Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

June 25, 2019

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

Tax Data: 57.30-2-15 57.30-2-14 57.30-2-13
57.30-2-12

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 5/8/2019 **Date Review Received:** 6/19/2019

Item: ***26 NORTH MYRTLE AVENUE (SV-716F)***

A special permit application to construct three multifamily buildings with a total of 48 residential units, and a community room building, on four parcels totaling 1.89 acres in the GB zoning district. Variances are required for side yard, total side yard, rear yard, number of stories, height, floor area ratio, number of parking spaces, number of structures, and units per acre.
The eastern side of North Myrtle Avenue, opposite Hoyt Street

Reason for Referral:

North 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 The Village zoning regulations authorize 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 site 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 proposed side and total side yards are deficient by 50%. The rear yard is deficient by 67%. A fourth story is proposed above the allowed three stories and the height is 13% greater than allowed. The proposed FAR exceeds the maximum limit by 108%. The 48 proposed units exceeds the number of units allowed on a parcel of this size by 45%. The number of parking spaces is deficient by 17%, providing only one and two-thirds of a space per dwelling unit. 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. Village officials have previously expressed concern to this department about the increasing traffic congestion along the Route 45 corridor and its impact on emergency services' response time. In direct contradiction to these concerns, the Village's Zoning Board of Appeals overrides our GML recommendations by granting variances to allow excessive residential density on proposals such as the subject site. Land use and traffic generation are not mutually exclusive concepts. If more intense uses are permitted, additional traffic will be generated causing increased congestion on the roadway network, and further hampering the response time of emergency vehicles. The Village must consider the cumulative and regional impacts of permitting such development.

The number and scope of variances required for this proposal suggest a gross overdevelopment of the site. The proposal must be reduced in size and number of units to more closely conform to the bulk requirements of the village zoning regulations.

3 A significant portion of the site is within the 'A' floodplain designated by FEMA. The extent of the floodplain is not shown on the site plan, nor are calculations for lot area adjustment, as is required by Section 255-18.A of the village zoning regulations. The subsequent reduction in lot area will result in an increased floor area ratio, further demonstrating the general overdevelopment of an environmentally sensitive site. This application must be disapproved and the property developed in a manner that is consistent with the Village's requirements and appropriate to the environmentally sensitive nature of the site.

The following comments address our additional concerns about this proposal.

4 An application review form and narrative must be provided.

5 The proposed site is a merger of four different tax parcels and the incorporation of village right-of-way. The site plan must delineate the right-of-way and note that it is to be abandoned by the Village.

6 The highlighted parcels on the vicinity map do not include the right-of-way or tax parcel 57.30-2-15. The vicinity map must be amended to include the entire proposal.

7 The site plan includes the parcel to the south (Tax ID 57.30-2-18) and notes that the existing building is to be converted to office use. This parcel is not included in the GML referral form or the map notes on the site plan, is not highlighted on the vicinity map, and no other information is provided. The site plan must be amended to remove this parcel. Any changes to the site plan or use of parcel 57.30-2-18 requires a separate application, and cannot be approved based on the limited information provided in this application.

8 The dumpster area is blocked by parking space 67 and is directly adjacent to tax parcel 57.30-2-16. The garbage enclosure must be relocated so that it complies with yard requirements, does not impair the maneuvering of vehicles, and is accessible for pick-up.

9 No turnaround areas are provided for parking spaces 30, 31, 48, 49, 67 and 80. Adequate turnaround areas must be provided for all parking spaces.

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10 Combining a play area with a snow storage area is not acceptable. The play area is appropriately fenced, which will prevent plows from depositing snow. In addition, large piles of snow will create a hazardous play environment. The site plan must be amended to include an appropriate, separate snow storage area.

11 All sidewalks, stairs, decks, window wells, entrances, terraces and porches must be shown on the map to ensure that there is sufficient access to the building for firefighting purposes and to demonstrate that they will not impact yard requirements or parking maneuverability.

12 Pedestrian walkways must be provided throughout the site, particularly to the play area and the community room. These walkways must be ADA compliant, five feet in width, and physically separated from the parking area.

13 Measurements from the rear and (northern) side property lines are not given to the main structure but to what appears to be rear decks or staircases. This suggests that these structures are not eligible for the exemption from yard and coverage requirements found in section 255.22.C of the village zoning regulations. However, there is a similar structure within the front yard for which no distance from the front property line is given. The applicant must clarify the nature of this structure and whether or not it is eligible for the exemption found in section 255.22.C. If it is not, then an additional variance of the front yard is required. The public hearing notice must be re-issued and a revised application must be sent to this department for review.

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

15 A review must be completed by the Rockland County Department of Health to ensure compliance with Article XIX (Mosquito Control) of the Rockland County Sanitary Code.

16 A review must be completed by the County of Rockland Sewer District No. 1 and all required permits obtained from them.

17 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.

18 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.

19 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 Standards for Urban Erosion and Sediment Control.

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

21 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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22 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.

23 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.

24 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.

25 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.

26 A landscaping plan must be included that provides a buffer to the neighboring residential properties. In addition, the site plan indicates that a 3' brick or iron fence is proposed along the front property line. This fence must be solid or be supplemented by low evergreen shrubs to block the headlights of parked vehicles from shining into the roadway.

27 The map notes shall contain district information.

28 There are two parallel lines running north/south through the property whose significance is not clear. The nature of these lines must be clarified.

29 The legend includes symbols for grass areas, concrete sidewalks, and landscape plantings that are not depicted on the site plan. The Legend must be amended or the symbols added to the site plan.

30 The Village shall be satisfied that the applicant has complied with the general provisions for special permit uses found in section 255-23 of the village regulations, as well as the requirements for multiple dwellings found in section 255-27.1.

31 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.

32 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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33 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
New York State Department of Transportation
Rockland County Department of Health
Rockland County Office of Fire and Emergency Services
Rockland County Sewer District #1
Spring Valley Fire District
Federal Emergency Management Agency

Anthony R. Celentano P.E.

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.