Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

March 19, 2020

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

Tax Data: 50.62-1-23

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 2/4/2020 **Date Review Received:** 2/25/2020

Item: ***4 STANLEY PLACE (SV-886A)***

A variance application for floor area ratio (FAR) for a two-family dwelling on a corner lot with 0.17 acres in the R-1A zoning district. Variances were previously granted for lot area, lot width, front yards (Stanley Place and Aselin Drive), side yard, and rear yard. Substantial construction has been completed. The floor area ratio variance is requested because the basement, as constructed, no longer qualifies for an exemption of floor area ratio.

The northeastern corner of Aselin Drive and Stanley Place

Reason for Referral:

Pascack Brook, 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:

Recommend the following modifications

1 A previous variance application for this property was reviewed by this department on May 9, 2018. According to the narrative provided, field conditions during construction required the structure to be built at a higher elevation than proposed. This prevented the basement from being exempt from floor area ratio requirements, which necessitated obtaining an additional variance. In a previous communication with the Spring Valley village attorney's office regarding the FAR exemption for basements, this department noted that a residential FAR requirement that does not incorporate all residential living space is ill-conceived. This project, and the current application, reinforces this statement. The purpose of placing restrictions on FAR, like that of other bulk requirements, is to limit the land use impacts of a project. The land use impacts of the original proposal and the current application are essentially unchanged, demonstrating that allowing the basement exemption to the FAR requirement masks the extent of those impacts and renders the requirement pointless. The village must re-evaluate how FAR is calculated and consider amending the zoning regulations to incorporate all living spaces within the residential FAR requirement, as this would more accurately represent the actual land use impacts of a proposal.

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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. This property has already received substantial area variances. The lot area is 88% of the required minimum. The lot width along Aselin Drive is 86% of the minimum. The two front yards are deficient by 39% and 12%. The side yard is deficient by 33% and the rear yard is deficient by 40%. The currently proposed variance of floor area ratio exceeds the maximum standard by 49%. 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.

3 The Town of Ramapo is one of the reasons this proposal was referred to this department for review. The municipal boundary is approximately 305 feet to the east 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 Sewer District No. 1 in their letter of February 24, 2020.

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

6 As shown, the proposed residential building may require a variance from the New York State Uniform Fire Prevention and Building Code since a deck is located closer than ten feet to the property line.

7 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 raised in the Executive Deputy Secretary of State's letter of July 15, 2016, the proposed residential building must be held to the requisite minimum standards and comply with all requirements of this code.

8 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.

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9 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

Anthony R. Celentano P.E.
Town of Ramapo Planning Board

**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.