



Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

April 25, 2018

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

Tax Data: 50.79-2-15

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

Map Date: 12/7/2011

Date Review Received: 1/22/2018

Item: *MONSEY LUMBER (SV-792B)*

Zone change of .1148 acres from the R-2 to the GB zoning district. Special permit to permit a proposed two-story, 4,000 sq. ft. building to be used as office space (1,000 sq. ft.) and a warehouse (3,000 sq. ft.) for a parcel located in the floodplain overlay zone.

North side of Homer Lee Avenue, 130 feet east of North Main Street

Reason for Referral:

North 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 applicant is requesting a zone change of the parcel from the R-2 to the GB zoning district. The subject parcel does not meet the minimum lot area requirement of 10,000 sq. ft. for warehouse uses in the GB zone. Variances are necessary, and had been granted, for not only lot area, but also for lot width, side yard, total side yard, rear yard, parking in the front yard, and floor area ratio. The required variances are not minimal, but rather very substantial in nature. The lot area and lot width are deficient by 50%; the side yard, total side yard, and rear yard require a variance of 100%; and the floor area ratio is exceeded by over 165%.

In addition, warehouse uses are not an as-of-right use in this zone; a special permit is required. By definition, special permit uses are subject to a higher standard of review as outlined in Article VII of the Spring Valley Zoning Code. The site is particularly deficient in meeting these more stringent standards. Permitting development that does not comply with the applicable standards can set an undesirable land use precedent and result in the overutilization of individual sites. The ability of the existing infrastructure to accommodate facilities of this size 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

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overburdened. The Village must consider the cumulative and regional impacts of permitting such development.

This parcel is also located completely within the Floodplain Overlay Zone. As such, any use proposed is subject to special permit use requirements, as per Section 255-28J. In addition, as per Section 255-18, the lot area of any parcel that is subject to or within the 100-year floodplain, can only have 50% of the lot area be counted towards the required standard. The subject parcel, as mentioned above, is located completely within the 100-year floodplain, and is already deficient by 50 % of meeting the lot area. Applying the floodplain deduction to the parcel further exacerbates the deficient lot area, resulting in square footage that only provides 25% of the required minimum standard. This lot area deduction had not been applied during the previous reviews and approvals, so the deficiencies are grossly understated, and the floor area ratio, which already exceeds the maximum standard by a sizable amount, will be sufficiently greater if based on the reduced lot area. A floor area variance of over 433% of the permitted maximum would be required with the proposed 4,000 sq. ft. building, which is extremely excessive. A footprint of this size, given the environmental and physical constraints of the site, must not be permitted.

The Village Board must weigh all factors in deciding whether the zone change to the GB zoning district is reasonable. Specifically, when determining if the zone change should proceed as a justification to permitting a special permit warehouse use, the Village Board must look at all applicable sections of the zoning ordinance when making their decision. Many limitations exist for the site, and rezoning the parcel to a more intensive use, when it is in a particularly environmentally sensitive location, does not seem forthright. Since significant time has elapsed since the plans were approved, the variances granted, and the zone change and special permit sought, the Village Board now has the opportunity to comprehensively review all of the zoning code requirements to ensure that a feasible and responsible project is built, one that does not compromise the integrity of the zoning ordinance. We recommend against rezoning the parcel, or approving the special permit use, and strongly suggest that a much scaled back project be proposed on this undersized lot. In doing so, the need for such extensive variances can be reduced or eliminated.

The following additional comments and concerns regarding the proposal are listed below:

- 2 The applicant is proposing less than half of the number of parking spaces required for the proposed office/warehouse building. This deficiency further supports the fact that an oversized building is being proposed on an undersized lot. The proposed new construction must conform to the bulk requirements.
- 3 As indicated above, the site is located completely within the 100-year floodplain. As such, except for an approximate 38' x 6' (228 sq. ft.) landscaped area, the remaining portion of the site is covered with impervious materials. To reduce the impact of development of the site, the building footprint and parking area must be reduced, and the amount of pervious surfaces increased.
- 4 The site plan must note that the entire site is located within the 100-year floodplain and is in Zone "A" of the National Flood Insurance Program. This can be done by a Map Note under the General Notes, or as a label on the site plan itself.
- 5 The bulk requirements must be updated to reflect the fact that the site is located completely within the 100-year floodplain. The calculations for gross and net lot area must be provided, and the floor area ratio must be updated to reflect the much reduced lot area.
- 6 A note is provided on the site plan indicating that the Village Board granted a special permit for the warehouse use. No mention is made as to whether a special permit was also granted for the parcel being within the floodplain overlay zone. Both special permit uses must be reviewed and decided by the Village Board.
- 7 The Floodplain Administrator for the Village of Spring Valley shall certify that the proposed construction is in compliance with the floodplain regulations of the Village and the Federal Emergency Management Agency.

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8 The comments in the November 21, 2017 letter from the Rockland County Drainage Agency must be addressed. The RC Drainage Agency raises valid concerns regarding the potential increase in stormwater discharge, floodplain storage capacity, and the fact that the property owner is in violation of the Rockland County Stream Control Act for unauthorized construction on the adjacent lot also owned by them. These issues must all be resolved.

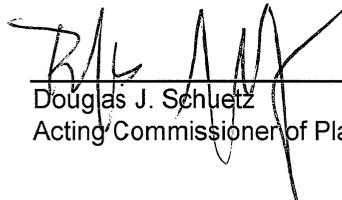
9 An updated review must be completed by the New York State Department of Transportation, and all required permits obtained.

10 The comments in the February 22, 2018 letter from the Rockland County Sewer District #1 must be met.

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.

12 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.

13 We request the opportunity to review the site plan and variance applications still required to permit the proposed use.



Douglas J. Schuetz
Acting Commissioner of Planning

- cc: Mayor Alan Simon, Spring Valley
- New York State Department of Transportation
- Rockland County Sewer District #1
- Rockland County Department of Health
- Rockland County Drainage Agency
- Federal Emergency Management Agency
- Atzl, Scatassa & Zigler P.C.

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.

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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.