

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

April 12, 2016

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

Tax Data: 56.11-2-78

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

Map Date: 11/4/2015

Date Review Received: 3/9/2016

Item: *CONGREGATION CHASIDEI GUR OF MONSEY (R-2553)*

Use variance to allow the construction, maintenance and use of a three-family dwelling with three accessory apartments on .2715 acres in an R-15A zoning district. Variances from the R-15C bulk standards are also required including lot area, lot width, front setback (Saddle River Road and Lane Street), front yard (Saddle River Road and Lane Street), side setback, rear setback, deck rear setback and maximum development coverage.

Northeast corner of Lane Street and Saddle River Road

Reason for Referral:

Village of Kaser

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 subject site is located within an R-15A zoning district. The residential uses permitted by right in this zone include detached and semi-attached single-family residences, as well as detached two-family residences. Accessory apartments are also permitted. While an R-15C zoning district is located immediately east of the site, the area to the north and south, along Saddle River Road, and extending more than 3,000 feet to the lots on the west side of Remsen Ave, is zoned R-15A. The area consists of predominantly one- and two-family residences. Granting a use variance for this parcel will set a precedent that will change the community character of the surrounding neighborhood. Other property owners will seek the same relief thereby creating a much denser residential area. We believe the intent of the R-15A zoning designation along both sides of Saddle River Road was to maintain a medium density character along this street thereby buffering the increased density of the R-15C zoning district.

An applicant must prove that applicable zoning regulations and restrictions have caused

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unnecessary hardship in order for a use variance to be granted. 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:

- 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.

We do not believe that the applicant has demonstrated that an unnecessary hardship exists given the location of a large R-15A zoning district immediately north, south and west of the site, and the predominance of one- and two-family residences in this zone. The use variance shall not be granted.

We offer the following comments on the required R-15C bulk variances.

1 If the use variance is granted, the building footprint and the number of units must be reduced to more closely conform to the R-15C bulk standards. A smaller building footprint will decrease the yard and setback variances, and reduce the impervious surface area. Fewer units will require less on-site parking spaces thereby further reducing the development coverage.

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 applicant is seeking a 21 percent reduction in the required minimum lot area and a 50 percent increase over the maximum permitted development coverage. The ability of the existing infrastructure to accommodate increased residential density on undersized, 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 building must comply with all requirements of the New York State Uniform Fire Prevention and Building Code.

4 The March 23, 2016 denial letter from the Town of Ramapo Building, Planning and Zoning Department contains comments from the Fire Inspector which must be addressed. These include: 1) the sprinklers must comply with NFPA 13R; 2) the applicant must meet the fire flow requirements as per NYS Fire Code D508; 3) if the building exceeds 30 feet in height above the lowest level of fire department access, an aerial apparatus road is required to comply with NYS Fire Code D105; 4) the fire alarm must be connected to 44 Control; 5) the location of the nearest fire hydrant must be shown; 6) fire department connects must be mounted on the street side of the building; and 7) a fire hydrant must be within 600 feet of the furthest point of the house or an additional fire hydrant will be required to comply with NYS Fire Code 508.5.1 exception 2.

5 A review must be completed by the County of Rockland Office of Fire and Emergency Services or the Monsey Fire District to ensure that there is sufficient maneuverability on-site for emergency vehicles.

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6 The March 23, 2016 denial letter from the Town of Ramapo Building, Planning and Zoning Department indicates that a rear setback variance is required for the deck on the east side of the structure. The bulk table does not include this variance but does incorrectly indicate that a rear yard variance is required. The denial letter does not include the lot width (Saddle River Road) variance noted on the bulk table. All application materials must be consistent. The public hearing notice will have to be reissued if it did not contain all required variances.

7 The Village of Kaser is the reason this proposal was referred to this department for review. The municipal boundary is approximately 385 feet north of the subject property line. As required under Section 239nn of the State General Municipal Law, the Village of Kaser must be given the opportunity to review the proposed subdivision and provide any concerns related to the project to the Town of Ramapo.

8 The proximity of the deck on the west side of the structure to the parking area is not ideal. A vehicle parked in the northeast space could hit the deck maneuvering in to or out of this spot. As noted above, the number of units must be reduced so that less on-site parking is required. This parking space must be eliminated.

9 It will be difficult for sanitation workers to access the refuse area if a vehicle is are parked in the southeast spaces. The dumpster must be moved to a more accessible location.



Douglas J. Schuetz
Acting Commissioner of Planning

- cc: Supervisor Christopher St. Lawrence, Ramapo
- Rockland County Department of Health
- Rockland County Drainage Agency
- Rockland County Sewer District #1
- Rockland County Office of Fire and Emergency Services
- New York State Department of State,
Division of Code Enforcement & Administration
- Monsey Fire District
- Lanc & Tully Engineering and Surveying, P.C.
- Village of Kaser

Congregation Chasidei Gur of Monsey
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.

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.

