

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

April 24, 2019

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

Tax Data: 57.24-2-3

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 N

Map Date: 1/27/2019

Date Review Received: 4/5/2019

Item: *10 MEMORIAL PARK DRIVE (SV-911A)*

A two-lot subdivision, with the subsequent construction of a two-family dwelling on each lot, of 0.28 acres in the R-2 zoning district. The parcel is partially located within the AE FEMA flood zone. Variances were previously granted for lot area, lot width, street frontage, side yard, and total side yard for each proposed lot.

The eastern side of Memorial Park Drive and the western side of Lake Street, approximately 285 feet south of Columbus Avenue along Memorial Park Drive.

Reason for Referral:

Pascack Brook

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 existing parcel has only 23% more unadjusted lot area than the minimum required for a two-family dwelling. The proposed subdivision results in two lots with adjusted lot areas that do not meet the minimum lot area standard of 8,500 square feet required for a single-family residence, and provides just over one-half of the lot area required for a two-family dwelling. The existing and proposed lots themselves are non-conforming for width, as well. The proposed two-family residences will each require substantial yard variances to accommodate an oversized residential building on an undersized parcel. Granting these bulk variances will set a precedent that may result in nearby property owners seeking the same relief. An increase in the residential density in this neighborhood of non-conforming parcels 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. The proposed lots are particularly deficient in meeting these more stringent standards. We recommend that the subdivision be denied, and that the property be developed in compliance with the Village's regulations.

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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 adjusted areas of the proposed lots are 55% and 61% of the required minimums, respectively, and their widths are 50% of the minimum. Street frontages are 71% of the required minimum. The side and total side yards are deficient by 33%. 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. As indicated above, the existing parcel must remain a single lot to maintain the integrity of the zoning ordinance.

The following comments address our additional concerns about this proposal.

3 The applicant must comply with all comments made by the Rockland County Sewer District No. 1 in their letter of March 5, 2019.

4 An updated review must be completed by the Rockland County Department of Health. In addition, the applicant must comply with all comments made by the Rockland County Department of Health in their letters of April 5, 2018 and July 11, 2018.

5 As per the July 12, 2018 letter from the Rockland County Drainage Agency, the subject property is within their jurisdiction and a permit must be obtained from them.

6 As required by the Rockland County Stream Control Act, the subdivision plan must be reviewed and signed by the Chairman of the Rockland County Drainage Agency before the County Clerk can accept the plan to be filed.

7 The designated 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.

8 Prior to the start of construction or grading, all soil and erosion control measures must be in place for the site. These measures must meet the latest edition (November 2016) of the New York State Guidelines for Urban Erosion and Sediment Control.

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

10 Recently the Rockland County Planning Department has been raising an issue regarding a significant discrepancy of the floor area ratio (FAR) provided on the site plan. The attorney for the Village's ZBA wrote to the County explaining that the FAR does not include the basement if it is 7.5' or less in height. While we are cognizant of the definition for FAR regarding the basement height for the Village, we still have questions regarding the ratio provided on the plans. To date, we have still not received any plans that provide the needed information to make an informed decision regarding the FAR calculation. Given the information provided, we believe that this application has a noteworthy discrepancy with the FAR that must be addressed.

The site plan indicates that each of the proposed structures will have three stories and FARs of 0.65. However, the site plan shows that each building has a footprint of approximately 1,920 square feet. Assuming each story will have a gross floor area equal to the footprint, the proposed structures will each have an overall gross floor area of approximately 5,760 square feet. This would result in an FAR of 1.05 for lot 1 and 0.94 for lot 2. Although these are estimates, FARs of 1.05 and 0.94 are 61% and 45% greater than the allowed maximum FAR of 0.65, respectively. 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. These calculations must include a floor by floor tally of gross floor area and, if applicable, a statement that the basements are exempt from FAR requirements due to their height. If either FAR exceeds the allowable 0.65, a variance must be obtained. Any new variance application must be sent to this department for review.

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11 The use of tandem parking spaces prevents egress for vehicles blocked by 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.

12 Section 255.22.C of the village zoning regulations exempts open porches and decks from yard and coverage requirements. The village must confirm that the proposed rear decks and front balconies comply with this section and do not include any enclosed spaces.

13 A staircase on the southern façade of lot 2 terminates directly adjacent to a parking space. This creates a potential hazard for pedestrians exiting the structure. The staircase must be reconfigured to allow safe access for residents.

14 The map notes must include district information.

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

16 The site plan does not indicate the metes and bounds for the southern property line of lot 1. The site plan must be amended to include bearing and distance data for all property lines.

17 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.

18 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.

19 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 State
Rockland County Department of Health
Rockland County Drainage Agency
Rockland County Sewer District #1
Federal Emergency Management Agency

Anthony R. Celentano P.L.S.
Construction Expediting Inc.

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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.