

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Ariene R. Miller
Deputy Commissioner

August 3, 2020

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

Tax Data: 49.20-1-42

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

Map Date: 7/13/2020

Date Review Received: 7/14/2020

Item: **CONGREGATION KHAL TORATH CHAIM/37 ASHEL LANE (K-65A)**

Variances for lot width, side setback, total side setback, rear setback, development coverage, floor area ratio, parking space width and street frontage to allow the construction of a semi-attached, ten-unit, multi-family dwelling on .2299 acres in the R-2 zoning district. A courtyard variance is also required.

Southwest side of Ashel Lane, approximately 900 feet south of Rita Avenue

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 lot width and street frontage are deficient by 41 and 60 percent respectively. Variances are required for floor area ratio, development coverage, side setback, total side setback and rear setback to accommodate the oversized structure. The ability of the existing infrastructure to accommodate increased residential density on 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 and number of units shall be reduced to more closely conform to the R-2 bulk standards.

CONGREGATION KHAL TORATH CHAIM/37 ASHEL LANE (K-65A)

2 Multiple dwellings are a special permit use in the R-2 zoning district. By definition, they are subject to a higher standard of review. The proposed ten-unit structure fails to conform to many of the general conditions outlined in Section 1006 or the multiple dwelling standards listed in Section 1008. Eighty-six percent of the parcel is to be developed leaving minimal area for open space or recreation facilities. A small play area is proposed in the courtyard space between the two semi-attached structures primarily on the lot to the north. It is inadequate for just the ten-unit structure on the site but seems to be intended for all of the 19 families to be housed in both buildings. No group seating areas are proposed, and minimal landscaping is shown on the map. The garbage enclosure is located near the southern property line at the end of the parking area. Garbage trucks will not be able to maneuver in this constrained space without an appropriately sized turnaround area. The proposal must be scaled back by reducing the building footprint and number of units so that the special permit standards are achieved.

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 along the southern 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 A review must be completed by the New York State Department of Transportation, any comments or concerns addressed, and all required permits obtained.

5 Municipal officials have previously expressed concern to this department about the increasing traffic congestion along the Route 306 corridor. The issue of pedestrian safety has been raised repeatedly. Land use and traffic generation are not mutually exclusive concepts. If more intense uses are permitted, additional traffic will be generated causing increased congestion on the roadway network, and putting the walking population at greater risk. The Village must consider these factors when evaluating the variances required for non-compliant multi-family proposals.

6 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.

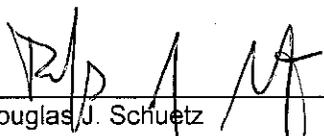
7 A review must be completed by the Rockland County Sewer District #1, and all required permits obtained.

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

9 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.

CONGREGATION KHAL TORATH CHAIM/37 ASHEL LANE (K-65A)

- 10 The development coverage and floor area ratio calculations must be provided on the site plan so their accuracy can be verified.
- 11 Since this parcel and the adjacent parcel to the north are to share access, parking and a play area, the site plan must depict the entire development so it can be properly evaluated. A project narrative shall be provided that explains the relationship between the two parcels
- 12 A courtyard variance is required. Since the play area is proposed within the courtyard, an explanation of the deficiencies must be provided. Section 701.B. of the Zoning Local Law addresses fire fighting equipment access within inner courts. A variance related to fire safety must not be granted in a space to be used by children.
- 13 As noted above, it will be difficult for sanitation workers to access the garbage enclosure without an appropriately sized turnaround area. Pedestrian safety is also a consideration as a walkway providing access to the parking area is immediately north of the garbage enclosure. Sanitation vehicles will be operating in this area making it unsafe for pedestrians. The garbage enclosure must be moved to a safer and more accessible location.
- 14 The deck proposed at the southern corner of the east side of the building overhangs the walkway and the parking area giving rise to pedestrian and vehicular safety concerns. The deck must be eliminated or reduced in size so that it does not overhang the walkway or parking area.
- 15 The proposed easement for ingress, egress, utilities, drainage and parking must be referenced in the map notes and included in the property deed.
- 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: Mayor Allie Pinkasovits, 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

Anthony R. Celentano P.E.

CONGREGATION KHAL TORATH CHAIM/37 ASHEL LANE (K-65A)

Town of Ramapo

Congregation Khal Torath Chaim

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.