

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

October 22, 2019

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

Tax Data: 49.76-1-59

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 5/13/2019

Date Review Received: 9/24/2019

Item: **43 YALE DRIVE (SV-983)**

A variance application to allow the construction of a two-family dwelling on 0.21 acres in the R-1A zoning district. Variances are requested for lot area, lot width, front yard, side yard, total side yard, and parking in the front yard.

The southern side of Yale Drive, approximately 95 feet west of Charles Lane

Reason for Referral:

Pascack Brook, 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:

****Recommend the following modifications***

1 The site plan and application review form indicate that the subject parcel is located within the R-2 zoning district. Digital maps maintained by the County indicate that the parcel is located within the R-1A zoning district. The application review form and site plan must be amended to indicate the correct zoning district, with the correct bulk requirements. The public hearing notice must be reviewed and, if it contains inaccurate information, re-issued.

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 lot width is 90% of the required minimum. The front yard is deficient by 8%. The side and total side yards are deficient by 33%. 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.

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3 The Town of Ramapo is one of the reasons this proposal was referred to this department for review. The municipal boundary is approximately 105 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.

4 A review must be completed by the Rockland County Department of Health to ensure compliance with Article XIX (Mosquito Control) of the Rockland County Sanitary Code.

5 A review must be completed by the County of Rockland Drainage Agency and all required permits obtained from them.

6 The applicant must comply with all comments made by the Rockland County Sewer District No. 1 in their letter of October 4, 2019.

7 No turnaround area is provided for the parking area, forcing vehicles to back into the roadway. Turnaround areas must be provided for all parking spaces.

8 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 structure will have three stories and an FAR of 0.59. However, the site plan shows a building footprint of approximately 3,456 square feet. In addition, the site plan indicates that the difference in elevation between the first floor and the basement is nine feet. With a standard floor width of one foot, the basement ceiling height will be eight feet and therefore subject to floor area ratio requirements. Assuming each story will have a gross floor area equal to the footprint, the proposed structure will have an overall gross floor area of approximately 10,368 square feet. This would result in an FAR of 1.16. Although this is an estimate, an FAR of 1.16 is 96% greater than the proposed FAR of 0.59 and 78% greater than the allowed FAR of 0.65. The magnitude of this discrepancy requires further attention. The applicant must positively demonstrate that the proposed structure will conform to the Village's FAR requirement; an FAR calculation must be provided on the site plan. This calculation 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 the FAR exceeds the allowable 0.65, the variance 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.

9 The map notes on the site plan shall include district information.

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

11 Section 255.22.C of the village zoning regulations exempts open porches and decks from yard and coverage requirements. However, all decks and porches must maintain a minimum distance of five feet from all property lines. No distance information is provided for the eastern rear deck, but it appears to extend to within five feet of the side property line. This information must be provided. The village must confirm that the proposed rear decks and all entryways comply with this section and do not include any enclosed spaces or extend to within five feet of any property line.

12 The frame shed in the southwestern corner of the parcel is within the required rear and side yards and is located on the proposed silt fence. The site plan must be amended to indicate the shed is to be removed.

13 The site plan displays a building envelope that is based on the proposed bulk variances, not the bulk requirements of the R-1A zoning district. The site plan must be amended to either label the building envelope as proposed, or display the building envelope that is based on the bulk requirement of the R-1A zoning district.

14 The bulk table indicates that the requested variances have been granted. The bulk table must be amended to indicate that the variances are required.

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
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

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**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.