

DEPARTMENT OF PLANNING

Dr. Robert L. Yeager Health Center
50 Sanatorium Road, Building T
Pomona, New York 10970
Phone: (845) 364-3434 Fax: (845) 364-3435

Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

September 5, 2018

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

Tax Data:

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

Map Date:

Date Review Received: 8/9/2018

Item: *VILLAGE OF SPRING VALLEY - FLOOD OVERLAY PROTECTION DISTRICT (SV-934)*

A Local Law amending Chapter 255-28(J) (Floodplain Overlay Protection District) of the Village of Spring Valley Code to remove the Special Permit use review by the Village Board, and require that the Village's Floodplain Administrator review all applications within the Floodplain Overlay Protection District instead. Throughout the Village of Spring Valley

Reason for Referral:

State and County roads, I-287/87, Pascack Brook, adjacent municipalities

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 Flooding is a major issue within the Village of Spring Valley, and the Floodplain Overlay Protection District is a valuable tool used to ensure that adequate provisions are in place to prevent flooding when new or additional development occurs. Having an extra layer of review by the Village Board, via a special permit use, provides an added level of oversight to develop in a more responsible way, and to help ensure that downstream flooding does not occur. Flooding impacts beyond a parcel's boundaries; it can impact other downstream Village parcels, State or County highways, and parcels within other municipalities. As more intense development and redevelopment occurs, it is even more critical to protect the existing development, structures, and infrastructure. We strongly believe that parcels within the Floodplain Overlay Protection District should have higher scrutiny, not less. The Floodplain Administrator AND the Village Board should both review properties within this district, as well as the Planning Board. Development should be encouraged to be located outside of the floodplain, and only developed when specific criteria are met. With the predicted sea level rising, and climate change, flooding may be more prevalent in the future. Lessening the standards of review for parcels within this District is unwise. Therefore, we do not recommend amending the zoning ordinance to lessen the standards of review.

VILLAGE OF SPRING VALLEY - FLOOD OVERLAY PROTECTION DISTRICT (SV-934)

2 Removing the Village Board review of parcels within the Floodplain Overlay Protection District, and only enforcing development by the Village's Floodplain Administrator, reduces the oversight of these vulnerable parcels. As noted above, flooding is a major issue, and can result in millions of dollars of damage. The Village of Spring Valley has expressed in the past, concerns about flooding to the County. Lessening the standards of review for an issue that continues to threaten the Village seems unwise. Currently the Village Board reviews the applications, but the Floodplain Administrator is accountable to ensure that the development is being proposed in a safe and responsible manner. By limiting the review of properties within the Floodplain Overlay Protection District to just the Floodplain Administrator, the oversight of the development by the County Planning Department under the General Municipal Law is eliminated. Valuable County recommendations and involvement, by not only the Planning Department, but also by the County Drainage Agency would be lacking. Parcels located within the District warrant a special review which is not unduly cumbersome. To ensure that the best interests of the Village are maintained, we strongly recommend that the special permit use be maintained as currently written.

The following comments address our additional concerns about this proposal.

3 A review must be completed by the County of Rockland Drainage Agency and any comments addressed.

4 A review must be completed by the New York State Department of Environmental Conservation and any comments or concerns addressed.

5 A review must be completed by the Federal Emergency Management Agency and any comments or concerns addressed.

6 The shared municipal boundaries with the Towns of Ramapo and Clarkstown and the Villages of Kaser, New Hempstead, and Chestnut Ridge are one of the reasons this proposal was referred to this department for review. As required under Section 239nn of the State General Municipal Law, these municipalities must be given the opportunity to review the proposed text amendment and provide any concerns related to it to the Village of Spring Valley.



Douglas J. Schuetz
Acting Commissioner of Planning

- cc: Mayor Alan Simon, Spring Valley
- New York State Department of Transportation
- New York State Department of Environmental Conservation
- Federal Emergency Management Agency
- Rockland County Department of Highways
- Rockland County Drainage Agency

- Village of Chestnut Ridge Planning Board
- Town of Ramapo Planning Board
- Town of Clarkstown Planning Board
- Village of New Hempstead Planning Board
- Village of Kaser Planning Board

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.*

VILLAGE OF SPRING VALLEY - FLOOD OVERLAY PROTECTION DISTRICT (SV-934)

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.

