Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

June 4, 2019

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

Tax Data: 50.69-2-12

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 2/11/2019 **Date Review Received:** 5/3/2019

Item: ***OIRY VEYISHY LLC - 20 MORRIS ROAD (SV-964A)***

A special permit application to construct a two-family residence on 0.19 acres in the R-1A zoning district. The property is partially located within the FEMA floodway. Variances are required for lot area, lot width, front yard, side yard, total side yard, and floor area ratio.

The southern side of Morris Road, approximately 160 feet west of Francis Place.

Reason for Referral:

Town of Ramapo, Pascack Brook

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 adjusted lot area and width are 81% and 94% of the required minimums, respectively. The front yard is deficient by 20% and the side and total side yards are deficient by 33%. The proposed floor area ratio exceeds the maximum standard by 54%. 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 structure must be reduced in size to more closely conform to the Village's bulk requirements.

2 As per the May 13, 2019 letter from the Rockland County Department of Health, an application is to be made to them for review of the stormwater system for compliance with the County Mosquito Code.

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

4 The applicant must comply with all comments made by the Rockland County Drainage Agency in their letter of May 28, 2019.

5 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.

6 The Town of Ramapo is one of the reasons this proposal was referred to this department for review. The municipal boundary is approximately 420 feet northwest 375 feet southeast 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.

7 The bulk table and page 10 of the application review form indicate that the minimum lot size for a two-family dwelling in the R-1A zoning district is 10,000 square feet. The bulk table and form must be corrected to 8,500 square feet.

8 The bulk table provides FAR values based on both the adjusted lot area and the unadjusted lot area. These values are mutually incompatible. In order to yield an FAR of 0.65 on a 8,325 sq. ft. lot, the proposed structure must have a gross floor area of 5,411 sq. ft. However, a structure with an FAR of 1.0 on a 6,868 sq. ft. lot requires a gross floor area of 6,868 sq. ft. This is a discrepancy of 1,457 sq. ft. of gross floor area. The site plan must be amended to include a FAR calculation. The bulk table must be amended and the public hearing notice must be reviewed and, if it contains inaccurate information, re-issued.

9 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 1.0, based on the adjusted lot area. However, the site plan shows a building footprint of approximately 3,410 square feet. 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 10,230 square feet. This would result in an FAR of 1.49, based on the adjusted lot area. Although this is an estimate, an FAR of 1.49 is 49% greater than the proposed FAR of 1.0. The magnitude of this discrepancy requires further attention. The applicant must positively demonstrate that the proposed structure will conform to stated FAR; 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 proposed 1.0, 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.

10 All walkways, entrances, stairs, decks, and any other structure must be shown on the site plan to demonstrate the proposal complies with all yard requirements.

OIRY VEYISHY LLC - 20 MORRIS ROAD (SV-964A)

11 A turnaround area must be provided for the parking area to prevent vehicles from backing into the roadway. Since the location and size of the proposed structure does not allow for the addition of a turnaround area, the structure must be reduced in size to allow for the safe and efficient movement of vehicles.

12 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.

13 There shall be no net increase in the peak rate of discharge from the site at all design points.

14 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.

15 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.

16 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.

17 The site plan shall contain map notes, including district information. The engineer for the applicant has been personally reminded of these requirements. The present site plan is incomplete as provided.

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

19 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.

20 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.

21 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 structures with the Floodplain Overlay District outlined in Section 255-28.J.

22 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.

OIRY VEYISHY LLC - 20 MORRIS ROAD (SV-964A)

23 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
Federal Emergency Management Agency
New York State Department of State

Anthony R. Celentano P.E.
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.