

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

September 14, 2020

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

Tax Data: 57.45-1-20	57.45-1-19	57.45-1-18
57.45-1-7	57.45-1-6	57.45-1-5

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

Map Date: 6/23/2020

Date Review Received: 8/13/2020

Item: *YAKOV GRUNWALD - 324 ROUTE 59 (SV-431D)*

A variance application to construct a two-story, 36,000 square foot office building on a 1.55-acre parcel comprised of five lots, and has four street frontages. The parcels are currently within the R-1 and POR zoning districts. A concurrent application is before the Village Board to rezone some of the lots to the POR zoning district. Variances are requested for front yards (Route 59, Yatto Lane, and Summit Avenue), floor area ratio, and number of parking spaces.

The northern side of Route 59, between Summit Avenue and Yatto Lane, south of Tenure Avenue

Reason for Referral:

NYS Route 59, 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 Village zoning regulations authorize 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 office 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. Parking and bulk requirements, such as minimum yard size and floor area ratio limits, 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.

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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 Summit Avenue front yard is deficient by 20% and the Route 59 and Yatto Lane front yards are deficient by 17%. The floor area ratio exceeds the maximum standard by 77%. In addition, there is a 31 space deficit in provided parking. The ability of the existing infrastructure to accommodate increased 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 size of the proposed building must be reduced so as to minimize the number and extent of the required variances.

3 Within the application review form, the provided narrative, the GML referral form, the affidavit of ownership, and the site plan itself, six separate tax parcel numbers are provided, including parcel 57.34-1-19. However, this specific parcel does not seem to be incorporated into the proposal. The vicinity map does not highlight it, the lot area provided in the bulk table does not seem to include this lot, and the site plan indicates that an existing dwelling is to remain. Among the variances requested, the applicant is requesting variances of floor area ratio and number of parking spaces. It is unclear why this lot is not being incorporated into the proposal. With the added lot area, the proposed FAR could be reduced from 0.53 to 0.48, and a substantial number of additional parking spaces could be provided, thereby reducing the extent of the required variances. Based on the provided affidavit of ownership, the incorporation of tax parcel 57.45-1-19 is a readily available option that does not impose practical difficulties or unnecessary hardships, and minimizes the extent of the required variances. The requested variances must be denied since a feasible alternative exists. The application must be disapproved.

The following comments address our additional concerns about this proposal.

4 As noted above, parcel 57.45-1-19 is included throughout the application materials, but is not incorporated into the proposal. All appropriate materials within the variance application must be amended to remove references to the parcel and the public hearing notice must be corrected and re-issued.

5 The Town of Ramapo is one of the reasons this proposal was referred to this department for review. The municipal boundary is approximately 250 feet north of the site. 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.

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

7 An updated review must be completed by the County of Rockland Department of Health and all required permits obtained from them. The applicant must comply with all comments made by the Department in their letter of December 16, 2019.

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8 An updated review must be completed by the Rockland County Sewer District No. 1 and all required permits obtained from them. The applicant must comply with all comments made by the District in their letter of December 24, 2019.

9 The site plan has been reduced in size, is not to-scale, and is difficult to read. The subject parcels are not centered within the vicinity map and no map notes are provided. A full-sized, to-scale site plan that contains map notes, including district information, and has the parcels centered within the vicinity map, shall be provided. The applicant's engineer has been reminded of the importance of including such details.

10 Concrete walkways exist along Route 59, Summit Avenue, and Tenure Avenue. However, no walkway is provided along Yatto Lane. A concrete walkway must be provided along this roadway to accommodate pedestrians coming from the west.

11 Areas dedicated for snow removal must be clearly delineated on the site plan so that the plow drivers will know where to place the snow piles. In addition, designating specific locations on the site for the snow piles, especially since less than the required number of parking spaces are being provided, will eliminate the loss parking spaces meant for employees of the building.

12 the site plan does not include any handicapped-accessible parking spaces. The required number of accessible spaces must be provided. If the inclusion of accessible spaces requires a reduction in the number of spaces provided, and thereby increases the required variance for number of parking spaces, a revised application must be made to the Village and forwarded to the Rockland County Planning Department for our review.

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
New York State Department of Transportation
New York State Department of State
Rockland County Department of Health
Rockland County Sewer District #1

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

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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.