



COUNTY OF ROCKLAND
DEPARTMENT OF PLANNING

EDWIN J. DAY
County Executive

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

DOUGLAS J. SCHUETZ
Acting Commissioner

ARLENE R. MILLER
Deputy Commissioner

July 31, 2015

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

Tax Data: 50.13-3-36

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

Map Date: 1/27/2015

Date Review Received: 7/14/2015

Item: 158 ECKERSON ROAD (R-1105E)

Use variance and bulk variances to permit a two-lot subdivision of .57 acres in the R-15 zoning district. A semi-attached, three-family residence, with three accessory apartments is proposed on each lot. Required bulk variances for both lots include: less than the required lot width, side setback, total side setback, rear yard, rear setback, street frontage, and greater than permitted maximum development coverage and floor area ratio. Lot 2 also require a variance for side yard.
South side of West Eckerson Road, 275 feet west of Ibeck Court

Reason for Referral:

Villages of New Hempstead and Spring Valley, W. Eckerson Road/Viola Road (CR 74)

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***

The Town of Ramapo's R-15 zoning district is a medium-density residential district characterized by one- and two-family residences on lots of 10,000 to 20,000 SF. The permitted density ranges from 2.9 units to 4.4 units per acre. The Town's Comprehensive Plan noted that this land use category encompasses large portions of Monsey and Hillcrest; the R-15 zoning district represented a transition from the more intensive areas of Monsey and the Village of Spring Valley and the lower-density suburban areas to the west and north of them. The majority of properties within this zoning district, including this one, were proposed to retain their current zoning designation.

The applicant is proposing to subdivide and develop this .587-acre site with two semi-attached three-family residences with three accessory apartments, a use not permitted in the R-15 zoning district. The effective residential density proposed for this site is 20.4 units per acre or 4.6 times greater than the R-15 permitted maximum. The proposed use is completely out of character with the surrounding neighborhood. This residential community is characterized by detached and semi-attached single-family residences. Permitting the proposed use will set a land use precedent that

158 ECKERSON ROAD (R-1105E)

has the potential to irrevocably alter this single-family neighborhood. Nearby property owners, with parcels comparable in size to the lots once subdivided, will request the same relief from the R-15 use requirements. The resultant four- to five-fold increase in residential density will change the character of this residential community.

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 Town of Ramapo Zoning Board of Appeals that for each and every permitted use under the zoning regulations for the R-15 zoning district the four criteria cannot be met. It must be determined whether subdividing the parcel, and constructing a single-family dwelling on each lot cannot yield a reasonable return; that subdividing the parcel into two lots, which will result in parcels that consist of .28 and .30 acres is unique, especially when all of the surrounding parcels range between .16 to .54 acres and contain either one- or two-family dwellings; allowing this use will set a precedent for the other 19 parcels immediately adjacent to the site to also request a change to this use, thereby altering the essential character of the neighborhood; and that the hardship is not self-created, especially knowing that the parcel, when purchased, only allowed one- or two-family residences.

The subject site is a flag lot that does not meet the R-15 street frontage requirements for any of the residential uses permitted in that zone. Parking is proposed within the 50-foot flag pole area. Vehicles will have to reverse into the driveway access serving 12 units. It is unclear whether fire trucks and other emergency vehicles will be able to navigate this constrained access arrangement. It must also be noted that the site contains a 13.2-foot right-of-way for access to two landlocked parcels to the south. The disposition of this right-of-way is not addressed in the application materials.

We caution the Town against approving this use and bulk variances for this proposed subdivision and development application. This is a solid single-family community not a neighborhood subject to change or in transition. Permitting a land use that will change the allowed residential density is equivalent to a zone change; it is our policy to disapprove zone change requests such as this without a comprehensive background study. The analysis undertaken during the Town's Comprehensive Plan process recommended that the R-15 zoning be retained in this area. While this department does not object to a two-lot subdivision of the property, we believe that single-family residences are the only appropriate development option for these parcels. Allowing the applicant to construct an as-of-right use under R-15C zoning is essentially spot zoning, and must not be allowed.

The following recommendations address our additional concerns for the proposed use and bulk variances:

- 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 is seeking a 37 percent increase in the maximum allowable development coverage and close to 78 percent increase in the maximum floor area ratio. The ability of the existing infrastructure to accommodate increased residential density on non-conforming lots 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.

158 ECKERSON ROAD (R-1105E)

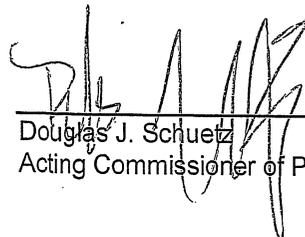
2 The bulk table lists requirements for the R-15 C zoning district. This is incorrect, as this parcel is located within the R-15 zoning district. A zone change application has not been granted for this parcel. To preserve the character of the neighborhood, the bulk standards for the R-15 zoning district must be maintained. Applying the relaxed R-15C standards in this area was not the intention of the Town of Ramapo's zoning ordinance. The side setback, total side setback, rear setback, and floor area ratio must be listed to be reflective of the correct zoning district.

3 The Villages of Spring Valley and New Hempstead are two of the reasons this proposal was referred to this department for review. The Spring Valley municipal boundary is 355 feet southwest of the site; the New Hempstead municipal boundary is 350 feet northeast 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 Villages of Spring Valley and Kaser must be given the opportunity to review the proposed use variance and bulk variances and their impact on community character, traffic, water quantity and quality, drainage, stormwater runoff and sanitary sewer service. The Village of New Hempstead noted in a letter dated May 6, 2015 that they too recommended disapproval, as they felt that the proposal was "completely out of character with the surrounding neighborhood." The areas of countywide concern noted above that directly impact the Villages of Spring Valley and New Hempstead must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

4 The proposed residential buildings must comply with all requirements of the New York State Uniform Fire Prevention and Building Code. New York State variances may be required for exit ways or ramps within 10 feet of the property line and an aerial apparatus road.

5 It must be demonstrated that fire and emergency vehicles can access the site, and safely maneuver fire equipment. The Monsey Fire Department and the Rockland County Office of Fire and Emergency Services must review the plans to ensure that access and maneuverability on the site are feasible.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor Christopher St. Lawrence, Ramapo
Rockland County Department of Highways
Rockland County Department of Health
Rockland County Sewer District #1
Rockland County Office of Fire and Emergency Services
Monsey Fire District
Civil Tec Engineering & Surveying PC
Villages of New Hempstead & Spring Valley

158 ECKERSON ROAD (R-1105E)

New York State Department of State,
Division of Code Enforcement & Administration
Chaskel Landau

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.