# 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*

December 23, 2019

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

**Tax Data:** 57.62-1-25

**Re: GENERAL MUNICIPAL LAW REVIEW:** Section 239 L and M
**Map Date:** 9/27/2019 **Date Review Received:** 11/21/2019

**Item:** ***3 SINGER AVENUE (SV-990)***

A variance application to allow the construction of a two-family dwelling on 0.21 acres in the R-2 zoning district. Variances are requested for lot area, lot width, side yard and total side yard.
The northern side of Singer Avenue, approximately 180 feet west of South Main Street

**Reason for Referral:**

South 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:

***Recommend the following modifications***

1 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 area and lot width are 92% and 70% of the required minimums, respectively. The side and total side yards are deficient by 30%. 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 size of the building must be reduced so as to eliminate the need for the side and total side yard variances.

2 The applicant must comply with all comments made by the Rockland County Department of Health in their letter of December 9, 2019.

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

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

**3 SINGER AVENUE (SV-990)**

5 The provided architectural plans by Hartman Design, dated October 2, 2019, indicate the basements of both dwelling units are each proposed to contain a kitchen, a full bath, 2 bedrooms, and a laundry area, and have a separate side entry. It is worth noting that additional laundry areas are provided on the second floor of each unit. The proposed plan would require minimal alterations within the front entry areas to physically separate the living space within the basement level from the first and second floors. If such alterations were made, each basement area would meet the Village's definition of a dwelling unit, thereby making the proposed structure a four-unit multifamily dwelling. A multifamily dwelling is not a permitted use in the R-2 zoning district and would require a use variance. The Village must ensure that the proposed structure remains a two-family dwelling, and that the basement living space remains physically integrated with the upper floors.

6 The site plan shall contain map notes, including district information. In addition, the parcel must be centered within the vicinity map. The applicant's engineer has been reminded of the importance of including these details.

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

8 The use of tandem parking spaces 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.

9 The site plan indicates there is a utility pole within the western accessway. The site plan must be amended to indicate that the pole is to be relocated.

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

11 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.

12 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.

13 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
Rockland County Department of Health
Rockland County Sewer District #1

## 3 SINGER AVENUE (SV-990)

New York State Department of Transportation
New York State Department of State

Anthony R. Celentano P.E.

**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.*