

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene Miller
Deputy Commissioner

June 17, 2020

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

Tax Data: 57.62-1-45

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

Map Date: 3/1/2020

Date Review Received: 5/28/2020

Item: 2 SINGER AVENUE (SV-989A)

A variance application to allow a two-lot subdivision and the construction of two-family dwellings on each new lot. The parcel is a corner lot with 0.32 acres in the R-2 zoning district. Variances are requested for lot area, lot width, side yard, total side yard, and rear yard for Lot 1; and lot area, lot width (Sherwood Avenue and Singer Avenue), front yard (Sherwood Avenue and Singer Avenue), side yard, and rear yard for Lot 2.

Southeast corner of Singer Avenue and Sherwood Avenue

Reason for Referral:

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:

****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 less than three-quarters of the lot area and lot width required for two-family dwellings. The proposed subdivision will require substantial bulk variances, as will the subsequent construction of oversized residential buildings on undersized parcels. 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 development is particularly deficient in meeting these more stringent standards. The application 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 lot area for Lot 1 is deficient by 31% and Lot 2 is deficient by 30%. Lot 1 has a lot width of only 74% of the required standard. Lot 2 has a lot width along Singer Avenue that is only 63% of the required standard and 91% of the standard along Sherwood Avenue. The front yard along both streets for Lot 2 is 32% deficient in meeting the bulk requirement and the rear yard is 50% deficient. The side, rear, and total side yards for Lot 1 are deficient by 60%, 25%, and 47%, respectively. 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. As indicated above, 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 The Town of Ramapo is the reason this proposal was referred to this department for review. The municipal boundary is approximately 50 feet west 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.

4 The applicant must comply with all comments made by the Rockland County Department of Health in their letter of December 16, 2019.

5 The applicant must comply with all comments made by the Rockland County Sewer District No. 1 in their letter of December 24, 2019.

6 The proposed structure on Lot 2 does not comply with Section 255-22.H of the village zoning regulations, which prohibits impediments to visibility at intersections. This is an unacceptable hazard to motorists and pedestrians. The building must be reduced in size and reconfigured to comply with this section of the regulations.

7 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.

8 No turnaround areas are provided for parking spaces 2 and 4 on Lot 1, and spaces 1 and 2 on Lot 2. Turnaround areas must be provided for all parking areas to prevent vehicles from backing out into the roadway.

9 The bulk table and application review form indicate that the proposed development requires a variance of section 229-41A of the Village Code, which restricts the location of driveways for single- and two-family dwellings. The Board of Appeals is only empowered to grant variances of the requirements found in the Zoning chapter (255) of the Village Code. The Board of Appeals does not have the authority to waive the requirements of other chapters of Village Code. The applicant must comply with the requirements of section 229-41A.

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10 The site plan indicates that a railroad tie is encroaching upon parking space 4 on Lot 1. The site plan must be amended to indicate the railroad tie will be removed.

11 The site plan must include a floor area ratio calculation that includes 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.

12 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.

13 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.

14 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
New York State Department of State

Anthony R. Celentano P.L.S.
Town of Ramapo Planning Board

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.