Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

July 1, 2019

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

Tax Data: 49.19-1-1.1

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 6/3/2019 **Date Review Received:** 6/7/2019

Item: ***AKIVA KIZELNIK/40 CEDAR LANE (K-50B)***

Rear setback and rear yard variances for a deck on a proposed semi-attached, multi-family residence on .2198 acres in an R-2 zoning district. Variances were granted on October 20, 2014 for lot area, lot width, side setback, total side setback, street frontage and development coverage. The earlier ZBA application was not referred to this department for review.

North side of Cedar Lane, 475 feet west 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**

As noted above, a GML referral was never received for the variances granted on October 20, 2014. In our October 15, 2014 review of the two-lot subdivision, we noted that while the required variances were specified in the application materials, the subdivision map did not show the proposed buildings. We were unable to comment on the variances due to the insufficient information presented. On December 22, 2015, this department issued comments on the special permit application required for the proposed multi-family residence. At that time, we noted that the plot plan did not include a bulk table or parking calculation, and the number of residential units was not specified. We indicated that the ZBA application must be submitted for our review as mandated under the New York State General Municipal Law. The subject application is the first time any of the required variances have been referred to our department. As a result, we will be commenting on all the variances needed to implement this proposal.

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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's subdivision proposal resulted in two non-conforming lots that are deficient in meeting the minimum standards for lot area, lot width and street frontage. A very large residential structure is proposed that requires yard and setback variances ranging from 20 to 50 percent. The maximum permitted development coverage is exceed by more than 18 percent. The ability of the existing infrastructure to accommodate increased residential density on undersized, nonconforming 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. The building footprint must be reduced and fewer units permitted so the residential structure more closely complies with the R-2 bulk standards.

2 The configuration of the parking area is unsafe. Turnaround areas are not provided resulting in difficult to maneuver parking spaces. The catty corner arrangement of spaces 3 and 10, and 6 and 12, are dangerous given the constrained space. The location of the walkway to the west of space 10 is also a concern. The likelihood of vehicular conflicts is great; pedestrian safety is also compromised under the current configuration. This proposal suggests a general overdevelopment of the site, as evidenced by the large number and scope of the requested variances, along with the challenges presented by the parking layout. In order to bring the use of the property more in line with its capacity to be developed, the building footprint and the number of units must be reduced.

The following comments address our additional concerns about the variances required for this proposal.

3 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.

4 The applicant must comply with the conditions of the Rockland County Sewer District #1's letter of June 12, 2019.

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

6 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.

7 The Town of Ramapo is one of the reasons this proposal was referred to this department for review. The municipal boundary is along the southern and western property lines 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 variances required for this proposal.

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8 The development coverage and floor area ratio calculations must be provided on the site plan so their accuracy can be verified.

9 A parking calculation for the subject site shall be provided on the map.

10 Six parking spaces are illustrated on the parcel where seven are required. Three parking spaces straddle the property line between the subject site and the lot to the east. All required on-site parking must be provided on the property.

11 It will be difficult for sanitation workers to access the dumpster enclosure if a vehicle is parked in space 3. The dumpster enclosure shall be moved to a more accessible location. It must also be labeled on the map.

12 Section 1008.A. states that suitably equipped and adequately maintained recreation and open space shall be provided. Group sitting areas are also to be supplied. They are to be defined by walls, fences, hedges or other plantings designed to impart a sense of containment or security, and to provide group privacy. These features are not depicted on the map. The fact that there is no land area available for these amenities is another indication that this proposal will result in an overutilization of the site. The building footprint and the number of units must be reduced so that recreational and open space can be provided, as well as sitting areas.

13 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 any 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.

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

15 A vicinity map with a scale and north arrow shall be provided on the survey map.

16 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.

17 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.

18 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

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Rockland County Sewer District #1
New York State Department of State
Rockland County Office of Fire and Emergency Services
Monsey Fire District

Robert R. Rahnefeld, P.L.S.
Town of Ramapo

Akiva Kizelnik

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.