Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

January 8, 2019

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

Tax Data: 49.20-1-66

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 11/23/2018 **Date Review Received:** 12/5/2019

Item: ***34 PHYLLIS TERRACE (K-62A)***

Variances for side setback, total side setback, rear setback, rear yard, maximum development coverage, floor area ratio, parking stall width and courtyard width to allow the construction of a semi-attached, 11-unit, multi-family dwelling on .23 acres in an R-2 zoning district.
East side of Phyllis Terrace, approximately 360 feet southeast from the intersection of Route 306

Reason for Referral:

Town of Ramapo, NYS Route 306

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 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 applicant is seeking a 31 percent increase over the very generous maximum permitted floor area ratio of .98, and a 36 percent increase over the maximum allowable development coverage, as well as several yard and setback variances ranging from 25 to 50 percent. The ability of the existing infrastructure to accommodate increased residential density in oversized buildings 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 building footprint and the number of residential units must be reduced to more closely conform to the R-2 bulk requirements.

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2 By definition, special permit uses are subject to a higher standard of review. We do not believe that the proposed multi-family development complies with the general conditions outlined in Section 1006. An overall residential density of 48 units per acre is proposed. This is significantly denser than the R-15C zoning district in the adjacent Town of Ramapo. It is also not compliant with the individual standards for multiple dwellings listed in Section 1008. Suitably equipped recreation and open spaces, and group seating areas are not shown. The proposed multi-family development must be scaled back so that it conforms to the requisite special permit standards in Article X.

The following comments address our additional concerns about this proposal.

3 The Town of Ramapo is one of the reasons this proposal was referred to this department for review. The municipal boundary is 55 feet south of the southeastern corner 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 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 The applicant must be comply with the conditions of the Rockland County Sewer District #1's letter of December 28, 2018.

6 The proposed multi-family 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, in the event an emergency arises. Emergency access around the building must be demonstrated on the site plan.

8 All proposed building entrances, exterior stairways and window wells must be delineated on the site plan demonstrating that they will not impact yard requirements for the site.

9 Parking space 1 is proposed in a garage. The garage access appears to be immediately south of parking space 6. A vehicle parked in the garage will have to back onto Phyllis Terrace. This raises safety concerns. Fewer residential units will eliminate the need for a garage space and will allow for a safer parking lot configuration. As noted above, the building footprint and number of units must be reduced.

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10 Several turning maneuvers will be required for vehicles parked in spaces 6 or 11 to reverse out of the spots without a turnaround area. No exterior staircases or building entrances are shown on the west side of the structure, making it difficult to assess the parking area in relation to the pedestrian movement on site, and whether there will 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 all exterior staircases, building entrances and sidewalks must be illustrated on the site plan so that safety issues can be properly evaluated. Fewer residential units will require less parking allowing for a safer parking lot layout.

11 Areas designated for snow removal must be clearly delineated on the site plan so that the plow drivers will know where to place the snow piles. This will help to protect the proposed landscaping from damage due to the weight of the snow and salt intrusion. In addition, providing specific locations on the site for the snow piles will reduce the loss of available parking spaces meant to be used by residents.

12 A vicinity map must be provided that includes a north arrow, a scale and surrounding zoning.

13 The site plan shall include map notes that list all appropriate information, including the district details.

14 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.

15 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.

16 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: Deputy Mayor David Neiman, Kaser
New York State Department of Transportation
Rockland County Department of Health
Rockland County Sewer District #1
New York State Department of State
Rockland County Office of Fire and Emergency Services

Anthony R. Celentano P.E.
Town of Ramapo

Israel Neiman

Rockland County Planning Board Members

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**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.