Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

January 31, 2018

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

Tax Data: 50.78-2-41 50.78-2-40 50.78-2-39

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 12/4/2017 **Date Review Received:** 12/29/2017

Item: ***BRUNO NERETICH SOUTH - 38, 40 & 42 UNION ROAD (SV-195A)***

A variance application to allow a four-lot subdivision from the merging of three existing lots totaling 0.708 acres in the R-2 zoning district. Each lot is proposed to contain a two-family dwelling. Variances are required for lot area, lot width, front yard, rear yard, and floor area ratio for Lot 1; lot area, lot width, front yard, side yard, rear yard, street frontage, and floor area ratio for Lot 2; lot area, lot width, front yard, rear yard, and floor area ratio for Lot 3; and lot area, lot width, front yard, rear yard, street frontage, and floor area ratio for Lot 4.

The eastern side of Union Road, approximately 500 feet south of Jasinski Road.

Reason for Referral:

Pascack Brook, 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:

***Disapprove**

All four of the proposed lots do not meet the minimum lot area standard of 8,500 square feet required for detached, single-family residences. Three of the four proposed lots have less than 70% of the required minimum lot area for two-family dwellings. Each of proposed lots would require substantial yard and floor area ratio variances to accommodate oversized residential buildings on undersized parcels. Existing bulk requirements would allow these three parcels to yield three detached, two-family dwellings or four semi-attached, single-family dwellings. The surrounding neighborhood is characterized by similarly-sized parcels. Granting these bulk variances will set a precedent that may result in nearby property owners seeking the same relief. An increase of the residential density in this neighborhood will negatively impact its community character. Additional residents will generate more traffic on the local streets, leading to congestion and traffic conflicts. While two-family

residences are permitted as of right in the R-2 zoning district, they are subject to stricter bulk requirements. This site is particularly deficient in meeting these more stringent standards. We recommend that the required variances be denied.

The following comments address our additional concerns about this proposal.

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 areas of the four proposed lots range from 66% to 82% of the required minimum, and have an average of 71% of this required minimum standard. The floor area ratios of the four lots are 15% greater than allowed. The front yards for lots 1, 2, 3, and 4 are 80%, 40%, 60% and 40% of the required minimums, respectively. Two of the lots have no street frontage and every lot has only 50% of the required rear yard. 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 The Town of Ramapo is one of the reasons this proposal was referred to this department for review. The municipal boundary is approximately 360 feet to the northwest of the site and is located in the R-15 zoning district, which is comprised of single-family residences. 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.

3 A review must be completed by the County of Rockland Drainage Agency and all required permits obtained from them.

4 The applicant must comply with all comments made by the Rockland County Health Department in their letter of January 17, 2018.

5 The applicant must comply with all comments made by the County of Rockland Sewer District #1 in their letter of December 26, 2017.

6 The metes and bounds of this site plan are incomplete. No directional information is provided. A corrected site plan must be provided.

7 The vicinity map has six lots shaded. Only three are shown in the site plan. The vicinity map must be corrected.

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8 The north arrows of the vicinity map and the site plan are aligned in the same direction, even though the maps themselves are not. The incorrect north arrow must be identified and corrected.

9 The play set detail indicates that the combined width of the play set and the six-foot safety zone is 24.5 feet. The proposed locations of the play sets only provide 20 feet or less between the structure and the property line. The play sets must be removed or reduced in size to accommodate the available space.

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

11 The extent of the ingress/egress easement must be shown on the site plan. Information regarding responsibility for maintenance must be added to the site plan notes.

12 Labels on the site plan reference utility and ingress/egress easements for Lots 8, 9, 10, and 11. This is an application to allow a four-lot subdivision. The labels must be corrected.

13 The site plan provided has been reduced in size and is not to scale. An unreduced, to-scale copy must be provided.

14 The proposed residential buildings must comply with all requirements of the New York State Uniform Fire Prevention and Building Code. All proposed sidewalks, decks, exit stairways, window wells, and dumpster/refuse containment areas must be delineated on the site plan. There must be sufficient access to the building for firefighting purposes. The site plan must demonstrate that these features will not impact yard requirements and parking maneuverability for the site.

15 A review must be completed by the Rockland County Office of Fire and Emergency Services, the Village of Spring Valley Fire Inspector, or the Spring Valley Fire Department to ensure that there is sufficient maneuverability on site for fire trucks, in the event an emergency arises.

16 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.

17 More information regarding the area labelled "Bus Area" on Lot 1 must be provided. Specifically, is a shelter proposed, will it serve the Spring Valley Jitney, is it intended for the pickup and dropoff of schoolchildren, and are any easements necessary? The Village must be satisfied that this area complies with all zoning regulations and building codes.

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.

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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.

Douglas J. Schuetz
Acting Commissioner of Planning

cc: Mayor Alan Simon, Spring Valley
Rockland County Department of Health
Rockland County Sewer District #1
Rockland County Drainage Agency
New York State Department of State
Rockland County Office of Fire and Emergency Services
Spring Valley Fire District

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

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.