/23/2016 **Date Review Received:** 1/8/2018

Item: ***SHIMON & MALKA FLOHR - 3 ELENER LANE (SV-860)***

A variance application to allow a two-lot subdivision and the construction of a two-family dwelling on each lot on 0.42 acres in the R-1A zoning district. Variances are requested for lot area and parking in the front yard for Lot 1; and street frontage, front yard, and parking in the front yard for Lot 2.
The eastern side of Elener Lane, approximately 170 feet north of 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 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. Lot 1 is proposed to only have 83% of the required minimum lot size. Lot 2 is proposed to only have 62% of the minimum front yard and no street frontage. 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.

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

3 A review must be completed by the Rockland County Department of Health to ensure compliance with Article XIX (Mosquito Control) of the Rockland County Sanitary Code.

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4 The Town of Ramapo is the reason this proposal was referred to this department for review. The municipal boundary is approximately 115 feet to the east of the site. 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.

5 A drainage easement is shown along the eastern property line of Lot 2. A lot area adjustment calculation for Lot 2 must be provided.

6 The variance application and site plan indicate that a two-family dwelling will be located on each lot. According to Rockland County GIS data, the existing structure on the site is a single-family residence. The applicant must confirm the use of the existing structure, and clarify what new construction, if any, is proposed on Lot 1.

7 The bulk table indicates that four parking spaces will be provided for Lot 1. However, only two parking spaces, within the front yard, are shown on the site plan. All four parking spaces for Lot 1 must be shown and labelled on the site plan.

8 A lot area variance has been requested for Lot 1. However, the total acreage of the site, before adjustments for easements are calculated, is sufficient to create two conforming lots. In order to eliminate or minimize the extent of the lot area variance, the proposed lot line must be reconfigured to make the parcels more conforming to minimum standards.

9 The site plan shall contain map notes, including district information.

10 The specific height of the proposed building must be provided in the bulk table so that it can be determined if an aerial apparatus road is required.

11 All sidewalks, stairs, window wells, entrances, terraces and porches, and dumpster/refuse containment areas must be shown on the map to ensure that there is sufficient access to the building for firefighting purposes and to demonstrate that they will not impact yard requirements or parking maneuverability.

12 The parking spaces for Lot 2 are awkwardly configured and have no turnaround area. They must be redesigned with a turnaround area provided.

13 The bulk tables must be labelled with the appropriate lot number.

14 The application form incorrectly lists the water district as United Water, not Suez. The application form must be corrected.

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15 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.

16 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.

17 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 Inc.

**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.