



COUNTY OF ROCKLAND
DEPARTMENT OF PLANNING

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EDWIN J. DAY
County Executive

DOUGLAS J. SCHUETZ
Acting Commissioner

February 25, 2016

ARLENE R. MILLER
Deputy Commissioner

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

Tax Data: 50.14-4-46

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

Map Date: 10/16/2015

Date Review Received: 1/22/2016

Item: *DANIEL BARAHONA (R-2543)*

Use variance to allow a detached garage to continue to be used as a second dwelling unit on a .3444-acre site in an R-15 zoning district. The applicant is also seeking retroactive approvals for a finished basement, a wood deck and an enclosed rear patio. Required bulk variances include lot width, side setback and side yard.

North side of Orchard Street, 188 feet east of Hempstead Lane

Reason for Referral:

West Eckerson 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***

As per Section 376-31 of the Town of Ramapo Zoning Law, "2-family detached residences, with not more than 1 principal residential building on a lot" are permitted by right in the R-15 zoning district. The applicant has converted an accessory structure to a residential use. A use variance is therefore required for this proposal.

This department is not generally in favor of granting use variances because of the land use precedent that can be set. Single-family residences are the predominant land use in this medium density residential neighborhood. Permitting a property owner to convert a garage to a residential unit will set a precedent whereby other residents will seek the same relief. This will change the community character of the surrounding neighborhood.

An applicant must prove 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:

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- 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.

The applicant has not submitted any financial evidence to prove unnecessary hardship. The use variance shall not be granted.

We offer the following recommendations on the required bulk variances.

- 1 Applications to the Zoning Board of Appeals must include a site plan with a bulk table detailing the area standards for the proposed use, as well variances required.
- 2 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 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.
- 3 The proposed residential buildings must comply with all requirements of the New York State Uniform Fire Prevention and Building Code. The garage structure is 2.5 feet west of the eastern property line. A one-hour fire rated exterior wall is required for buildings within ten feet of a property line.



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
New York State Department of State,
Division of Code Enforcement & Administration
Robert E. Sorace, PLS

Daniel Barahona

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.

