Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

May 10, 2019

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

Tax Data: 57.54-1-46

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 N
Map Date: 1/10/2019 **Date Review Received:** 4/5/2019

Item: ***34 RIDGE AVENUE (SV-961)***

A two-lot subdivision of a 0.30-acre parcel in the R-2 zoning district. A two-family dwelling is proposed for each lot. Variances are required for lot area, lot width, street frontage, side yard, total side yard, rear yard, and floor area ratio for both lots. Lot 2 also requires a variance for the front yard.
The eastern side of Ridge Avenue, approximately 250 feet south of West Funston Avenue.

Reason for Referral:

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 undivided parcel has only slightly more area necessary for a single two-family dwelling. Neither of the proposed lots meet the minimum lot area standard of 8,500 square feet required for a single-family residence, and provide only 61% and 67% of the lot area required for two-family dwellings. Both lots are non-conforming for width and street frontage, as well. The proposed two-family residences will require substantial bulk variances to accommodate oversized residential buildings on undersized parcels. The surrounding neighborhood is characterized by similarly-sized parcels. Granting these bulk variances will set a precedent that may result in nearby property owners seeking the same relief. A doubling of the residential density in this neighborhood will negatively impact its community character and infrastructure capacity. Additional residents will generate more traffic on the local streets, leading to congestion and traffic conflicts. This site lacks the size to be subdivided, and is particularly deficient in area to accommodate the proposed total of four residential units. We recommend that the subdivision be denied, and that the property be developed in accordance with the Village's bulk standards.

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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 lot areas are 61% and 67% of the required minimum. Their widths are deficient by 39% and 85%. The side and total side yards for lot 1 are deficient by 33%, and the rear yard is deficient by 50%. The front, side, total side, and rear yards for lot 2 are deficient by 60%, 33%, 5%, and 50%, respectively. The floor area ratios for both lots exceed the maximum standard by 11%. 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 subdivision, and the proposed structures, must be disapproved in order to maintain the integrity of the zoning ordinance.

3 The Village of Spring Valley does not allow flag or rear lots and, therefore, has no specific requirements for them. Where they are allowed, however, it is a common practice for the accessway to not be counted towards minimum lot area. The site plan indicates that the accessway for lot 2 is approximately 1,500 square feet, which accounts for 22% of the total lot area. This loss of over one-fifth of the lot area further exacerbates the extent of the required lot area variance. The actual usable lot area available on lot 2 is approximately 5,230 square feet, which is only 52% of the required lot area for a two-family dwelling. This further demonstrates the degree of overdevelopment proposed for the property. The subdivision must be disapproved.

4 No turnaround area is proposed for lot 2, and there is no feasible location for one on site. Any proposed turnaround area will be in close proximity to the structure and create a hazard for pedestrians. Not only will vehicles be forced to back out into the street, but they will also be forced to drive backwards for over 100 feet to reach the roadway. The general overdevelopment of the site will result in a hazardous situation for vehicles and pedestrians. The application must be disapproved.

The following comments address our additional concerns about this proposal.

5 The Town of Ramapo is the reason this proposal was referred to this department for review. The municipal boundary is approximately 395 feet west of the parcel. 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.

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

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

8 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.

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9 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 the proposed structures will have three stories and FARs of 0.72. However, the site plan shows a building footprint of approximately 2,560 square feet for lot 1, and 2,266 square feet for lot 2. Assuming each story will have a gross floor area equal to the footprint, the proposed structures for lots 1 and 2 will have overall gross floor areas of approximately 7,680 square feet and 6,798 square feet, respectively. This would result in an FAR of 1.25 for lot 1, 1.01 for lot 2. Although these are estimates, an FAR of 1.25 is 74% greater than the proposed FAR of 0.72, while an FAR of 1.01 is 40% greater. The magnitude of this discrepancy requires further attention. The applicant must positively demonstrate that the proposed structures will conform to proposed FAR of 0.72; 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 basement is exempt from FAR requirements due to its height. If an FAR exceeds the proposed 0.72, the application must be amended and the public hearing notice must be reissued. Any application that is revised due to an increase in FAR must be sent to this department for review.

10 In addition to the issues raised in comment 4, the use of tandem parking spaces on lot 2 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.

11 A turnaround area must be provided for lot 1 to prevent vehicles from backing into the roadway.

12 A stairway appears to terminate adjacent to the parking area on lot 1. This presents a hazard to pedestrians exiting the structure. The stairway must be reoriented to avoid conflicts between pedestrians and vehicles.

13 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.

14 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.

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

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

17 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.

18 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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19 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.

20 The proposed residential building must comply with all requirements of the New York State Uniform Fire Prevention and Building Code. All sidewalks, stairs, entries, and window wells must be shown on the site plan to ensure that there is sufficient access to the building for firefighting purposes.

21 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.

22 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.

Arlene Miller
for Douglas J. Schuetz
Deputy ~~Acting~~ Commissioner of Planning

cc: Mayor Alan Simon, Spring Valley
Rockland County Department of Health
Rockland County Sewer District #1
Rockland County Drainage Agency
New York State Department of State

Anthony R. Celentano P.E.
Town of Ramapo Planning Board

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.