



COUNTY OF ROCKLAND
DEPARTMENT OF PLANNING

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March 23, 2015

Ramapo Planning Board
237 Route 59
Suffern, NY 10901

Tax Data: 50.13-3-36

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 N

Map Date: 1/27/2015

Date Review Received: 2/19/2015

Item: 158 ECKERSON ROAD SUBDIVISION (R-1105D)

Two-lot subdivision of .587 acres in an R-15 zoning district. A semi-attached three-family residence with three accessory apartments is proposed on each lot. This use is not permitted in the R-15 zoning district. South side of West Eckerson Road, 275 feet west of Ibeck Court

Reason for Referral:

County Route 74 (Eckerson Road/Viola Road), Villages of Spring Valley and New Hempstead
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 has the potential to irrevocably alter this single-family neighborhood. Nearby property owners 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.

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Since this use is not permitted in the R-15 zoning district, a use variance will be required. An applicant must prove that applicable zoning regulations and restrictions have caused unnecessary hardship in order for a use variance to be granted. The applicant has not presented any financial evidence that an unnecessary hardship exists.

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 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.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor Christopher St. Lawrence, Ramapo
Rockland County Department of Highways
Rockland County Drainage Agency
Rockland County Sewer District #1
Rockland County Office of Fire and Emergency Services
Monsey Fire District
Civil Tec Engineering & Surveying PC
Villages of Spring Valley and New Hempstead
New York State Department of State,
Division of Code Enforcement and Administration
Chaya Neustadt

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.