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 10, 2018

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

Tax Data: 57.63-1-13

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 6/13/2017 **Date Review Received:** 1/17/2018

Item: ***SAUL STRULOVIC - 7 GEROW AVE (SV-853B)***

A variance application to allow a two-lot subdivision and the construction of 2 two-family dwellings on 0.275 acres in the R-2 zoning district. Variances are requested for lot area, lot width, side yard, rear yard, total side yard, street frontage, and parking in the front yard.
The northern side of Gerow Avenue, approximately 100 feet west of George Street.

Reason for Referral:

Town of Ramapo, South 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 With approximately 12,000 sq. ft., the existing parcel is only slightly larger than the minimum lot area of 10,000 sq. ft. for a two-family use in this zone. The 5,999 sq. ft. proposed lots are 40% smaller than the required minimum. In addition, this proposal requires significant variances for lot width, street frontage, side and total side yard, and allowing parking within the front yard. The County has concerns about not just the overdevelopment of this specific property, but for the precedent set by this development. Should neighboring property owners seek similar relief, it will negatively impact the community character and result in a higher residential density prescribed by the zoning regulations. The variance must be disapproved.

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2 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 proposed lots are 40% smaller than the required minimum lot area and minimum lot width. Side and total side yards are 33% smaller than required. The rear yards are 5% deficient and street frontages are 14% deficient. 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. In addition, the Village must consider modifying this application to only permit single-family residences, which would mitigate these impacts and bring the parcels more in line with the Village's bulk requirements.

The following comments address our additional concerns about this project:

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

4 The Town of Ramapo is one of the reasons this proposal was referred to this department for review. The municipal boundary is the centerline of Gerow Avenue, directly south of the property. The zoning district across the street is R-15, which has a minimum lot area of 15,000 sq. ft.. 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 Public sewer mains requiring extensions within a right-of-way or an easement shall be reviewed and approved by the Rockland County Department of Health prior to construction.

6 The applicant must comply with all comments made by the Rockland County Sewer District #1 in their letter March 22, 2018.

7 The applicant must comply with all comments made by the Rockland County Health Department in their letter February 6, 2018.

8 The site plan shall contain map notes that include district information.

9 The use of tandem parking spaces prevents egress for vehicles parked behind other vehicles and creates an inconvenient situation for residents. This layout will encourage residents to park vehicles off-site instead of in their designated spaces and negates the purpose of on-site parking requirements. The tandem parking spaces must be reconfigured to allow independent access for all parking spaces.

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10 The site plan indicates both proposed structures will have three stories and a FAR of 0.65. However, the site plan shows each building will have a footprint of approximately 1,950 square feet. Assuming each story will have a gross floor area equal to the footprint, the proposed structures will have an overall gross floor area of approximately 5,850 square feet. This would result in FARs of 0.98 for each lot. Although this is an estimate, a FAR of 0.98 is 50% greater than the allowed maximum FAR of 0.65. The magnitude of this discrepancy requires further attention. The applicant must positively demonstrate that the proposed structures will conform to the Village's FAR requirement; FAR calculations must be provided on the site plan. If either FAR exceeds the allowable 0.65, the variance application must be amended and the public hearing notice must be reissued. Any application that is revised due to an increase in FAR must be sent to this department for review.

11 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.

12 The proposed residential building must comply with all requirements of the New York State Uniform Fire Prevention and Building Code. All sidewalks, stairs, decks, must be shown on the map to ensure that there is sufficient access to the building for firefighting purposes.

13 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.

14 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
New York State Department of Transportation
New York State Department of State
Rockland County Department of Health
Rockland County Drainage Agency
Rockland County Sewer District #1

Anthony R. Celentano P.L.S.
Town of Ramapo
Construction Expediting Inc.

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.*

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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.