



COUNTY OF ROCKLAND
DEPARTMENT OF PLANNING

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EDWIN J. DAY
County Executive

DOUGLAS J. SCHUETZ
Acting Commissioner

July 30, 2014

ARLENE R. MILLER
Deputy Commissioner

Ramapo Zoning Board of Appeals
237 Route 59
Suffern, NY 10901

Tax Data: 56.16-2-16

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

Map Date: 5/18/2014

Date Review Received: 7/11/2014

Item: 36 OLD NYACK TURNPIKE, LLC (R-2464)

Variances for lot area, lot width, front setback, front yard, side setback, total side setback, street frontage, maximum development coverage and floor area ratio to allow the construction, maintenance and use of a two-family dwelling with one accessory apartment on .2848 gross acres (.2767 acres) in an R-15A zoning district.

North side of Old Nyack Turnpike, 175 feet east of Hammond Street

Reason for Referral:

Old Nyack Turnpike (GR 52), NYS Thruway

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***

Two-family residences are uses permitted by right in the R-15A zoning district subject to the bulk requirements for Use Group x.2. Accessory apartments are permitted as an accessory use. The proposal before us requires variances for 9 of the 11 bulk standards. The lot area is 60 percent of the minimum required for two-family residences; it does not meet the single-family residence standard. A variance of more than 36 percent is needed for lot width and street frontage. The development coverage and floor area ratio exceed the permitted maximums by 36 and 87.5 percent respectively. Yard and setback variances are required ranging from 43 percent to 50 percent.

The proposed residential building also does not comply with the New York State Uniform Fire Prevention and Building Code if exit stairs and ramps are within ten feet of the property line. An aerial apparatus access road will be required if the building is over 30 feet.

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The two-family residence, as proposed, will result in an overutilization of the site as evidenced by the number and magnitude of the variances requested. The proposal must be scaled back significantly. A smaller residential building not exceeding 4,800 SF will more closely conform to the R-15A bulk standards. We also recommend that the accessory apartment be eliminated. No more than two residential units shall be permitted on this undersized parcel.

If the Zoning Board of Appeals votes to override our disapproval, we offer the following recommendations.

- 1 A review must be completed by the County of Rockland Department of Highways and all required permits obtained.
 - 2 It is unclear whether a variance is required for parking in the rear yard. A variance is not indicated on the bulk table or in the Town of Ramapo Building, Planning and Zoning Department's July 10, 2014 denial letter. Section 376-71.A. states that "areas which may be considered as open or enclosed off-street parking spaces include any private garage, carport or other area available for parking, other than a street, entrance and exit lanes or a driveway, except that no vehicle shall be parked or stored in any required yard or fire lane except as permitted by § 376-51D." It must be clarified whether the proposed parking in the rear yard requires a variance.
 - 3 A turnaround area must be provided at the north side of the parking area so that a vehicle can easily exit from space #5.
 - 4 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 noted above, the applicant is seeking an 87.5 increase over the permitted maximum floor area ratio. The proposed development coverage exceeds the allowable maximum by 36 percent. Variances of this magnitude compromise the integrity of the zoning ordinance and must not be granted.
- 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 Town must consider the cumulative and regional impacts of permitting such development.
- 5 A review must be completed by the County of Rockland Sewer District #1 to evaluate the existing sewer capacity to determine if additional density can be accommodated. All required permits must be obtained.
 - 6 The proposed residential building must comply with all requirements of the New York State Uniform Fire Prevention and Building Code.
 - 7 The Town of Ramapo Building, Planning and Zoning Department's July 10, 2014 denial letter indicates that variances are required for side yard measured to the shared driveway and rear yard measured to the parking spaces. These variances are not included in the bulk table on the May 18, 2014 site plan. All application materials must be consistent. A new public notice is required if all of the required variances were not included in the original notice.
 - 8 A dumpster enclosure must be shown on the site plan in a location easily accessible to sanitation workers. Parked vehicles must not block access to the dumpster.

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Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor Christopher St. Lawrence, Ramapo
Rockland County Department of Highways
New York State Thruway Authority
Rockland County Department of Health
Rockland County Drainage Agency
Rockland County Sewer District #1
Anthony R. Celentano P.L.S.
New York State Department of State,
Division of Code Enforcement and Administration
36 Old Nyack Turnpike, LLC

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.

