Village of Spring Valley  
Zoning Board Agenda  
January 27th, 2021

Zoning Board Members
- Moshe Hopstein, Chairman
- Ghulam Fani, Vice Chairman
- Eli Solomon
- Martha Patrick
- Simon Deutsch

A. Call to Order
B. Pledge of Allegiance

65 S. Madison Ave:
The subject property is located on the west side of S. Madison Ave, 0 ft north of Castle Ave in the R-2 Zone. The property is designated on the Town of Ramapo Tax Map as section 57.24 block 1 lot 34. The applicant is seeking variances for a proposed Two-Lot subdivision with two-family detached dwelling on each lot. The requested variances are as follows: Lot Area: 10,000 sf required, 6,625 sf provided (Lot 1), 10,000 sf required, 6,398 sf provided (Lot 2); Lot Width: 100 ft required, 50.70 ft provided (Lot 1), 100 ft required, 57.18 ft provided (Lot 2); Street Frontage: 70 ft required, 50.70 ft provided (Lot 1), 70 ft required, 57.18 ft provided (Lot 2); Front yard: 25 ft required, 20 ft provided (Lot 1), 25 ft required, 20 ft provided (Lot 2); Side Yard: 15 ft required 10 ft provided (Lot 1), 15 ft required, 10 ft provided (Lot 2); Rear Yard: 20 ft required, 15 ft provided (Lot 1), 20 ft required, 10 ft provided (Lot 2); Total Side Yard: 30 ft required, 20 ft provided (Lot 1), 30 ft required, 20 ft provided (Lot 2)

Applicant: 65 South Madison LLC

51 S. Madison Ave:
The subject property is located on the west of Madison Ave, 0 ft north of Funston Ave in a R-2 zone. The property is designated on the Town of Ramapo Tax Map as section 57.54 block lot 39. The applicant is seeking variances for a proposed Two-Lot subdivision with two-family detached dwelling on each lot. The requested variances are as follows: Lot Area: 10,000 sf required, 4,982 sf provided (Lot 1), 10,000 sf required, 5,380 sf provided (Lot 2); Lot Width: 100 ft required, 62.5 ft provided (Lot 1), 105 ft required, 67.5 ft provided (Funston), 80 ft provided (Madison)(Lot 2); Street Frontage: 70 ft required, 62.5 ft provided (Lot 1); Front Yard: 25 ft required, 20 ft provided (Lot 1), 25 ft required, 20 ft provided (Funston), 15 ft provided (Madison) (Lot 2); Side yard: 15 ft required, 10 ft provided (Lot 1), 15 ft required, 10 ft provided (Lot 2); Rear Yard: 20 ft required, 10 ft provided (Lot 1), 20 ft required, 10 ft provided (Lot 2); Total Side Yard: 30 ft required, 20 ft provided (Lot 1).

Applicant: Aires Realty LLC
34 Union Rd:
The subject property is located on the east side of Union Rd, 934 ft north of Maple Ave in an R-2 zone. The property is designated on the Town of Ramapo Tax Map as section 57.22 block 2 lot 1. The applicant is requesting that the Zoning Board of Appeals (ZBA) amend the ZBA’s prior approval dated November 14th, 2018, so as to remove the following approval condition: Stairs and side decks are to be removed to clear the 10 ft.; relating to a two-family dwelling at 34 Union Rd, Spring Valley NY 10977
Applicant: Israel Prushinowski

3 King Terrace:
The subject property is located on the north side of King Terrace, 78 ft east of Union Rd in a R-1A zone. The property is designated on the Town of Ramapo Tax Map as section 50.70 block 1 lot 21. The applicant is seeking variances for a proposed Two-family Dwelling. The requested variances are as follows: Lot Area: 8,500 sf required, 7,163 sf provided; Lot Width: 85 ft required, 65 ft provided; Street Frontage: 70 ft required, 65 ft provided; Side Yard: 15 ft required, 10 ft provided; Rear Yard: 20 ft required, 15 ft provided; Total Side Yard: 30 ft required, 20 ft provided; FAR: Max allowed 65%, 98% proposed; Side Yard Roof: 15 ft required, 5 ft provided; Total Side Yard Roof: 30 ft required, 10 ft provided.
Applicant: Aaron Schneek
October 15, 2020

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

Tax Data: 57.54-1-34

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M  
Date Review Received: 9/18/2020

Item: 65 SOUTH MADISON AVENUE (SV-1008A)

A variance application to allow a two-lot subdivision, and the construction of a two-family dwelling for each proposed lot, of 0.30 acres in the R-2 zoning district. Variances are requested for lot area, lot width, front yard, side yard, rear yard, total side yard, and street frontage for both lots. The western side of South Madison Avenue, approximately 305 feet north of Singer 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 Neither proposed lots meet the minimum lot area standard of 8,500 square feet required for single-family residences, and provide less than two-thirds of the lot area required for two-family dwellings. Both lots are non-conforming for width and street frontage, as well. The proposed two-family residences will require substantial bulk variances to accommodate 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. A doubling of the residential density in this neighborhood of non-conforming parcels 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. These lots are particularly deficient in meeting these more stringent standards. We recommend that the required variances be denied, and that the property is developed in compliance with the Village's bulk requirements, which would include the construction of a two-family residence.
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 proposed lot areas of lots 1 and 2 are 68% and 64% of the required minimum, respectively. Lot 1 has a lot width that is deficient by 49%, and the street frontage is deficient by 28%. Lot 2 has a lot width that is deficient by 13%, and the street frontage is deficient by 18%. For both lots, the front, side, rear, and total side yards are deficient by 20%, 33%, 25%, and 33%, 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, the variance must be denied 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 420 feet southwest of the parcel. New York State General Municipal Law states that the purposes of Sections 239-i, 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. A review must be completed by the County of Rockland Department of Health and all required permits obtained from them.

5. A review must be completed by the County of Rockland Sewer District No. 1 and all required permits obtained from them.

6. The bulk table indicates that the proposed structure will have two stories. This is not consistent with past applications. Virtually all of the applications for new residential structures that have been forwarded to this department for review in the recent past have proposed three stories. It is worth noting that the Village's zoning regulations establish different criteria for whether or not a basement is considered a story, and whether or not a basement level is counted towards gross floor area and subsequent floor area ratio calculations. To be clear, an exemption from being included in FAR calculations does not necessarily mean that a basement does not count as a story. The applicant must verify that either the proposed structure will have only two levels in total, or that a basement and two additional levels above it are proposed, and then demonstrate that the basement level does not meet the criteria for being counted as a story. This demonstration must include proposed exterior and interior elevations, average grade calculations, and a statement from the applicant's engineer that none of the criteria for being considered a story, as dictated by the Village's definition of a basement, apply. Any application that is revised due to a change in the number of stories must be sent to this department for review.

7. As previously mentioned, the FAR exemption for basements is independent of whether or not it is considered a story. If the proposed structure has more than two levels, then the site plan must be amended to include an FAR calculation. This calculation must include 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. Any application that is revised due to an increase in FAR must be sent to this department for review.
65 SOUTH MADISON AVENUE (SV-1008A)

8 Section 256.22.C of the village zoning regulations exempts open porches and decks from yard and coverage requirements. The village must confirm that the proposed side and rear decks comply with this section and do not include any enclosed spaces. In addition, no measurement is provided for the distance between the side decks and the property lines. The site plan must be amended to indicate that the required minimum distance of five feet is being maintained.

9 The proposed parking areas for both lots are inadequate. The use of tandem parking spaces prevents egress for vehicles blocked by other vehicles and creates an inconvenient situation for residents. This layout will encourage residents to park vehicles off-site instead of in their designated spaces and negates the purpose of on-site parking requirements. Vehicles entering lot 1 will not be able to maneuver directly into space 1 due to the sharp angle of the accessway. Also, no turnaround area is provided for spaces 1 and 2 on lot 2, which will result in vehicles backing out into the roadway and create a hazard for pedestrians and motorists. The parking areas must be reconfigured to eliminate tandem parking spaces, improve maneuverability, and provide adequate turnaround areas.

10 Map note 1 provides an incorrect parcel identification number and map note 4 provides the incorrect square footage of the lot. The map notes must be corrected to indicate the parcel identification number is 57.54-1-34 and the square footage of the lot is 13,023 square feet.

11 The application form indicates the property receives water service from United Water. The form must be corrected to Suez. In addition, the referral form indicates that the parcel identification number is 49.76-1-30, and must be corrected.

12 The site plan must be amended to indicate that the existing accessway is to be removed.

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.

cc Mayor Alan Simon, Spring Valley
New York State Department of State
Rockland County Department of Health
Rockland County Sewer District #1

Anthony R. Celentano P.E.

Page 3 of 4
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 13-B of the New York General Municipal Law. Under Article 13-B the County of Rockland does not render opinions, nor does it make determinations, whether the item reviewed implicates the Religious Land Uses and Institutionalized Persons Act. The Rockland County Planning Department forwards 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 Uses 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.

Proposers 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.
LOT 1 / LOT 2
PROPOSED 2 FAMILY RES.

65 S Madison Ave.
Spring Valley, NY 10977
LOT 1 / LOT 2
PROPOSED 2 FAMILY RES.

Springs Valley, NY 10977
51 S Madison Ave.

Design: C.F.

Date: Jan 26 2021

Sheet Size:

Sheet Num.

Scale:

reta

NOTES
October 4, 2016
Spring Valley Zoning Board of Appeals
200 N. Main Street
Spring Valley, NY 10977
Tax Data: 57.22-2-1

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 1/19/2016
Date Review Received: 7/23/2018

Item: 34 UNION ROAD (SV-858A)

A variance application to allow the construction of a two-family residence on 0.195 acres in the R-2 zoning district. Variances are requested for lot area, lot width, side yard, total side yard, rear yard, street frontage, and parking in the front yard. This is a re-approval of the application, as the initial review was not submitted to the Rockland County Department of Planning, as required under New York State General Municipal Law, Section 239L.
The eastern side of Union Road, approximately 575 feet north of North Myrtle Avenue.

Reason for Referral:
Pascack Brook

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. 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 and width are only 85% and 60% of the required minimums, respectively. The rear yard is deficient by 50%, and the side and total side yards are deficient by 67%. Street frontage is 86% of the required minimum. 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.

2. The large number and scope of the requested variances suggest a general overdevelopment of the site. In order to bring the use of the property more in line with its capacity to be developed, the size of the building must be reduced.

Rocklandgov.com
34 UNION ROAD (SV-858A)

3 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 increase of residential density in this neighborhood will negatively impact its community character. The proposal must be scaled back to more closely conform to the R-2 bulk standards.

4 The applicant must comply with all comments in the December 28, 2017 letter from the Rockland County Sewer District No. 1.

5 A review must be completed by the Rockland County Department of Health to ensure compliance with Article XIX (Mosquito Control) of the Rockland County Sanitary Code.

6 As per the January 4, 2018 letter from the Rockland County Drainage Agency, the property is within their jurisdiction and any development requires a permit from them.

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

9 The use of tandem parking spaces prevents egress for vehicles blocked by other vehicles and creates an inconvenient situation for residents. This layout will encourage residents to park vehicles off-site instead of in their designated spaces and negate the purpose of on-site parking requirements. The tandem parking spaces must be reconfigured to allow independent access for all parking spaces.

10 The site plan and architectural drawings provided has been reduced in size and are not to scale. A full-sized, to scale site plan must be provided. In addition, site plan shall contain map notes, including district information.

11 There are inconsistencies between the site plan and the architectural plans provided. The architectural plans indicate that the gross floor area will be 4,766 square feet, which will result in a FAR of 0.56. The site plan indicates the FAR will be 0.65. In addition, the architectural plans indicate two stairwells to the basement are proposed along the northern façade, which are not included on the site plan. One of these stairwells would encroach upon parking space 2, as well. All materials must be consistent. The site plan must also include a detailed FAR calculation and all parking spaces must be free from encroachment.

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.
34 UNION ROAD (SV-858A)

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.

cc: Mayor Alan Simon, Spring Valley
    Rockland County Department of Health
    Rockland County Drainage Agency
    Rockland County Sewer District #1
    New York State Department of State
    Anthony R. Celentano P.L.S.

"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 refers 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 exemptions, hardship approval or other relief.

Pursuant to New York State General Municipal Law §239-m(b), the referring body shall file a report of final action if 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.

[Signature]
Acting Commissioner of Planning
The following Decision Letter supplements the ZBA’s Minutes; and if there should be a conflict between this Decision and the Minutes, the language of this Decision Letter controls.

Regarding the application of Ruzhin Corp, for the property located at 34 Union Road, which the application proposes to construct a two-family dwelling and is requesting the following area:

1. Minimum required Lot Area 10,000 square feet is required; 8,510 square feet is proposed.
2. Minimum required Lot Width of 100 feet is required; 60 feet is proposed.
3. Minimum required Street Frontage of 70 feet is required; 60 feet is proposed.
4. Minimum required Side Yard of 15 feet is required; 5 feet is proposed.
5. Minimum required Rear Yard 20 feet is required; 10 feet is proposed.
6. Minimum required Total Side Yard of 30 feet is required; 10 feet is proposed.

After taking into consideration the benefit to the applicant if the requested area/bulk variance(s) is/are granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community, if any, by such grant, I, Ghulam Fani, hereby make a motion to APPROVE the application, as submitted to the ZBA, for the following reasons:

1. An undesirable change will not be produced in the character of the neighborhood, and a detriment to nearby properties will not be created, by the granting of the area variance(s), because it is consistent with surrounding homes.
2. The benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than by obtaining the area/bulk variance(s).
3. All of the requested area/bulk variances are not substantial.
4. The proposed area variance(s) will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, because it is consistent with surrounding homes.
5. Although the applicant’s alleged difficulty was self-created, which consideration was relevant to the decision of the ZBA, this consideration, alone, does not warrant denying the application because the applicant has proposed improvements to his property.
34 Union Road: Decision Letter 11/14/2018

The foregoing application is approved subject to the following CONDITION(S):

- Any conditions that was set forth on the December 27, 2017 meeting will be conditions for the approval
- Tree and chain-link fence between subject property and 36 Union Road
- Side Yard must be ten feet on both sides; stairs and side decks to be removed to clear the ten-foot side yards
- Sprinkler system
- Cultured stone on the front
- Curbs and sidewalks
- Wheel stops
- Four-foot fence in front
- The letter submitted by D’Agostino Landscaping from Ms. Halpert at 36 Union Road, Spring Valley 10977 – conditions set in the letter will also be conditions of the approval
- Total side yard will be set at 20 feet
- A new site plan or survey must be submitted to the Building Department with the corrections on the bulk table

All conditions requiring construction or erection of installation of any types of structures or improvements on buildings are subject to the satisfaction and requirements of the Village Building Inspector and/or Village Fire Inspector as applicable.

The ZBA also moves to OVERRIDE the Comment(s) enumerated below of the NYS General Municipal Law (GML) §239-1, L&M, recommendation letter from the Rockland County Department of Planning, dated 10/04/18, for the respective reasons described below:

1. With respect to comments two and three, this is an R-2 zone, the use of two-family house is a permitted use by New York State. This development is consistent with the density and style of homes in the neighborhood and identical relief granted by the ZBA on other lots in this neighborhood. The ZBA takes the position that permitting the development with applicable bulk standards will not set a precedent and will not result in the overutilization of other sites as there are other properties with similar standards and this will not change the character of the neighborhood. Therefore, ZBA chooses to override comments two and three.

2. With respect to comment nine, tandem parking is utilized for homes in the village of spring valley. It has become standard configuration in the Village and has become the preferred configuration of the Zoning Board of Appeals. Therefore, the ZBA chooses to override comment six. Therefore, the ZBA chooses to override comment nine.

3. With respect to comment 11, pursuant to the Code of the Village of Spring Valley, the basement area as depicted on the plans is not included in the Floor Area Ratio (FAR) calculation. Therefore, the building complies with the FAR requirement. No variances for FAR is sought. Therefore, the ZBA chooses to override comment 11.

The applicant agrees to comply with all County comment(s) with exception of items 2, 3, 9 and 11 which have been overridden by ZBA resolution. (See Attached GML).
The foregoing Motion was presented by ZBA Member Ghulam Fani; Which Motion was seconded by Simon Deutsch; and All ZBA Members voting in favor, and none voting against the Motion.

Record of Vote
Chairman Hopstein - Yes
Vice-Chairman Fani - Yes
Eliyahu Solomon - Yes
Patricia Caldwell - Yes
Martha Patrick - Yes

Motion dated: 11/14/18

ZONING BOARD OF APPEALS

By: ________________
Chairman or Vice Chairman of ZBA

☑ APPROVED
January 4, 2021

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

Tax Data: 50.70-1-21

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 9/24/2020

Date Review Received: 12/4/2020

Item: 3 KING TERRACE (SV-1020)

Variances to permit the construction of a two-family dwelling located on 0.164 acres in the R-1A zoning district. The variances required include lot area, lot width, side yard to the building and the roof, total side yard to the building and the roof, rear yard, floor area ratio, and street frontage.

North side of King Terrace, approximately 75 feet east of Union Road

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:

*Disapprove

1 The subject site does not meet the minimum lot area standard of 8,500 square feet required for a single-family residence. In addition, approximately 1/3 of the lot area is within the floodplain, further reducing the buildable area of the lot. The proposed two-family residence will require substantial bulk variances to accommodate an oversized residential building on an undersized parcel. 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. A doubling of the residential density in this neighborhood of non-conforming parcels 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. We recommend that the required variances be denied, and that only a single-family residence be permitted, especially since the lot contains environmentally sensitive features.
3 KING TERRACE (SV-1020)

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 proposed gross lot area is 84% of the required minimum, and may be less due to the 100-year floodplain located on the north side of the site. The lot width is 76% of the minimum. The side and total side yards are deficient by 33%. The side and total side yards to the roof are also only 33% of the required standards. The rear yard is deficient by 25%. In addition, the floor area ratio is 51% greater than permitted. 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-family dwelling can be constructed to maintain the integrity of the zoning ordinance.

3. As previously mentioned, the 100-year floodplain is located on a large portion of the site. As per Section 255-18A, only 60% of the land area located within the floodplain may count towards the net lot area. The already deficient lot area provided on the bulk table will be even less than currently stated. A net lot area calculation that accounts for the 100-year floodplain must be provided. The extent of the variance required will presumably increase as a result. Development on the site must be kept out of the floodplain, or mitigation must be in place. In addition, the floodplain must be delineated on the site plan.

The following comments address our additional concerns about the proposal:

4. The applicant must comply with the comments made by the Rockland County Drainage Agency in their letter of December 15, 2020.

5. A review must be completed by the Rockland County Department of Health to ensure compliance with Article XIX (Mosquito Control) of the Rockland County Sanitary Code.

6. The Town of Ramapo is one of the reasons this proposal was referred to this department for review. The municipal boundary is approximately 416 feet east 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.

7. A review must be completed by the County of Rockland Sewer District No. 1, any comments or concerns addressed, and all required permits obtained.

8. The floodplain Administrator for the Village of Spring Valley shall certify that the proposed construction is in compliance with the floodplain regulations of the Village and the Federal Emergency Management Agency.

9. 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.
3 KING TERRACE (SV-1020)

18. 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.

cc: Mayor Alan Simon, Spring Valley
    Rockland County Department of Health
    Rockland County Drainage Agency
    Rockland County Office of Fire and Emergency Services
    Rockland County Sewer District #1
    Spring Valley Fire District
    New York State Department of State
    Anthony R. Celenzano P.E.
    Town of Ramapo

Rockland County Planning Board Members

*NY State 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 13-B of the New York General Municipal Law. Under Article 13-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 presumptive 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.

Proprietors 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.
10 In recent years, the Rockland County Planning Department has been raising an issue regarding significant discrepancies with the floor area ratio (FAR) provided on site plans. 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 site plan indicates that the proposed structure will have less than three stories and an FAR of 0.98. However, the site plan shows a building footprint of approximately 2,525 square feet. Assuming that less than three stories means the building will have two stories, and each story will have a gross floor area equal to the footprint, the proposed structure will have an overall gross floor area of approximately 5,250 square feet. This would result in an FAR of 1.36. Although this is an estimate, an FAR of 1.36 is 109% greater than the allowed maximum FAR of 0.65. 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; an FAR calculation must be provided on the site plan. This calculation must include 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. If the FAR exceeds the allowable 0.65 and the proposed 0.98, the variance application must be amended 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.

11 It will be difficult for a vehicle parked in the two northern parking spaces to maneuver out of the spaces without a turnaround area. No sidewalks, stairs, or exits have been shown on the site plan, making it difficult to assess the parking area in relation to the pedestrian movement on site, and whether there would be safety issues for the residents. A turnaround area must be provided so that vehicles do not have to back out into the roadway, and the stairs, walkways, and exits must be illustrated on the site plan so that safety issues can be properly evaluated.

12 The site plan indicates the proposed two-family dwelling is to be build over the existing gabion wall. This wall must remain as it is part of the floodplain mitigation. Floor plans, or some other method, must be provided that demonstrate the building will be constructed in a manner that does not disturb the gabion wall.

13 The bulk table indicates that the minimum lot width is 85 feet. The R-1A zoning district has a minimum lot width of 80 feet. The bulk table must be corrected.

14 The actual building height proposed and number of stories must be indicated on the bulk table, rather than "< 35" and "< 3 story," respectively. The bulk table shall not include estimations.

15 The site plan is difficult to read as presented. Separate sheets should be provided for the existing conditions, proposed layout, and utilities.

16 The map notes must provide the standard information for a site plan, such as the tax map number, owner/applicant information, the zoning district, and a statement that the plat does not conflict with the County Official Map.

17 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.
January 26, 2021

Moses Hopstein, Chairperson
Zoning Board of Appeals
Village of Spring Valley
200 North Main Street
Spring Valley, New York 10977

Re: Owner/Applicant: Aaron Schneck
Premises: 3 King Terrace, Village of Spring Valley, NY 10977
Tax Map Designation: Sec. 50.70 Block 1 Lot 21

Dear Mr. Hopstein:

We represent Aaron Schneck, the owner and applicant to the area variance application recently submitted to the Zoning Board of Appeals.

We are in receipt of the January 4, 2021 letter of Douglas J. Schuetz of the Rockland County Department of Planning (copy annexed).

We are constrained to respond to Mr. Schuetz’ Comments 1, 2, 3 in his letter. Mr. Schuetz ignores the current character of King Terrace and the neighborhood surrounding it. The street, especially on the side where the subject property is located, consists of mostly two-family homes similar to the proposed structure, together with a couple of original single-family homes. Almost every original home on the block has been replaced by a modern two-family home that suits the current needs of the community. The proposed development brings an outdated property (built in 1952) into compliance with the other homes both on the block and in the community.

Several times in his letter, Mr. Schuetz mentions that granting the variances requested would set a bad precedent. In so saying, he is ignoring the fact that because almost every home on the block and in the neighborhood is similar to the proposed development, no precedent could be set by this development.
The proposed construction is not located within the boundaries of the wetland/brook to the rear of the property. Unfortunately, the Village law removes that portion of the property that is within the wetland from the FAR calculation, and that is what requires the variance. Absent this issue, the FAR calculation would be much closer to the permitted proportion for this size lot.

In addition to the above, we also request that the Board override Comments numbered 10, 11, and 12 for the following reasons:

Comment # 10: The provided FAR is what is needed to construct this building, therefore, the Applicant is requesting a variance to comply with the Village Code.

Comment # 11: A turnaround area is being proposed.

Comment # 12: The Applicant will need to use the area for the proposed structure.

Very truly yours,

[Signature]

JOSEPH A. CHURGIN
JAC/mc