



COUNTY OF ROCKLAND
DEPARTMENT OF PLANNING

Building T
Pomona, NY 10970
(845) 364-3434
Fax. (845) 364-3435

EDWIN J. DAY
County Executive

DOUGLAS J. SCHUETZ
Acting Commissioner

December 3, 2014

ARLENE R. MILLER
Deputy Commissioner

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

Tax Data: 30.11-1-3

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

Map Date: 9/30/2014

Date Review Received: 11/6/2014

Item: *LINDA LEHRBACH (R-2479)*

Use variance to allow the conversion of a garage to an accessory apartment. The existing single-family residence is located on 1.93 acres in the RR-80 zoning district.

South side of Johnstontown Road, approximately 4,700 feet northeast of Seven Lakes Drive

Reason for Referral:

Johnstontown Road (CR 97), Harriman State Park, Seven Lakes Drive

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***

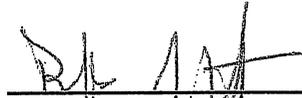
This department is not generally in favor of granting use variances because of the land use precedent that can be set. An applicant must prove that applicable zoning regulations and restrictions have caused unnecessary hardship in order for a use variance to be granted. In order to prove such unnecessary hardship the applicant shall demonstrate to the board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:

- A. The applicant cannot realize a reasonable return, provided the lack of return is substantial as shown by competent financial evidence.
- B. The alleged hardship is unique and does not apply to a substantial portion of the district or neighborhood.
- C. The requested variance will not alter the essential character of the neighborhood.
- D. The alleged hardship is not self-created.

Allowing an accessory apartment in the RR-80 zoning district can set a precedent, and change the character of the neighborhood if other property owners request similar use variances. The applicant must demonstrate that all of the four criteria above have been met. Based on the

LINDA LEHRBACH (R-2479)

information submitted, the applicant has not demonstrated that an unnecessary hardship exists. The use variance shall not be granted.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor Christopher St. Lawrence, Ramapo
Rockland County Department of Highways
Palisades Interstate Park Commission
Sparaco & Youngblood, PLLC

Linda Lehrbach

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.