



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 20, 2019

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

Tax Data: 57.24-1-48

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M

Map Date: 10/22/2019

Date Review Received: 11/14/2019

Item: 41 ROSE AVENUE (SV-756C)

Special permit to construct a 12-family dwelling on 0.344 acres in the PRD zoning district. Variances for lot area, lot width, front yard, side yard, rear yard, floor area ratio, number of parking spaces, parking space size, and units per acre are required.

West side of Rose Avenue, approximately 184 feet north of Fred Hecht Drive

Reason for Referral:

Towns of Clarkstown and 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 Multi-family dwellings are a special permit use in the Planned Residential Development (PRD) Zoning District. This department is not opposed to allowing a multi-family development on this site provided that it complies with all applicable standards. We believe that new construction projects should comply with the bulk requirements of the zone in which it is proposed, as well as all standards specific to the proposed use. Special permit use requirements are outlined in Article VII of Village of Spring Valley's Zoning Code. Additional use requirements in the PRD Overlay District are listed in Section A-6.E. The maximum permitted residential density for multi-family dwellings is 18 units per acre. The applicant is proposing twelve units on a .3444-acre site which translates to more than 34 units per acre. A maximum of six units can be developed on this site. This proposal must be scaled back to more closely conform to the PRD Zoning District standards. By reducing the number of units and the size of the building, the yard variances may also be minimized or eliminated.

41 ROSE AVENUE (SV-756C)

2 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.

3 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 lot area is 75% of the required minimum while the lot width is deficient by 34%. The front yard and side yard are both only 50% of the required minimum and the rear yard is 86%. The floor area ratio exceeds the maximum permitted amount by 10%. In addition, 12 units are proposed when only 6.19 are permitted on the site; nearly double the allowed density. 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, we recommend the special permit be denied and the number of units reduced so as to eliminate most variances.

The following comments address our additional concerns about the proposal:

4 The Towns of Clarkstown and Ramapo are the reason this proposal was referred to this department for review. The municipal boundaries of Clarkstown and Ramapo are approximately 210 feet east of the site. The municipal boundary of Ramapo is 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 Towns of Clarkstown and 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 Towns of Clarkstown and Ramapo must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

5 A review must be completed by the County of Rockland Department of Health, any comment or concerns addressed, and any required permits obtained.

6 A review must be completed by the County of Rockland Sewer District No. 1, any comments or concerns addressed, and all required permits obtained.

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

8 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.

41 ROSE AVENUE (SV-756C)

- 9 The Village shall be satisfied that the proposal complies with the general standards for special permit uses outlined in Section 255-27, as well as the specific standards for multiple dwellings outlined in Section 255-27.1.
- 10 All proposed building entrances, exterior stairways, and window wells must be delineated on the site plan demonstrating that they will not impact yard requirements or increase the development coverage. Parking maneuverability shall not be affected by the location of these features.
- 11 It must be indicated if the multi-family building is intended to be of a condominium use or not.
- 12 The play area must be better defined on the site plan so that it does not conflict with the dumpster enclosure.
- 13 Access to the dumpster enclosure may be impeded if a vehicle is parked in spaces #21 and/or #22. The dumpster enclosure shall be relocated to an area that is accessible for pick-up and does not impair the maneuvering of vehicles.
- 14 The handicap ramp leads directly into the handicapped parking space. This may be difficult to access if a vehicle is parking in this space. The ramp must be relocated or reoriented so access to it is not impeded.
- 15 It will be difficult for a vehicle parked in spaces #18 and #19 to maneuver out of the space without a turnaround area. A turnaround must be provided so vehicles may safely maneuver out of the parking spaces.
- 16 Areas designated 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, providing specific locations on the site for the snow piles will reduce the loss of available parking spaces meant to be used by residents. This is especially critical since less than the required number of spaces are being provided.
- 17 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.
- 18 There shall be no net increase in the peak rate of discharge from the site at all design points.
- 19 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.
- 20 A landscaping plan must be included that provides a buffer to the neighboring residential properties.
- 21 Grading and utility plans shall be provided.
- 22 The Application Review Form indicates the property receives water service from United Water. This shall be corrected to Suez.
- 23 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.

41 ROSE AVENUE (SV-756C)

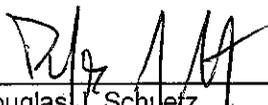
24 If any public water supply improvements are required, engineering plans and specifications for these improvements shall be reviewed by the Rockland County Department of Health prior to construction. In order to complete an application for approval of plans for public water supply improvements, the 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.

25 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.

26 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.

27 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.

28 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 Office of Fire and Emergency Services
Rockland County Sewer District #1
Spring Valley Fire District
New York State Department of State

Anthony R. Celentano P.E.
Towns of Clarkstown and 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.*

41 ROSE AVENUE (SV-756C)

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.