Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

March 21, 2019

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

Tax Data: 57.29-1-12

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 7/24/2017 **Date Review Received:** 2/5/2019

Item: ***61 NORTH COLE AVENUE (SV-857A)***

A variance application to allow the construction of a two-family residence on 0.12 acres in the R-2 zoning district. Variances are requested for lot area, lot width, front yard, side yard, rear yard, total side yard, and floor area ratio.

The western side of North Cole Avenue, approximately 150 feet north of Stephen Place.

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 subject site does not meet the minimum lot area standard of 8,500 square feet required for a single-family residence, and provides only slightly more than half the lot area required for a two-family dwelling. The lot itself is non-conforming for width, as well. The proposed two-family residence will require substantial yard and floor area ratio variances to accommodate an oversized residential building on an undersized parcel. 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 of non-conforming parcels will negatively impact its community character. Additional residents will generate more traffic on the local streets, leading to congestion and traffic conflicts. While two-family residences are permitted as of right in the R-2 zoning district, they are subject to stricter bulk requirements. This site is particularly deficient in meeting these more stringent standards. We recommend that the required variances be denied, and that only a single-family residence be permitted.

61 NORTH COLE AVENUE (SV-857A)

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 area is 51% of the required minimum. The lot width is 50% of the minimum. The front, side, rear and total side yards deficient by 20%, 33%, 48%, and 33%, respectively. The floor area ratio is 15% greater than allowed. 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, only a single-family dwelling can be constructed to maintain the integrity of the zoning ordinance.

The following comments address our additional concerns about this proposal.

3 The Town of Ramapo is the reason this proposal was referred to this department for review. The municipal boundary is approximately 23 feet to the west 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.

4 The applicant must comply with all comments made by the Rockland County Sewer District No. 1 in their letter of February 25, 2019.

5 The applicant must comply with all comments made by the Rockland County Health Department in their letter of March 11, 2019.

6 Map note 6 references Section 239N of the General Municipal Law. The applicable section for this application is 239L&M. The map note must be corrected.

7 Architectural plans by Artistic Building Design Studio, dated July 18, 2017, indicate a total floor area of 4,989 square feet. These plans also indicate that the distance from the finished grade to the basement ceiling is 7.5 feet. Since the floor of the basement is indicated to be below grade, the basement has a height of over 7.5 feet and, therefore, must be included in the calculation of floor area ratio. A floor area of 4,989 square feet results in an FAR of 0.97.

All materials must be consistent. The applicant must clarify their intentions as to the size of the building and must provide a floor area ratio calculation 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 proposed 0.75, 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.

61 NORTH COLE AVENUE (SV-857A)

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 shall contain map notes, including district information. The vicinity map must have a scale and north arrow.

10 An incorrect scale of 1" = 20' is shown in the title block of the survey. This must be corrected.

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

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

13 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.

14 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.

15 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 State
Rockland County Department of Health
Rockland County Sewer District #1

Civil Tec
Town of Ramapo Planning Board
Construction Expediting

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.*

61 NORTH COLE AVENUE (SV-857A)

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.