Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

March 12, 2019

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

Tax Data: 49.20-1-72

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 1/16/2019 **Date Review Received:** 2/5/2019

Item: ***39 PHYLLIS TERRACE (K-63A)***

Variances for front setback, front yard, side setback, rear setback, deck rear setback, rear yard, development coverage and floor area ratio to allow the construction of a six unit, multi-family residence on .2397 acres in an R-2 zoning district. A special permit is required for the multiple dwelling.
South and west sides of Phyllis Terrace, 100 feet east of Route 306

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**

1 By definition, special permit uses are subject to a higher level of review. It is unclear whether this proposal meets the special permit standards outlined in Section 1006. It does not comply with the individual standards for multiple dwellings listed in Section 1008. Suitably equipped recreation areas and open space are not shown on the site plan. Group sitting areas are also not provided. The parking areas are very constrained and walkways are not labeled. It is unclear if handrails or ramps are provided. On-site lighting is not illustrated on the map. These deficiencies give rise to pedestrian safety concerns. Access to the garbage enclosure will be difficult for sanitation workers if a vehicle is parked in the northwestern parking space in the eastern parking area. Given that the proposed multiple dwelling is not compliant with the requisite special permit standards, and numerous variances are required from the R-2 bulk standards, we recommend that the special permit and site plan be denied. The building footprint must be reduced and fewer units proposed.

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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 applicant is seeking a more than 21 percent increase over the very generous floor area ratio standard, and greater than a 27 percent increase for maximum development coverage. Several yard and setback variances are also required. The ability of the existing infrastructure to accommodate increased residential density in oversized structures 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 building footprint and the number of units must be reduced to more closely comply with the special permit standards and the R-2 bulk requirements.

The following comments address our additional concerns about the proposal.

3 A review must be completed by the New York State Department of Transportation, and any required permits obtained.

4 The Town of Ramapo is one of the reasons this proposal was referred to this department for review. The municipal boundary is approximately 140 feet southeast 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

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

6 The applicant must comply with the conditions of the Rockland County Sewer District #1's letter of February 19, 2019.

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

8 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.

9 It will difficult for a vehicle parked in the southern space in the northern parking area to maneuver out of the space without a turnaround area. This is also true of the western spaces in the eastern parking area. The proximity of the staircase and walkway on the north side of the building is also a concern. The potential for traffic conflicts between pedestrians and vehicles is great. A resident descending the stairs will walk directly behind the parked vehicle. A turnaround area must be provided in both parking areas, as required in Section 801.A, so that vehicles do not have to back out into the roadway . There must be adequate separation between pedestrian features and parking areas so that potential conflicts are minimized.

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10 As noted above, it will be difficult for sanitation workers to access the garbage enclosure if a vehicle is parked in the northwestern space in the eastern parking area. The garbage enclosure must be moved to a more accessible location.

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 the residents.

12 A variance appears to be required from Section 807.A, as the eastern parking area is within 75 feet of the intersection. This must be clarified. If the variance is needed, the bulk table must be corrected. The public hearing notice will also have to be revised and reissued.

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

14 A north arrow and scale shall be provided on the vicinity map.

15 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.

16 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.

17 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
Monsey Fire District

Civil Tec Engineering & Surveying PC
Town of Ramapo

Kalmish Fleischman

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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.