



Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

October 21, 2019

Chestnut Ridge Zoning Board of Appeals
277 Old Nyack Turnpike
Chestnut Ridge, NY 10977

Tax Data: 56.20-2-1

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 3/8/2019

Date Review Received: 9/26/2019

Item: 107 VOGEL LLC - 107 OLD NYACK TURNPIKE (CR-240A)

A use variance application to allow multifamily use on a 1.26 acre-parcel in the R-15 zoning district, within three existing structures. A total of eleven units are proposed.

The southeastern corner of the intersection of Old Nyack Turnpike and Hungry Hollow Road

Reason for Referral:

Town of Ramapo, Village of Spring Valley, NYS Thruway (I-87/287), Hungry Hollow Road (CR 71), Old Nyack Turnpike (CR 52)

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 This department previously reviewed this proposal on May 2, 2019. This current application does not include a revised site plan and has not changed in substance. The applicant has submitted additional documentation that indicates that the conversion of one of the structures into four units and the conversion of a second structure into two units received proper approvals (see Certificates of Occupancy dated January 20, 1959 and November 3, 1982). The provided documentation indicates that the property is a conforming-by-variance, six-unit multifamily use. The proposal to allow five more units, for a total of eleven units, requires a use variance.

This department is not generally in favor of granting use variances because of the land use precedent that can be set. An applicant must prove that applicable zoning regulations and restrictions have caused unnecessary hardship in order for a use variance to be granted. To prove such unnecessary hardship the applicant shall demonstrate to the board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:

- A. The applicant cannot realize a reasonable return, provided the lack of return is substantial as shown by competent financial evidence.
- B. The alleged hardship is unique and does not apply to a substantial portion of the district or neighborhood.

107 VOGEL LLC - 107 OLD NYACK TURNPIKE (CR-240A)

- C. The requested variance will not alter the essential character of the neighborhood.
- D. The alleged hardship is not self-created.

The applicant has not demonstrated that an unnecessary hardship exists. The use variance shall not be granted. The number of dwelling units on the property must be limited to the six that have been legally obtained through prior approvals.

The following comments address our additional concerns about this proposal.

- 2 A review must be completed by the County of Rockland Department of Highways and all required permits obtained from them.
- 3 The applicant must comply with all comments made by the Rockland County Sewer District No. 1 in their letter of April 15, 2019.
- 4 A review shall be completed by the New York State Thruway Authority and any required permits obtained.
- 6 A review must be completed by the County of Rockland Department of Health and all required permits obtained from them.
- 7 The Town of Ramapo and the Village of Spring Valley are two of the reasons this proposal was referred to this department for review. The Ramapo boundary is west of the parcel, along the centerline of Hungry Hollow Road. The Spring Valley boundary is north of the parcel, along the centerline of Old Nyack Turnpike. 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 and the Village of Spring Valley 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 these municipalities must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

- 8 Pursuant to the Rockland County Sanitary Code, Article XIII, Section 13.8.1, all multiple dwellings with three or more rental units must register and obtain a Multiple Dwelling Rental Certificate (MDRC). If this proposed multi-family dwelling meets the requirements of the Multiple Dwelling Rental Registry requirement, then the owner must register and obtain the MDRC. Failure to comply is a violation of Article XIII, which may result in penalties of \$2,000 per day.
- 9 The site plan indicates that there is parking within the Hungry Hollow Road right-of-way. This parking area must be removed and all parking must be provided on-site.

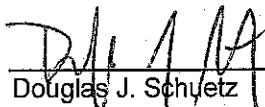
107 VOGEL LLC - 107 OLD NYACK TURNPIKE (CR-240A)

10. Since multifamily residences are not an allowable use in the Village, there are no bulk or parking requirements available. However, requiring two parking spaces per dwelling unit is a common accepted practice and is consistent with the Village requirement of two parking spaces per single-family dwelling. The site plan must be amended to provide 22 parking spaces. All parking spaces must meet the Village's standards and shall be behind required yards, nine feet in width, twenty feet in length, provide unobstructed access to the roadway, provide adequate turnaround and backup space, and shall be properly surfaced and drained.

11. 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.

12. 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.

13. 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 Rosario Presti, Jr., Chestnut Ridge
New York State Thruway Authority
Rockland County Department of Health
Rockland County Department of Highways
Rockland County Sewer District #1

Civil Tec
Town of Ramapo Planning Board
Village of Spring Valley 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.*

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.

