

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

December 22, 2016

Kaser Zoning Board of Appeals
P.O. Box 391
Monsey, NY 10952

Tax Data: 49.19-2-4.5

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

Map Date: 10/11/2016

Date Review Received: 11/18/2016

Item: 151 ROUTE 306 (K-58A)

Variances for front setback, front yard, total side setback, rear setback, rear yard, maximum development coverage and floor area ratio to allow the construction, maintenance and use of an addition to and the conversion of a three-family residence to a multi-family residence consisting of six units. The .2414-acre site is in an R-2 zoning district.

West side of Route 306, immediately north of Phyllis Terrace

Reason for Referral:

NYS Route 306, 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***

Special permit uses are by definition subject to a higher standard of review than as-of-right uses. In addition to complying with the bulk requirements of the zone in which they are proposed, they must meet the supplementary regulations listed in Section 705 of the Zoning Ordinance of the Village of Kaser, as well as the general and individual special permit criteria outlined in Sections 1006 and 1008 under Article X for Special Permit Standards. The proposed floor area ratio is 31% greater than the maximum permitted; the maximum development coverage is exceeded by close to 46%. Multiple setback and yard variances are also required. The six-unit, multi-family residence will result in a gross overutilization of this site as evidenced by the number and the magnitude of the variances required. The footprint of the proposed residential building must be scaled back, and the number of units reduced, to more closely conform to the R-2 bulk standards.

The following comments address our additional concerns about the special permit and site plan applications.

151 ROUTE 306 (K-58A)

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. As indicated above, the generous floor area ratio is exceeded by almost 31%, and the maximum development coverage is over by almost 46%. 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 noted above, the footprint of the multi-family building must be scaled back, and the number of units reduced, so that it more closely conforms to the R-2 zoning standards.

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

3 The Town of Ramapo is one of the reasons this proposal was referred to this department for review. The Ramapo municipal boundary is along the western property line 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.

4 The conditions of the November 22, 2016 letter from the Rockland County Department of Health must be met.

5 A review must be completed by the Rockland County Sewer District #1 and all required permits obtained.

6 The proposed residential building must comply with all requirements of the New York State Uniform Fire Prevention and Building Code.

7 A review must be completed by the Rockland County Office of Fire and Emergency Services, the Village of Kaser Fire Inspector, or the Monsey Fire Department, to ensure that there is sufficient maneuverability on site for fire trucks, and accessibility to firefighters, in the event an emergency arises. As currently configured, access to the proposed addition for firefighting equipment is very constrained, resulting in an unsafe condition.

151 ROUTE 306 (K-58A)

8 It will be difficult for vehicles parked in spaces 1 and 4 to safely exit given the proximity of the proposed 6-foot retaining wall. A turnaround area must be provided. The proposed steps on the south side of the building descend directly into space 4 creating an unsafe condition for the residents. As noted above, the number of units must be reduced. Fewer units will require fewer parking spaces, thereby creating a safer parking configuration.

9 The proposed addition connects to the existing structure at the southwest corner and extends away from the building in a northwest direction. It appears to cross over an existing deck. It is unclear if a courtyard area is created as a result of this irregular configuration, or if the courtyard requirements of Section 701 apply. A courtyard variance is listed in the project narrative. However, it is not included on the bulk table or in the building inspector's denial letter. This must be clarified.

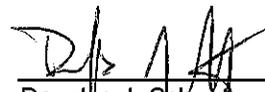
10 The Building Inspector's November 14, 2016 denial letter does not indicate that rear yard or courtyard variances are required, although they are listed on the bulk table and in the project narrative. All application materials must be consistent. The public hearing notice will have to be reissued if it did not include all required variances.

11 As required in Section 705, a breakdown for each unit must be cited, demonstrating that the minimum square footage is provided, as set forth in Section 704 of the Village of Kaser Zoning Ordinance.

12 The entrances for the building/units must be clearly shown. No more than two entrances are permitted on the front of the dwelling facing the road.

13 A garbage enclosure must be indicated on the site plan and conform to Sections 705(e) and 1008.C.

14 The site plan is lacking several features that must be provided. These include a north arrow and engineer's seal, a vicinity map that contains a scale and north arrow, and map notes that list all appropriate information, including the district information. These features must be included on the site plan.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Mayor Bernard Rosenfeld, Kaser
New York State Department of Transportation
Rockland County Department of Health
Rockland County Drainage Agency
Rockland County Sewer District #1
New York State Department of State
Rockland County Office of Fire and Emergency Services
Monsey Fire District

Anthony R. Celentano P.L.S.
Town of Ramapo

Zisha Twersky

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.*

151 ROUTE 306 (K-58A)

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.