Rockland County

Ed Day, Rockland County Executive

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 20, 2019

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

Tax Data: 57.31-1-14

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 3/19/2019 **Date Review Received:** 9/18/2019

Item: ***27 NORTH MADISON AVENUE (SV-963A)***

A variance application to allow the construction of a three-story, office and retail mixed-use building on a corner lot with 0.29 acres in the GB zoning district. Thirty parking spaces are proposed. Variances are requested for lot area, lot width (Grove Street), front yards (Grove Street and North Madison Avenue), floor area ratio, and Section 255-22H, which prohibits impediments to visibility at intersections.

The northwestern corner of the intersection of North Madison Avenue and Grove 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 County does not object to the addition of a mixed-use structure in the GB zoning district. However, the large number and scope of requested variances, along with the challenges presented by the proposed parking layout, suggest a general overdevelopment of the site. The lot area is only 64% of the minimum requirement for mixed use developments, and the North Madison Avenue frontage has only 42% of the required width. The North Madison Avenue and Grove Street front yards are deficient by 53% and 68%, respectively. The side yard is deficient by 80%. The proposed FAR exceeds the maximum limit by 83%. In order to bring the use of the property more in line with its capacity to be developed, the overall size and footprint of the structure must be reduced.

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2 The proposed parking layout, which has three separate accessways, is inefficient and inadequate. No turnaround areas have been provided for the six parking spaces along the northern property line, nor is there room to establish any. The lack of internal circulation will force vehicles to make multiple entries and exits into the roadway, particularly when there are few available parking spaces, which will result in increased and unnecessary traffic conflicts and congestion. Lastly, there is minimal unused space to provide pedestrian access or landscaping. In order to provide safe, efficient, and adequate parking, the required number of parking spaces must be reduced through the downsizing of the proposed structure.

3 The proposal requires a variance of Section 255-22.H of the village zoning regulations, which prohibits impediments to visibility at intersections. This is an unacceptable hazard to motorists and pedestrians. The building must be reduced in size and reconfigured to comply with this section of the regulations.

The following comments address our additional concerns about this proposal.

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

5 The applicant must comply with all comments made by the Rockland County Department of Health in their letter of April 15, 2019.

6 The applicant must comply with all comments made by the Rockland County Sewer District No. 1 in their letter of April 12, 2019.

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 The site is partially located within the FEMA floodplain. The extent of the floodplain must be delineated on the site plan. In addition, a net lot area calculation must be provided on the site plan, as per Section 255-17.A of the Village's zoning regulation. A revised floor area ratio calculation based on the net lot area must also be provided. The bulk table must be amended to include the revised lot area and FAR. The public hearing notice must be reviewed and, if it contains inaccurate information, reissued.

9 As per Section 255-34 of the Village's zoning regulations, a loading berth must be provided for the structure.

10 The site plan shall contain map notes, including district information, and a vicinity map with a north arrow and scale.

11 The site plan indicates that 14 parking spaces are required for the retail component of the structure, with one space required for every 150 square feet of area. However, Section A-10.D(4) of the Village zoning regulations states that one parking space is required for each 250 square feet of retail area. In addition, no specific number of square feet has been provided for either proposed use. The site plan must be amended to include a parking calculation with the correct requirements, and that provides the square footages of each use. If the required number of parking spaces exceeds the 30 provided, a variance for the number of parking spaces must be obtained.

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

13 The proposed structure is labelled "Proposed Office and Retail Three Story Dwelling" on the site plan. The applicant must clarify whether or not the proposed structure contains any dwelling units. If dwelling units are proposed, the parking calculation must be amended and any necessary variances obtained. If no dwelling units are proposed, the notation on the site plan must be corrected.

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14 Special Permit approval of the mixed-use project must be obtained from the Village Board. We request the opportunity to review the special permit application, as required by New York State General Municipal Law, Section 239-m (3)(a)(v).

15 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.

16 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.

17 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

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.