

**DEPARTMENT OF PLANNING**

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**Douglas J. Schuetz**  
*Acting Commissioner*

**Arlene R. Miller**  
*Deputy Commissioner*

May 4, 2016

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

**Tax Data:** 56.20-3-66

**Re: GENERAL MUNICIPAL LAW REVIEW:** Section 239 L and M  
**Map Date:** 3/17/2016

**Date Review Received:** 4/8/2016

**Item:** *23 OLD NYACK TURNPIKE, LLC. (R-972B)*

Variances to allow a four-lot subdivision of .99 acres in an R-15A zoning district, and the construction, maintenance and use of a detached, two-family residence on each parcel. Lot area, lot width, side setback, total side setback, street frontage and floor area ratio variances are required for all four lots. Lots 1, 2 and 4 also need variances for rear setback and rear yard. Lots 2 and 4 require deck rear setback variances. A development coverage variance is required for Lot 2. Front setback, front yard and frontage on a public street variances are needed for Lots 3 and 4. A variance for parking in the rear yard is necessary for Lots 1, 3 and 4.

South side of Old Nyack Turnpike, approximately 135 feet west of Dyksta's Way West.

**Reason for Referral:**

Old Nyack Turnpike (CR 52), Saddle River Road (CR 73), NYS Thruway, Villages of Chestnut Ridge and Airmont

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 subject site is located in an R-15A zoning district, a medium-density residential district in which accessory apartments are allowed. Detached, single-family residences are permitted on 15,000 SF lots; detached two-family residences are permitted on 20,000 SF lots. Semi-attached, single-family residences require a minimum lot area of 10,000 SF. The maximum permitted residential density ranges from 2.904 units per acre for detached single-family residences to 4.356 units per acre for semi-attached single-family and detached, two-family residences. The addition of one accessory apartment would increase the density to 5.81 units per acre for detached, single-family residences, 6.53 units per acre for detached, two-family residences and 8.71 units per acre for semi-attached, single-family residences.

This .99 acre site can yield two conforming lots of 15,000 SF or 20,000 SF. Four 10,000 SF lots

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are achievable. The applicant is proposing four lots ranging in area from 10,500 SF to 11,052 SF. This would be acceptable if semi-attached, single-family residences were proposed. The applicant is proposing a detached two-family residence on each of the four lots. Accessory apartments are no longer proposed; however, the floor area ratio variances have increased significantly for each building. The building footprints must be reduced to reflect that an accessory apartment has been eliminated.

Variances are required for lot area, lot width, side setback, total side setback, street frontage and floor area ratio for all four parcels. The lot area variances range from 44.7 percent to 47.5 percent; the floor area ratio variance is 87.5 percent for each structure. A development coverage variance is required for Lot 2. Lots 3 and 4 do not have frontage on a public street. Additional yard and setback variances are required for each of the four lots.

The overall residential density of this proposal is now 7.92 units per acre, higher than the maximum permitted for this housing type in the R-15A zoning district. The number and the magnitude of the required variances are a clear indication that this proposal will result in a gross overutilization of the site. It is unclear whether fire trucks or other emergency vehicles can safely access this development. The number of lots must be reduced, as well as the number of units, to more closely conform to the R-15A bulk standards. The proposed four-lot subdivision can only accommodate four semi-attached, single-family residences. The current proposal for four detached, two-family residences on undersized, non-conforming parcels must be denied.

Listed below are additional concerns about the proposed subdivision and required variances that must be addressed.

- 1 An updated review of the March 17, 2016 ZBA Plan must be completed by the County of Rockland Department of Highways and all required permits obtained. In addition, the applicant must comply with the conditions of the Highway Department's letter of August 7, 2015.
- 2 An updated review of the March 17, 2016 ZBA Plan must be completed by the County of Rockland Department of Health and all required permits obtained. In addition, the applicant must comply with the conditions of the Health Department's letter of December 14, 2015.
- 3 An updated review of the March 17, 2016 ZBA Plan must be completed by the County of Rockland Sewer District No. 1 and all required permits obtained. In addition, the applicant must comply with the conditions of the Sewer District No. 1's letter of December 9, 2015.
- 4 A review shall be completed by the New York State Thruway Authority and any required permits obtained.
- 5 Ingress and egress to the four lots is being proposed by a single access drive that contains most of the parking. Though General Note #33 on the June 29, 2015 subdivision plan indicates that a "blanket easement will be provided for shared access and utilities," cross access easements must be clearly indicated on the site plan so that ingress/egress can be legally achieved to all lots, especially lots #3 and #4. This lot area should not be included in the lot area, which would thereby further exacerbate the net lot area deficiencies.
- 6 All but two of the proposed parking spaces are located within the access drive. Vehicles backing out of the spaces will interfere with vehicles traveling in this drive. Of particular concern is that the parking spaces located closest to Old Nyack Turnpike could impede the access to other vehicles entering the site, impeding the safe and efficient flow of traffic along the County highway. Since four extra spaces are proposed, four of the spaces nearest the County highway must be eliminated. Additional spaces can be removed from the drive and relocated elsewhere.

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7 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 indicated above, each lot requires a minimum lot area variance and each structure is 87.5 percent over the maximum permitted floor area ratio. The ability of the existing infrastructure to accommodate increased residential density on undersized, non-conforming 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.

8 The proposed residential buildings must comply with all requirements of the New York State Uniform Fire Prevention and Building Code.

9 It must be demonstrated that emergency vehicles have suitable maneuverability on the site. An emergency vehicle movement plan must be provided to show that the largest fire trucks can access and maneuver within the site. The County of Rockland Office of Fire and Emergency Services or the Monsey Fire Department must review this plan to ensure that there are no issues for their emergency equipment or needs.

10 The February 25, 2016 denial letter from the Town of Ramapo Building, Planning & Zoning Department contains comments from the Fire Inspector which must be addressed. These include: 1) sprinklers must comply with NFPA 13D; 2) the applicant must show that there is sufficient water to meet fire flow requirements as per NYS Fire Code 508.3; 3) ) if a portion of the building exceeds 30 feet in height above the lowest level of department access, an aerial apparatus road will be required to comply with NYS Fire Code D105; 4) decks, ramps and stairways are not permitted within 10 feet of the property line as per NYS Fire Code 1024.3; 5) access roads must be signed to comply with NYS Fire Code D103.6 and D103.6.1; 6) fire department connections must be mounted on the street side of the building; 7) an additional fire hydrant may be required if there is not one within 600 feet of the furthest point of the building as per NYS Fire Code 508.5.1 exception 2; 8) the location of the nearest fire hydrant must be shown; and 9) the fire truck turnaround must conform to NYS Fire Code D103.5 and exception 2.

11 The garbage enclosures are located behind and adjacent to parking spaces, and will be difficult to access if vehicles are parked in these spaces. Alternate locations must be provided that are easily accessible at all times.

12 It will be difficult to maneuver out of the parking space located in the southeasternmost portion of the site. A turnaround area must be provided.

13 The bulk table indicates that 19 parking spaces are provided. Twenty parking spaces are shown on the plan. Since only 16 parking spaces are required, we recommend that four parking spaces be eliminated.

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14 The Villages of Airmont and Chestnut Ridge are two of the reasons this proposal was referred to this department for review. The municipal boundary for the Village of Airmont is located approximately 450 feet southwest of the site, and the Village of Chestnut Ridge's boundary is approximately 260 feet south 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 Airmont and Chestnut Ridge must be given the opportunity to review the proposal and its impact on community character, traffic, water quantity and quality, drainage, stormwater runoff and sanitary sewer service. The areas of countywide concern noted above that directly impact the Villages of Airmont and Chestnut Ridge must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

15 The ZBA Plan must include map notes. A scale and north arrow must be provided for the vicinity map.

  
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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 Drainage Agency  
Rockland County Sewer District #1  
New York State Department of State,  
Division of Code Enforcement & Administration  
Rockland County Office of Fire and Emergency Services  
Monsey Fire District  
New York State Thruway Authority  
  
Civil Tec Engineering & Surveying PC  
Villages of Chestnut Ridge and Airmont

23 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.*

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*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.*

*Pursuant to New York State General Municipal Law §239-m(6), the referring body shall file a report of final action it has taken with the Rockland County Department of Planning within thirty (30) days after final action. A referring body which acts contrary to a recommendation of modification or disapproval of a proposed action shall set forth the reasons for the contrary action in such report.*

