

4-6 EWING AVENUE - LB ACREAGE LLC (SV-741L)

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. Previously approved variances will result in the front and side yards being 33% and 50% deficient, respectively. The proposed number of residential units exceeds the maximum allowed based on the lot area of the site by one, and only 90% of the required number of parking spaces is provided. 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 application must be disapproved and the property developed in compliance with the Village's requirements.

2 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 Zoning Board of Appeals overrides our GML recommendations by granting variances to 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 application must be disapproved in order to maintain the safe and efficient flow of traffic and avoid hampering emergency vehicles in the area.

The following comments address our additional concerns about this proposal.

3 A portion of the proposed project consists of property from an adjacent parcel. There is a notation on the site plan that states "piece obtained from Tax Lot 50.79-2-13." No other information is provided. Additional information must be provided regarding this land transfer and the current use of tax lot 50.79-2-13. Any subdivision application for Tax Lot 50.79-2-13 must be forwarded to this department for review.

4 The western portion of the property is located within the FEMA floodplain. The floodplain must be indicated on the site plan. In addition, a lot area adjustment calculation must be provided as required by Section 255.18.A of the village zoning regulations, and the bulk table updated. A reduced lot area will result in an increase in floor area ratio and exacerbate the number of units per acre variance. Additional variances must be obtained if the floor area ratio exceeds the allowed 0.6 or if the number of units per acre exceeds the proposed 20. Any revised applications must be referred to this office for additional review.

5 A review shall be completed by the New York State Department of Transportation and any required permits obtained.

6 An updated review shall be completed by the Rockland County Department of Health and all required permits obtained.

7 An updated review shall be completed by the Rockland County Sewer District No. 1 and all required permits obtained.

8 An updated review shall be completed by the Rockland County Drainage Agency and all required permits obtained.

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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 application and site plan indicate the proposed structure will have three stories and a FAR of 0.6. However, the site plan shows a total building footprint of approximately 11,911 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 35,733 square feet. Using the unadjusted lot area, this would result in a FAR of 0.74. Although this is an estimate, a FAR of 0.74 is 23% greater than the allowed maximum FAR of 0.6, and this calculation does not take into consideration any lot area reductions due to the presence of floodplains. The magnitude of this discrepancy requires further attention. The applicant must positively demonstrate that the proposed structure will conform to the Village's FAR requirement; a FAR calculation must be provided on the site plan. If the FAR exceeds the allowable 0.6, a variance must be obtained 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 The site plan appears to indicate that several decks are proposed on the rear facades of both buildings. These decks encroach into the parking lot and backup area for the required parking spaces. These structures, including any supporting columns, must not interfere with the safe and efficient flow of vehicles on the site. The applicant must provide additional details to determine that these structures provide sufficient clearance for the unencumbered maneuverability of vehicles.

11 Turnaround areas must be provided at the western ends of both parking lots.

12 To ensure the safety of residents entering and exiting the play area, access must be provided from the landscaped median between the parking lots, and must be shown on the site plan.

13 The engineer of record shall certify to the floodplain administrator for the Village of Spring Valley that the proposed construction is in compliance with the floodplain regulations of the Village and the Federal Emergency Management Agency.

14 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.

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.

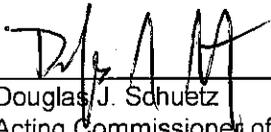
16 The specific height of the proposed buildings must be provided in the bulk table so that it can be determined if an aerial apparatus road is required.

17 Multifamily dwellings are allowed by Special Permit in the GB zoning district. We request the opportunity to review the Special Permit application for the proposal, as required by New York State General Municipal Law, Section 239-m (3)(a)(iii).

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18 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.

19 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
New York State Department of Transportation
Rockland County Drainage Agency
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.

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.