Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
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December 19, 2019

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

Tax Data: 57.45-1-20 57.45-1-18 57.45-1-7
57.45-1-6 57.45-1-5

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 9/15/2019 **Date Review Received:** 11/14/2019

Item: ***324 ROUTE 59 (SV-431B)***

Site plan for the construction of a two-story, 36,000 SF office building located on 1.549 acres in the POR and R-1 zoning districts. Variances for front yard (Route 59, Yatto Lane, & Summit Avenue), floor area ratio, and number of parking spaces will be required.

North side of NYS Route 59, east side of Yatto Lane, south side of Tenure Avenue, west side of Summit Avenue

Reason for Referral:

NYS Route 59, Town of Ramapo

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 parcels that compromise the application are located within both the R-1 and POR zoning districts. Office buildings and accessory parking, as per Section A-7C.(11) of the Village Code, are permitted uses in the POR district, but not in the R-1 district. Of the 113 parking spaces provided, only 36 are located within the POR zoning district, while 77 are proposed within the R-1 zoning district. Therefore, a use variance will be required to achieve this parking layout. This department is not generally in favor of granting use variances because of the land use precedent that can be set. An applicant must prove that applicable zoning regulations and restrictions have caused unnecessary hardship in order for a use variance to be granted. To prove such unnecessary hardship the applicant shall demonstrate to the board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:

A. The applicant cannot realize a reasonable return, provided the lack of return is substantial as shown by competent financial evidence.
B. The alleged hardship is unique and does not apply to a substantial portion of the district or neighborhood.

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C. The requested variance will not alter the essential character of the neighborhood.
D. The alleged hardship is not self-created.

Rather than seek a use variance, the applicant shall consider reducing the size of the building so that all required parking can be contained within the POR section of the site. This will also reduce the floor area ratio variance requested.

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 front yard along Yatto Lane and Route 59 are only 83% of the required standard and the front yard along is Summit Avenue is only 80% compliant. The floor area ratio exceeds the maximum permitted amount by 77%. In addition, only 78% of the required amount of parking spaces is being provided, with only 25% of the spaces proposed within the POR zoning district. 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 application must be denied and the size of the building reduced to lessen the floor area ratio and amount of parking required.

3 Access to the site is provided through Yatto Lane and Summit Avenue, not from Route 59. This will create commercial traffic along these two local roads, where none had been before, and which is located in a residential zone. The site shall be reoriented to allow access directly from Route 59 so as to prevent the increased commercial traffic in the residential areas.

4 A substantial parking variance is required in order to implement the proposed site plan. If insufficient parking occurs then employees will need to find alternative parking arrangements. Under no circumstances shall overflow parking be permitted along Route 59 or on the local roads that are zoned for residential uses.

The following comments address our additional concerns about the proposal:

5 It must be clarified if tax lot 57.45-1-19 is part of this application. Based on the lot lines shown on the site plan and the value for the lot area, it appears this lot is not part of the application. If that is the case, all references to it on the application materials and the site plan shall be removed. If it is part of the application, the lot lines shall be redrawn, and the lot area updated, to reflect its inclusion.

6 If tax lot 57.45-1-19 is to remain as a residential use, the applicant must provide landscaping, a berm, and/or some other form of a buffer around this parcel to shield it from the light, noise, and any other activity that may occur due to the office use of the surrounding property.

7 A review must be completed by the New York State Department of Transportation, any comments or concerns addressed, and all required permits obtained.

8 A review must be done by the Rockland County Department of Health to ensure compliance with the Rockland County Sanitary Code, Article XIX, Mosquito Control.

9 A review must be completed by the County of Rockland Sewer District #1, any comments or concerns addressed, and all required permits obtained.

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10 The Town of Ramapo is one of the reasons this proposal was referred to this department for review. The municipal boundary is approximately 263 feet north of the site. 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.

11 The proposed office building must comply with all requirements of the New York State Uniform Fire Prevention and Building Code.

12 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.

13 The Referral Form states a two-family dwelling is to be constructed. The Short Environmental Assessment Form indicates an office building is being proposed. The site plan just states a two-story building will be constructed. The intended use of the proposed building must be clarified as two-family dwellings are not a permitted use in the POR zoning district and offices are not a permitted use in the R-1 zoning district.

14 Areas dedicated for snow removal must be clearly delineated on the site plan so that the plow drivers will know where to place the snow piles. In addition, designating specific locations on the site for the snow piles, especially since less than the required number of parking spaces are being provided, will eliminate the loss of parking spaces meant for employees of the building.

15 Concrete walkways are provided along Route 59, Summit Avenue, and Tenure Avenue. However no walkway is provided along Yatto Lane. A concrete walkway must be provided along this roadway to accommodate pedestrians coming from the west.

16 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.

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

18 The location of the dumpster enclosure must be illustrated on the site plan. Access to the dumpster must be unimpeded, and it must be demonstrated that its location will not impact yard requirements and parking maneuverability for the site.

19 The site plan shall contain map notes, including district information. The applicant's engineer has been reminded of the importance of including such details.

20 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.

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21 A landscaping plan that meets all Village requirements shall be provided. A 10 foot landcaped buffer of low evergreen shrubs shall be provided to shield tax lot 57.45-1-19 from the headlights of parked cars.

22 Grading, utility, and soil and erosion control plans must be provided.

23 We request the opportunity to review any variances that may be needed to implement the proposed site plan, as required by New York State General Municipal Law, Section 239-m (3)(a)(v).

24 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.

25 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
Rockland County Department of Health
Rockland County Sewer District #1
Rockland County Office of Fire and Emergency Services
Spring Valley Fire District

Anthony R. Celentano P.E.
Town of Ramapo

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.