Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

February 1, 2019

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

Tax Data: 57.22-2-13

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 8/1/2015 **Date Review Received:** 11/28/2018

Item: ***17 UNION ROAD - MULTIFAMILY DWELLING (SV-794E)***

A site plan application to construct a 24-unit multifamily dwelling on 0.98 acres in the GB zoning district. Variances are required for lot width, front yard, side yard, rear yard, floor area ratio, and units per acre. The western side of Union Road, approximately 225 feet north of North Myrtle Avenue.

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 proposed multifamily dwelling requires several substantial bulk variances. The Village zoning regulations authorizes the Zoning Board of Appeals to "vary or modify the strict letter of this chapter, where its literal interpretation would cause practical difficulties or unnecessary hardships..." The subject property is a regularly-shaped parcel with sufficient lot area for multi-family use. There are no unusual conditions or hardships associated with this property for which a variance would be necessary to grant relief. The application, therefore, does not represent a request for relief from a hardship, but rather is a request to overdevelop the property. Bulk requirements, such as minimum yard size and limits on the number of residential units per acre, serve an important and necessary function, and should not be dismissed without cause or the identification of a legitimate hardship. We recommend that this application be disapproved, and that the property be developed within the requirements of the village zoning 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 lot width is deficient by 6%. The front, side, and rear yards are deficient by 50%, 25%, and 80%, respectively. The floor area ratio exceeds the maximum standard by 68%. Lastly, the proposed 24 units exceed the maximum number of units based on the lot area by 36%. 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. The number of units and the overall size of the structure must be reduced to comply with the Village's bulk requirements.

The following comments address our additional concerns about this proposal.

3 The site plan does not include several significant features. No walkways or entries are shown, and there is only five feet between the building and parking spaces. Parking spaces are indicated on the plan, however, there are no curbs or curb cuts, and the extent of the asphalt is not shown. A play area and dumpster enclosure are noted on the plan, but there are no structures or fencing shown to mark their locations. In order for the Village to evaluate this proposal comprehensively, these features must be included on the site plan.

4 The applicant must comply with all comments made by the Rockland County Department of Health in their letter of December 31, 2018.

5 The applicant must comply with all comments made by the Rockland County Sewer District No. 1 in their letter of January 15, 2019.

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

7 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.

8 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 decks comply with this section and do not include any enclosed spaces.

9 Due to proximity to the roadway, vehicles maneuvering into or out of parking spaces 1 and 49 will be in conflict with vehicles entering the site, thereby creating a traffic hazard. These spaces must be relocated. In addition, a turnaround area must be provided at the western end of the parking lot.

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 Water is a scarce resource in Rockland County; thus proper planning and phasing of this project are critical to supplying the current and future residents of the Villages, Towns, and County with an adequate supply of water. A letter from the public water supplier, stamped and signed by a NYS licensed professional engineer, shall be issued to the municipality, certifying that there will be a sufficient water supply during peak demand periods and in a drought situation.

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13 If any public water supply improvements are required, engineering plans and specifications for these improvements shall be reviewed by the Rockland County Department of Health prior to construction. In order to complete an application for approval of plans for public water supply improvements, the water supplier must supply an engineer's report pursuant to the "Recommended Standards for Water Works, 2003 Edition," that certifies their ability to serve the proposed project while meeting the criteria contained within the Recommended Standards for Water Works. These standards are adopted in their entirety in 10 NYCRR, Subpart 5-1, the New York State regulations governing public water systems. Further, both the application and supporting engineer's report must be signed and stamped by a NYS licensed professional engineer and shall be accompanied by a completed NYS Department of Health Form 348, which must be signed by the public water supplier.

14 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.

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.

16 A landscaping plan must be provided that includes low evergreen landscaping or a berm along the northern property line to shield the headlights of vehicles from shining into neighboring properties.

17 Pursuant to the Rockland County Sanitary Code, Article XIII, Section 13.8.1, all multiple dwellings with three or more rental units must register and obtain a Multiple Dwelling Rental Certificate (MDRC). If this proposed multi-family dwelling meets the requirements of the Multiple Dwelling Rental Registry requirement, then the owner must register and obtain the MDRC. Failure to comply is a violation of Article XIII, which may result in penalties of $2,000 per day.

18 The map notes shall include district information.

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

20 A garbage enclosure must be in a location that is accessible, complies with yard requirements, and does not impede the maneuvering of vehicles on site.

21 Areas designated for snow removal must be clearly delineated on the site plan so that the plow drivers will know where to place the snow piles. This will help to protect landscaping from damage due to the weight of the snow and salt intrusion. In addition, providing specific locations on the site for the snow piles will reduce the use of parking spaces meant for the residents for this purpose.

22 The property is sloped significantly and will require extensive grading. A grading plan, with spot elevations and existing and proposed topography, must be provided. Any proposed retaining walls must be shown with top and bottom elevations. Any retaining walls that are over four (4) feet in vertical height shall be designed by a licensed New York State Professional Engineer and be in compliance with the NYS Fire Prevention and Building Code. Design plans shall be signed and sealed by the licensed NYS Professional Engineer.

23 Several buses have recently been stored on site. The applicant must provide information regarding their removal and relocation.

24 The deck along the southern façade of the structure is depicted in the site plan as one long, continuous deck, but is labelled as "proposed decks". The applicant must clarify if a single deck is to be shared, or if there will be multiple decks.

25 All proposed signage shall be indicated on the site plan and shall conform to the municipality's sign standards.

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26 The proposed residential building must comply with all requirements of the New York State Uniform Fire Prevention and Building Code. All sidewalks, stairs, decks, and window wells must be shown on the site plan to ensure that there is sufficient access to the building for firefighting purposes. As shown, the proposed residential building may require a variance from the New York State Uniform Fire Prevention and Building Code since the proposed decks are located closer than ten feet to the property line. In addition, since no specific building height has been provided, it cannot be determined if the building is greater than 30 feet to the eaves. This information must be provided.

27 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 initially raised in the Executive Deputy Secretary of State's letter of July 15, 2016, and subsequently again in December 18, 2017, the proposed residential building must be held to the requisite minimum standards and comply with all requirements of this code.

28 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.

29 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 Sewer District #1
Rockland County Drainage Agency
Rockland County Office of Fire and Emergency Services
Spring Valley Fire District

Anthony R. Celentano P.L.S.

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.

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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.