

DEPARTMENT OF PLANNING

Dr. Robert L. Yeager Health Center
50 Sanatorium Road, Building T
Pomona, New York 10970

Phone: (845) 364-3434 Fax: (845) 364-3435

Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

March 30, 2020

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

Tax Data: 57.22-2-13

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

Map Date: 2/20/2020

Date Review Received: 2/28/2020

Item: 17 UNION ROAD - MULTIFAMILY DWELLING (SV-794G)

A variance application to allow the construction of a 24-unit multifamily dwelling on 0.98 acres in the GB zoning district. Variances were previously granted for lot width, front yard, side yard, rear yard, floor area ratio, and number of units per acre. An additional variance for the rear yard is requested.

The northwestern corner of Union Road and Gesner Drive

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 proposed multifamily dwelling requires several substantial bulk variances in order to be developed. The Village zoning regulations authorizes the Zoning Board of Appeals to "vary or modify the strict letter of this chapter, where its literal interpretation would cause practical difficulties or unnecessary hardships..." The subject property is a regularly-shaped parcel with sufficient lot area for multi-family use. There are no unusual conditions or hardships associated with this property for which a variance would be necessary to grant relief. The application, therefore, does not represent a request for relief from a hardship, but rather is a request to overdevelop the property. Bulk requirements, such as minimum yard size and limits on the number of residential units per acre, serve an important and necessary function, and should not be dismissed without cause or the identification of a legitimate hardship. We recommend that this application be disapproved, and that the property be developed within the requirements of the village zoning regulations.

17 UNION ROAD - MULTIFAMILY DWELLING (SV-794G)

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 lot width is deficient by 6%. The front, side, and rear yards are deficient by 17%, 50%, and 76%, respectively. The floor area ratio exceeds the maximum standard by 40%. Lastly, the proposed 24 units exceed the maximum number of units based on the lot area by 41%. 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 number of units and the overall size of the structure must be reduced to comply with the Village's bulk requirements.

The following comments address our additional concerns about this proposal.

3 According to the bulk table, several variances were previously granted. The most recent review of a variance application made by this department for this property was issued on February 1, 2019, and was based on a site plan dated August 1, 2015. The variances requested in that application do not match the variances indicated in the bulk table as previously granted. Specifically, the bulk table of the current application indicates that variances were granted for a 10' side yard, a 22' rear yard, and a floor area ratio of 0.84. However, the application based on the August 1, 2015 site plan proposed a 15' side yard, a 10' rear yard, and a floor area ratio of 1.01. Based on these inconsistencies, it appears that variances were granted for this property that were not reviewed by this department.

The Village must review the previous variance application and confirm that any previously granted variances were properly forwarded to the Rockland County Planning Department for review. Any variances that were based on a site plan other than the August 1, 2015 version have not been properly referred to this department and have not met the requirements of the General Municipal Law. A new variance application must be made and forwarded to this department for review.

4 An updated 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.

5 The applicant must comply with all comments made by the Rockland County Sewer District No. 1 in their letter January 3, 2020.

6 A review must be completed by the County of Rockland Drainage Agency and all required permits obtained from them.

7 A review must be completed by the Rockland County Office of Fire and Emergency Services, the Village of Spring Valley Fire Inspector, or the Spring Valley Fire Department to ensure that there is sufficient maneuverability on site for fire trucks, in the event an emergency arises.

8 A turnaround area must be provided for parking spaces 27 and 28.

9 A walkway that provides pedestrian access to the play area must be provided.

10 The site plan must provide a floor area ratio calculation that includes a floor-by-floor tally of gross floor area and a statement, if applicable, that the basement is exempt due to ceiling height.

11 The map notes shall include district information.

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

17 UNION ROAD - MULTIFAMILY DWELLING (SV-794G)

13 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.

14 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. In addition, a specific height to the building eaves must be provided in order to determine if an aerial apparatus road is required.

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 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.

17 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 Drainage Agency
Rockland County Sewer District #1
Rockland County Office of Fire and Emergency Services
Spring Valley Fire District

Anthony R. Celentano P.E.

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.*

17 UNION ROAD - MULTIFAMILY DWELLING (SV-794G)

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.