

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

May 13, 2019

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

Tax Data: 57.39-2-4

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

Map Date: 2/12/2018

Date Review Received: 4/5/2019

Item: *SV MAIN VENTURES - 54 NORTH MAIN STREET (SV-724E)*

A variance application to remove parking spaces from an existing nine-unit multifamily dwelling, with 540 sq. ft. of retail use, on 0.11 acres in the GB zoning district. Variances have been granted previously for lot area, lot width front yard, side yard, total side yard, floor area ratio, and the reduction of 24 required parking spaces to six.

A through-lot on the eastern side of North Main Street and the western side of Veterans Drive, approximately 175 feet north of Church Street.

Reason for Referral:

Pascack Brook, North Main Street (NYS Route 45)

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 property has already received multiple variances, including a reduction of 18 of the 24 required parking spaces. In addition, the layout of the remaining six parking spaces is poorly designed and inadequate. The two parking spaces along the southern property line are blocked by a utility pole and guy wires. Moreover, this department has, on multiple occasions, objected to the use of tandem parking spaces, which are particularly inappropriate for multifamily uses.

Unsurprisingly, the applicant's narrative acknowledges that the parking area is "...not practical and cannot be used as it's designed." However, any hardship experienced by the property owner is entirely self-created. In addition, the requested removal of the parking spaces will only exacerbate the lack of adequate parking. The response to a poorly designed and inadequate site plan must not result in an even worse design, but rather the improvement of the existing site. On-site parking could be improved by the relocation of the utility pole and guy wires and creation of additional parking spaces under the elevated structure. Parking demand can also be decreased by reducing the number of residential units.

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Despite its inadequacy, the outright removal of the existing parking area is not necessary for the continued use of the property, and would serve no beneficial function. The loss of on-site parking can impede the safe and efficient flow of traffic and create congestion on local roads and the state highway. The variance to remove the remaining spaces must be denied.

The following comments address our additional concerns about this proposal.

- 2 A review shall be completed by the New York State Department of Transportation and any required permits obtained.
- 3 A review must be completed by the County of Rockland Drainage Agency and all required permits obtained from them.
- 4 The applicant must comply with all comments made by the Rockland County Sewer District No. 1 in their letter of April 9, 2019.
- 5 The site plan does not accurately represent the actual conditions of the parking area. The site plan indicates that two parking spaces are adjacent to the southern property line with a 5.5-foot aisle between them and the other parking spaces. A field inspection conducted on May 10, 2019 revealed the aisle, which contains a dumpster, is adjacent to the southern property line. The site plan must represent current conditions.
- 6 The site plan provided has been drawn to a scale of 1' = 10'. However, the title block indicates the plan is drawn to 1" = 20' scale. The title block must be corrected.
- 7 The site is partially located within the FEMA floodplain. The extent of the floodplain must be indicated on the site plan.
- 8 The application form indicates the property receives water service from United Water. The form must be corrected to Suez.
- 9 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.
- 10 The removal of on-site parking must be conditioned on the submission of a parking agreement. This agreement must guarantee that parking will be available for residents at an alternative location within walking distance of the property.
- 11 In addition to the residential units, the property contains 540 square feet of commercial space. The applicant must demonstrate how the site will accommodate deliveries without impeding traffic along the state highway.
- 12 The removal of the parking area requires a site plan review by the Village of Spring Valley Planning Board. We request the opportunity to review the application.
- 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.

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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.

Arlene Miller

Deputy ^{for} Douglas J. Schuetz
Acting Commissioner of Planning

cc: Mayor Alan Simon, Spring Valley
Rockland County Drainage Agency
Rockland County Department of Health
Rockland County Sewer District #1
New York State Department of State
New York State Department of Transportation

Brooker Engineering, PLLC

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.*

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.

