



COUNTY OF ROCKLAND
DEPARTMENT OF PLANNING

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EDWIN J. DAY
County Executive

THOMAS B. VANDERBEEK, P.E.
Commissioner

February 18, 2014

ARLENE R. MILLER
Deputy Commissioner

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

Tax Data: 49.11-2-56

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

Map Date: 10/25/2013

Date Review Received: 1/21/2014

Item: *CHANY NUSSBAUM (R-2428)*

Use variance to allow an addition to and the conversion of a single-family residence to a two-family residence on .5739 acres in an R-40 zoning district. Several bulk variances are also required.

South side of Concord Drive, 25 feet west of Bartlett Road

Reason for Referral:

Peter Erickson County Park

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. The surrounding neighborhood is characterized by single-family residences. If this use variance is granted, nearby property owners will seek the same relief thereby changing the community character of the neighborhood. The Town must also consider the cumulative and regional impacts of permitting such development. The ability of the existing infrastructure to accommodate increased residential density 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.

An applicant must prove unnecessary hardship in order for a use variance to be granted. The Otto test requires the demonstration of the following:

- 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.

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- C. The requested variance will not alter the essential character of the neighborhood.
- D. The alleged hardship is not self-created.

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



Thomas B. Vanderbeek, P.E.
Commissioner of Planning

cc: Supervisor Christopher St. Lawrence, Ramapo
Rockland County Division of Environmental Resources
Anthony R. Celentano P.L.S.

Chany Nussbaum

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.