

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

Richard M. Schiafo
Deputy Commissioner

November 25, 2024

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

Tax Data: 50.78-1-26

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 05/14/2023

Date Review Received: 11/01/2024

Item: *9 Marmon Place (GML-24-0300)*

A variance application to permit the construction of a single-family dwelling on 0.086 acres in the R-2 zoning district. Variances are requested for lot area, lot width (Twin Avenue), Front Yard (Marman Place), side yard, rear yard, total side yard, floor area ratio (FAR), and Section 255-35.A (access near intersections).

At the southwestern corner of the intersection of Marman Place and Twin Avenue.

Reason for Referral:

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

Our department reviewed a Zoning Board of Appeals (ZBA) application for a two-family dwelling at this site on August 4, 2021. We disapproved the application due to concerns of the parcel not being suitable for a two-family dwelling and its required parking. While not stated as a reason for disapproval, we also raised concerns that this parcel may not be a legal building lot due to its having been merged with 49 Twin Avenue to the south. The current application has been reduced in scope in that it requests variances to allow the construction of a single-family dwelling. However, our concerns regarding the legality of the site as a building lot have not been addressed, and we reiterate those comments here.

- 1 The Village must determine if the subject parcel is a legal building lot. The parcel is currently undeveloped, and it has a high degree of nonconformity with respect to its width and size. Based on tax maps and aerial photographs, the parcel effectively functions as a yard for the southernly adjacent parcel, 49 Twin Avenue (parcel 50.78-1-20). There is a visible walkway between Marman Place and the front entrance of the structure at 49 Twin Avenue. Section 255-52.C of the Village's regulations states "Any

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two or more nonconforming adjacent lots in common ownership on the effective date of this subsection shall be deemed merged..." This section was added December 11, 1990. If parcels 50.78-1-26 and 50.78-1-20 were ever in common ownership after the effective date of section 255-52.C, then the two parcels are deemed to be merged and parcel 50.78-1-26 cannot be independently developed. The applicant must demonstrate to the Village through an examination of ownership records that parcel 50.78-1-26 is not subject to section 255-52.C of the Village's zoning regulations. If the applicant cannot demonstrate that the parcel is a legal building lot then the application must be disapproved.

- 2 As noted above, the subject parcel effectively functions a yard for the structure on 49 Twin Avenue. Based on aerial photographs, the current structure on 49 Twin Avenue was constructed between 2004 and 2007. There is no record of a variance application having been forwarded to the County for review for the structure at 49 Twin Avenue. However, the structure is approximately 10 feet from the shared property line with 9 Marman Place, which is less than the required side yard for a single or two-family dwelling in the R-2 zoning district. In addition, the lot width of 49 Twin Avenue is less than required. The absence of a variance application, combined with the non-conforming lot width and side yard, indicate that the 9 Marman Place parcel may have been incorporated into the approval of the structure at 49 Twin Avenue. The Village must review the approved site plan for the current structure on 49 Twin Avenue. If 9 Marman Place was incorporated into the approved site plan, and contributed to meeting the bulk requirements of the structure on 49 Twin Avenue, then the development of 9 Marman Place may create non-conformities on 49 Twin Avenue. As a result, the development of 9 Marman Place cannot be permitted without first obtaining the necessary bulk variances for 49 Twin Avenue. The Village must be assured that the development of 9 Marman Place will not create any non-conformities at 49 Twin Avenue.
- 3 The existing lot is significantly non-conforming. The lot area is less than one-third of the required minimum and the lot depth from the Marman Place property line to the rear property line is only approximately 36 feet. If the applicant is able satisfy our concerns as stated in our previous comments and can demonstrate that the subject property is in fact a legal building lot, then the granting of area variances to allow the construction of a single-family dwelling would be appropriate since it would not be possible to construct a structure that is fully-compliant with the Village's bulk regulations. As per Section 255-56.D(2)(c) of the Village's zoning regulations, the ZBA "... in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety, and welfare of the community." The requested variances are substantial. The Marman Place front yard, side yard, and rear yard are deficient by 80%, 67%, and 60%, respectively. The FAR exceeds the maximum standard by 29%. The ZBA must be assured that the requested variances represent the minimum variances "necessary and adequate".
- 4 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.
- 5 A review must be completed by the County of Rockland Sewer District No. 1 and all required permits obtained from them.
- 6 The Town of Ramapo is the reason this proposal was referred to this department for review. The municipal boundary is approximately 290 feet north 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.

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

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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 floor area ratio 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
- 8 The site plan appears to show parking within a drainage easement. If this easement needs to be accessed, parking may become unavailable. We advise that parking not be constructed over an existing drainage easement.
- 9 All entries, sidewalks, stairs, decks, and window wells must be shown on the site plan to ensure that there is sufficient access to the building for firefighting purposes and to ensure that they do not encroach into the required yards.
- 10 The Designated Street Line (DSL) should be indicated on the site plan as it is relevant to the variance requested from Section 255-35A. The front yard and front setback measurements shall be to the DSL. The appropriate lot area deductions must also be indicated. If any additional variances are required, a revised application must be submitted and forwarded to this department for review. In addition, no required parking can be located between the DSL and the street.
- 11 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.
- 12 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.
- 13 The following additional comments are offered strictly as observations and are not part of our General Municipal Law (GML) review. The board may have already addressed these points or may disregard them without any formal vote under the GML process.
 - 13.1 The parcel must be centered within the vicinity map.
 - 13.2 The map notes must include site-specific information such as lot area, zoning designation, owner, and existing and proposed uses.
 - 13.3 The proposed building height must be indicated on the bulk table, rather than "< 35'." The bulk table shall not include estimations.
 - 13.4 Map note 3 indicates that water will be supplied by Suez. This must be corrected to Veolia North America.



Douglas J. Schuetz
Acting Commissioner of Planning

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cc: Mayor Alan Simon, Spring Valley
Rockland County Department of Health
Rockland County Office of Buildings and Codes
Rockland County Planning Board
Rockland County Sewer District No. 1
Town of Ramapo Planning Board
Anthony R. Celentano P.E.

*New York State General Municipal Law § 239(5) requires a vote of a 'majority plus one' of your agency to act contrary to the above findings.

The review undertaken by the County of Rockland Department of Planning 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 determines whether the proposed action reviewed implicates the Religious Land Use and Institutionalized Persons Act. The County of Rockland Department of Planning defers to the municipality referring the proposed action to render such opinions and make such determinations as 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.

Pursuant to New York State General Municipal Law §§ 239-m and 239-n, the referring body shall file a report of its final action with the County of Rockland Department of Planning within thirty (30) days after the final action. A referring body that 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.