

**DEPARTMENT OF PLANNING**

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**Douglas J. Schuetz**  
*Acting Commissioner*

**Arlene R. Miller**  
*Deputy Commissioner*

April 4, 2018

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

**Tax Data:** 57.23-1-14 57.23-1-15

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

**Map Date:** 10/27/2017

**Date Review Received:** 1/16/2018

**Item:** *MONSEY LUMBER & BUILDING SUPPLY COMPANY - 21 & 23 OHIO AVE (SV-845B)*

A site plan application for the storage of building supplies and materials on 0.29 acres in the GB zoning district.

The northern side of Ohio Avenue, approximately 205 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:

***\*Recommend the following modifications***

1 The application and site plan indicate that both parcels are located within the GB zoning district. However, both parcels were, in the past, located in the RSH zoning district. It is unclear whether or how these parcels came to be zoned GB. This department issued a GML review on January 26, 2017, which made recommendations regarding an application dated May 20, 2016 for the rezoning of parcel 57.23-1-15 to the GB zoning district. This department has not received a report supporting or overriding the recommendations made, as is required under General Municipal Law, nor has it received a resolution modifying the village zoning map. There is no record of any application for the rezoning of parcel 57.23-1-14 to the GB zoning district. Such a change to the zoning map would be subject to GML review. The village must demonstrate that it has amended the zoning map in accordance with GML requirements prior to approving the proposed use on these parcels.

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2 The January 26, 2017 GML review for parcel 57.23-1-15 only commented on the proposed rezoning and merger with the adjacent lot to the west. The site plan indicates that there is an existing overhang for the storage of building materials. This overhang encroaches upon required yards. This department has not received variance application for the overhang, nor for the change in use on the parcel. The village must demonstrate that the use and structures of the parcel have been allowed in accordance with the requirements of General Municipal Law.

3 Wholesale businesses, storage and warehousing are allowed in the GB zoning district by Special Permit of the Village Board. A special permit application must be made to allow the proposed use.

4 Parcel 57.23-1-15 is located within the FEMA 100-year floodplain. Outdoor storage of materials that become buoyant or can cause health and safety hazards during flooding must be prohibited. 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.

5 The floodplain must be indicated on the site plan. In addition, a lot area adjustment calculation must be provided as required by Section 255.18.A of the village zoning regulations and the bulk table updated.

6 It is unclear whether the two parcels are to be merged together. The proposed lot area in the bulk table on the site plan indicates a merger of the two lots. However, there are no notations along the shared property line on the site plan, and the project description in the application states area variances are required. There is no specific variance mentioned and the combined, unadjusted lot area does not require a variance for the proposed use. The applicant must clarify their intentions regarding the merger of the two lots. Either an application for a lot line revision or a variance application for lot area must be made.

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

8 The applicant must comply with all comments made by the Rockland County Sewer District #1 in their letter of March 6, 2018.

9 As per the January 17, 2018 letter from the Rockland County Department of Health, an application is to be made to them for compliance with the County Mosquito Code.

10 Prior to the start of construction or grading, a soil and erosion control plan shall be developed and in place for the entire site that meets the latest edition of the New York State Guidelines for Urban Erosion and Sediment Control.

11 There shall be no net increase in the peak rate of discharge from the site at all design points.

12 The site plan provided is not a single, complete site plan, but rather sections have been copied on a piecemeal basis. The section with the map notes is only partially provided. A full site plan must be provided.

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

14 A landscaping plan that provides screening to residential properties that are adjacent to and across the street from the site must be provided.

15 A lighting plan shall be provided that shows fields of illumination. This plan must demonstrate that the intensity of the candle lumens is less than 0.1 at the property line.

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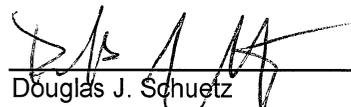
16 We request the opportunity to review any variance and special permit applications which may be necessary to implement the proposed site plan.

17 No parking requirements or calculations are provided, nor are any spaces shown on the site plan. The site plan must demonstrate that sufficient on-site parking is provided.

18 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.

19 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.

20 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.

  
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Douglas J. Schuetz  
Acting Commissioner of Planning

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

*\*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.*