Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

July 25, 2019

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

Tax Data: 50.70-1-19

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 6/7/2019 **Date Review Received:** 7/17/2019

Item: ***7 KING TERRACE (SV-851B)***

A variance application to allow a 10-foot tall fence within the rear yard of an existing two-family dwelling on 0.20 acres in the R-1A zoning district. The property is partially located within a FEMA floodplain. The maximum allowed height of a fence in the rear yard is six feet.

The northern side of King Terrace, approximately 200 feet east of Union Road.

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 Town of Ramapo is one of the reasons this proposal was referred to this department for review. The municipal boundary is approximately 270 feet east of the site. As required under Section 239nn of the State General Municipal Law, the Town of Ramapo must be given the opportunity to review the proposed variance and provide any concerns related to the project to the Village of Spring Valley.

2 A review shall be completed by the Rockland County Drainage Agency and any required permits obtained.

3 The applicant must comply with all comments made by the Rockland County Sewer District No. 1 in their letter of July 15, 2019.

4 The site plan provided has been reduced in size. It is not to-scale and is difficult to decipher. A full-sized, to-scale site plan, with the proposed fence clearly shown, must be provided. In addition, the site plan must include a bulk table, map notes with district information, a north arrow, a vicinity map with a north arrow and scale, and must be stamped by the engineer.

5 Approximately one-quarter of the property is located within the FEMA AE floodplain. The extent of the floodplain must be indicated on the site plan. In addition, the site plan must include a lot area reduction calculation, as required by section 255-18.A of the Village's zoning regulations.

7 KING TERRACE (SV-851B)

6 The proposed fence is partially located within the FEMA floodplain. The designated floodplain administrator for the Village of Spring Valley shall certify that the proposed construction is in compliance with the floodplain regulations of the Village and the Federal Emergency Management Agency.

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

8 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.

9 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.

10 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 Sewer District #1
Rockland County Drainage Agency
Federal Emergency Management Agency
New York State Department of State

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

**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.