

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

February 13, 2020

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

Tax Data: 57.32-1-1

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

Map Date: 4/5/2019

Date Review Received: 1/17/2020

Item: *14 MEMORIAL PARK DRIVE (SV-971A)*

Variances to permit a two-lot subdivision of a 0.28-acre parcel in the R-2 zoning district. A two family dwelling is proposed on each lot. Both lots require variances for lot area, lot width, street frontage, side yard, rear yard, total side yard, and floor area ratio. The parcel is partially located within the FEMA floodplain.

Eastern side of Memorial Park Drive, approximately 435 feet south of Columbus Avenue

Reason for Referral:

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:

****Disapprove***

1 The existing parcel has a net lot area of slightly more than the 10,000 square feet necessary for a single two-family dwelling in the R-2 zoning district. Neither of the proposed lots meet the minimum lot area standard of 8,500 square feet required for single-family residences, and provide only slightly more than one-half of the lot area, and exactly one-half of the lot width, required for two-family dwellings. Several other substantial bulk variances are requested for this subdivision, and the subsequent construction of oversized residential buildings on undersized parcels. In addition, the site is environmentally constrained as approximately one third of the property is located within the floodplain. 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. The substantial increase of residential density in this neighborhood will negatively impact its community character and infrastructure capacity. 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 proposed subdivision is particularly deficient in meeting these more stringent standards and is compounded by the fact that the site is located within the floodplain. The variances for the subdivision must be denied. The property must be developed in a manner that is consistent with the Village's zoning regulations, which includes the construction of a single two-family dwelling.

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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 overutilization of this site is further exacerbated by the environmental constraints imposed by its location within a floodplain. The proposed net lot areas are 54% and 52% of the required minimums. Both lot widths are 50% of the minimum. The street frontage is only 71% of the required minimum. The side and total side yards for both lots are deficient by 33%, and their rear yards are deficient by 25%. The proposed floor area ratios exceed the maximum limit by 17%. The ability of the existing infrastructure to accommodate increased residential density on environmentally constrained, 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. Village officials have previously expressed concern to this department about the increasing traffic congestion along the Route 45 corridor and its impact on emergency services' response time. In direct contradiction to these concerns, the Village's land use boards override our GML recommendations and allow increased residential density on undersized lots such as the subject site. Land use and traffic generation are not mutually exclusive concepts. If more intense uses are permitted, additional traffic will be generated causing increased congestion on the roadway network, and further hampering the response time of emergency vehicles. The Village must consider the cumulative and regional impacts of permitting such development. As indicated above, this application must be denied and only a single two-family dwelling can be constructed to maintain the integrity of the zoning ordinance.

The following comments address our additional concerns about this proposal:

- 3 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.
- 4 The applicant must comply with all comments made by the Rockland County Sewer District No. 1 in their letter of January 3, 2020.
- 5 As per the June 25, 2019 letter from the Rockland County Drainage Agency, the subject site is within the jurisdiction of the RCDA and a permit from them is required for developments within the site.
- 6 As required by the Rockland County Stream Control Act, the subdivision plan must be reviewed and signed by the Chairman of the Rockland County Drainage Agency before the County Clerk can accept the plan to be filed.
- 7 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.
- 8 When our department previously reviewed the proposal for the subdivision of this parcel on July 1, 2019, the proposed floor area ratio was 1.2 for both lots. It has since been reduced to 0.76 for both lots, however no changes on the site plan have been made to either structure. It must be explained as to how the floor area ratio has been reduced, as we believe it is being understated. Because of this, the calculation for floor area ratio must be shown on the site plan. If it is being understated, a new variance application must be submitted for the greater floor area ratio.
- 9 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.
- 10 Section 255.22.C of the village zoning regulations exempts open porches and decks from yard and coverage requirements. The village must confirm that the proposed rear decks comply with this section and do not include any enclosed spaces.

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11 The proposed residential buildings must comply with all requirements of the New York State Uniform Fire Prevention and Building Code. All sidewalks, stairs, entries, and window wells must be shown on the site plan to ensure that there is sufficient access to the building for firefighting purposes. In addition, It must be demonstrated that these features will not impact yard requirements or parking maneuverability.

12 The site plan provided with this application has a date of April 5, 2019. That is the same date as the site plan provided for our previous review, dated July 1, 2019, as mentioned above. However, the bulk table has been updated since the previous review. A revision table must be provided that states the most recent date the site plan has been revised.

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

14 The map notes shall include district information. The applicant's engineer has been reminded of the importance of including such details.

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 As per Section 255-28.J of the Village's zoning regulations, developments within the Floodplain Overlay District require special permit approval by the Village Board. We request the opportunity to review the special permit application, and any other variances that may be needed, as required by New York State General Municipal Law.

17 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.

18 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
Federal Emergency Management Agency
New York State Department of State
Rockland County Department of Health
Rockland County Drainage Agency
Rockland County Sewer District #1

Anthony R. Celentano P.L.S.

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Construction Expediting Inc

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.