Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

August 24, 2016

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

Tax Data: 49.19-6-14

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 6/20/2016 **Date Review Received:** 7/28/2016

Item: ***CHAYA GRODZINSKY (R-2574)***

Variances to permit a two-lot subdivision of .3985 acres in the R-15C zoning district. Required variances include: Lot #1 - front setback, front yard, rear setback, development coverage, rear deck setback, less than 50% attached, number of accessory apartments per lot width, and courtyard width; Lot #2 - lot area, lot width, front setback, front yard, rear setback, street frontage, development coverage, rear deck setback, less than 50% attached, number of accessory apartments, and courtyard width.

South side of Cedar Lane, just west of Crown 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

1 The proposed two-lot subdivision is deficient by 29% in meeting the minimum lot area standard of 10,000 SF required for a two or three-family semi-attached residence for Lot #2. Additional non-conformities are proposed on each lot. Lot #1 requires multiple variances, including rear setback and rear deck setback deficiencies of 50%, a maximum development coverage that is exceeded by 27%, and greater than permitted number of accessory units. Lot #2 requires more extensive variances and is deficient in yards ranging from almost 29% to over 33%, with the need for a 50% rear deck setback and maximum development coverage that exceeds the allowance by 18%. In addition, both lots need variances for having less than 50% of the building attached and an insufficient courtyard area. The proposal to build an oversized residential building on an undersized parcel results in the need for these variances. The surrounding neighborhood is characterized by similarly-sized parcels. Granting these bulk variances will set a precedent that may result in other nearby property owners seeking the same relief. Subdividing a lot which cannot yield two conforming lots in this neighborhood will negatively impact its community

character. Additional residents will generate more traffic on the local streets. The potential for traffic conflicts is great. While a three-family semi-attached residence is permitted as of right in the R-15C zoning district, it is apparent given the magnitude and number of variances required to implement the proposal that this site is not suitable to be subdivided. We recommend that the required variances be denied, and that the lot be retained as a single lot.

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 facilities of this size 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.

The comments below address our additional concerns about this ZBA application.

3 The NYS Department of State has determined that the Town is not administering or enforcing the State Uniform Fire Prevention and Building Code in accordance with minimum standards set forth in 19 NYCRR part 1203. Given the concerns about the Town's administration and enforcement of the State Uniform Fire Prevention and Building Code raised in the Executive Deputy Secretary of State's letter of July 15, 2016, the proposed residential building must be held to the requisite minimum standards and comply with all requirements of this code.

4 The Village of Kaser is the reason this proposal was referred to this department for review. The municipal boundary is approximately 400 feet northeast 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.

5 The Town of Ramapo Building, Planning & Zoning Department's June 6, 2016 denial letter contains comments from the Fire Inspector that must be addressed. These include: 1) the building must be sprinkiered as per NFPA 13R; 2) fire department connections must be mounted on the street side of the building; 3) the applicant must show that there is sufficient water to meet fire flow requirements as per NYS Fire Code 508.3; 4) sufficient parking must be provided so that fire department access is not blocked; 5) the location of the nearest fire hydrant must be shown; 6) the exit access to public way must be provided as per NYS Fire Code 1024.6; 7) if any portion of the building is more than 30 feet above the lowest level of fire department access, an aerial apparatus road must be provided in compliance with Appendix D105 of the NYS Fire Code; 8) a sprinkler plan must be provided; and 9) carbon monoxide detectors must be provided.

6 It will difficult for a vehicle parked in spaces #3, #6, or #10 to maneuver out of the space without a turnaround area. In addition, no sidewalks, stairs, or exits have been shown on the site plan, making it difficult to assess the parking area in relation to the pedestrian movement on site, and whether there would be safety issues for the residents. A turnaround area must be provided so that vehicles do not have to back out into the roadway, and the stairs, walkways, and exits must be illustrated on the site plan so that safety issues can be properly evaluated.

7 As per Section 376-65G, only one accessory apartment is permitted on parcels with a lot width of less than 75 feet. The lot width of the subject site is 62.5 feet. Therefore, one accessory apartment is allowed. The second and third accessory apartments must be eliminated for Lot #1. This will allow for closer conformance with the R-15C bulk requirements. The required on-site parking will be reduced to four spaces resulting in a lower development coverage. A smaller building footprint will also be possible with fewer accessory units.

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8 A five-foot wide shade tree easement is not indicated on the site plan. The Town must confirm whether Section 258-3 (the shade tree easement requirement) applies to this proposal. If Section 258-3 is applicable, it appears that parking spaces 1, 4 and 7 are partially located within the five-foot shade tree easement area. The Director of Public Works shall determine if it is still possible to plant one tree for every 40 linear feet of shade tree easement as required in Section 258-3 of the Town Code.

9 A review must be completed by the Rockland County Office of Fire and Emergency Services, the Town of Ramapo Fire Inspector, or the Monsey Fire Department to ensure that there is sufficient maneuverability on site for fire trucks, in the event an emergency arises.

10 The specific height of the proposed building must be provided in the bulk table so that it can be determined if an aerial apparatus road is required.

11 A review must be done by the Rockland County Department of Health to ensure compliance with Article XIX (Mosquito Control) of the Rockland County Sanitary Code.

12 A review must be completed by the County of Rockland Sewer District #1 and all required permits obtained.

13 The site plan shall include map notes that list all appropriate information, including the district details.

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
Monsey Fire District
New York State Department of State,
Division of Code Enforcement & Administration

Anthony R. Celentano P.L.S.
Village of Kaser

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.

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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.