

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

October 9, 2020

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

Tax Data: 57.55-1-27

57.55-1-26

57.55-1-24

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

Map Date: 7/28/2020

Date Review Received: 9/10/2020

Item: *CENTRAL CROSSING - 175, 185 & 193 ROUTE 59 (SV-307G)*

A variance application to allow a two-lot subdivision and construction of a mixed-use structure in the GB zoning district. Three existing lots, with a total area of 9.75 acres, are to be merged and subdivided into two lots. An existing office building is to be removed. Site improvements and a five-story, 75,600 square foot mixed-use building, with office and ground floor retail use, will be constructed on lot 1. An existing 127,753 square foot retail building is to remain on lot 2. A total of 505 parking spaces, to be shared via access easements, are proposed. Variances for number of parking spaces for both lots are requested. The southwestern corner of Route 59 and South Central Avenue

Reason for Referral:

Pascack Brook, East Central Avenue (NYS Route 59), South Main Street (NYS Route 45), Town of Clarkstown

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 bulk requirements cited on the site plan are not correct for the proposed structure on lot 1. As a result, substantially larger variances are necessary. The bulk table cites the requirements for Use Group E, however this use group applies to commercial indoor recreation facilities, theaters, auditoriums, pool halls and billiard parlors, banks, business or trade schools, libraries, museums or art galleries, restaurants or cafeterias, medical laboratories, miniwarehousing, and fast-food restaurants. Office use in the GB zoning district falls under the requirements for Use Group B, for which the proposed structure would require variances for side yard (15' required), rear yard (30' required), height and stories (35' and three stories allowed), and floor area ratio (0.3 allowed).

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 proposed side and rear yards are deficient by 33%. A specific height of the building is not provided, but the number of stories exceeds the maximum by two. The proposed floor area ratio exceeds the maximum by 216%. Lastly, the number of parking spaces provided on

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lot 1 is 127 less than required, and the number of spaces on lot 2 is 131 less than required, for a total deficit of 258 spaces. This represents approximately one-third of the total required parking for both lots. This parking deficit is particularly concerning given that the property is located along a state highway. Insufficient on-site parking can spill over into the roadway and exacerbate already high levels of congestion along Route 59. The ability of the existing infrastructure to accommodate density 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 site plan application must be disapproved and the property developed in compliance with the bulk requirements of the Village.

The following comments address our additional concerns about this proposal.

- 2 The public hearing notice regarding the required variances must be corrected and re-issued.
- 3 A review must be completed by the County of Rockland Department of Health and all required permits obtained from them.
- 4 A review must be completed by the County of Rockland Drainage Agency and all required permits obtained from them.
- 5 A review shall be completed by the New York State Department of Transportation and any required permits obtained.
- 6 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.
- 7 The Town of Clarkstown is one of the reasons this proposal was referred to this department for review. The municipal boundary is approximately 110 feet south and 415 feet northeast 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 Clarkstown 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 Clarkstown must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.
- 8 Public sewer mains requiring extensions within a right-of-way or an easement shall be reviewed and approved by the Rockland County Department of Health prior to construction.
- 9 The site plan indicates that an above-ground, heated structure is proposed near the northeastern corner of the new structure. The applicant must clarify the nature of this structure.

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10 Areas designated for snow removal must be clearly delineated on the site plan so that the plow drivers will know where to place the snow piles. This will help to protect the proposed landscaping from damage due to the weight of the snow and salt intrusion. In addition, providing specific locations on the site for the snow piles will reduce the loss of available parking spaces meant to be used by tenants and customers, especially since less than the required number of parking spaces are being provided.

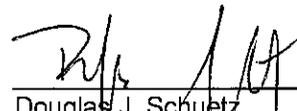
11 The reciprocal easement agreement must be annotated on the site plan.

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

13 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.

14 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.

15 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
Rockland County Drainage Agency
Rockland County Office of Fire and Emergency Services
New York State Department of Transportation
New York State Department of State
Spring Valley Fire District

Sparaco & Youngblood, PLLC
Town of Clarkstown 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.*

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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.