

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

November 10, 2016

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

Tax Data: 56.16-2-14.2-1

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

Map Date: 8/25/2016

Date Review Received: 10/6/2016

Item: *EZCKIEL Y. ROSENBERG (R-2265G)*

Rear setback and rear yard variances to permit the construction, maintenance and use of an indoor pool addition to an existing two-family residence on .4591 acres in an R-15A zoning district. Variances for front yard, side setback, total side setback, street frontage, floor area ratio and parking were previously granted.

East side of Hammond Street, 210 feet north of Old Nyack Turnpike

Reason for Referral:

Old Nyack Turnpike (CR 52), NYS Thruway

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:

****Recommend the following modifications***

- 1 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 has already been granted an 87.5 percent increase over the maximum permitted floor area ratio, as well as yard and setback variances. The ability of the existing infrastructure to accommodate increased residential density in oversized structures 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.
- 2 A review must be completed by the County of Rockland Department of Highways and any required permits obtained.

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3 A review must be completed by the New York State Thruway Authority and any required permits obtained.

4 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.

As shown, the proposed residential building will require a variance from the New York State Uniform Fire Prevention and Building Code since the proposed indoor pool is located closer than ten feet to the property line. In addition, since no specific building height has been provided, it cannot be determined if the building is greater than 30 feet to the eaves or if an aerial apparatus road is required. This information must be provided.

5 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. Aerial photography available to this department shows refuse containers stored and vehicles parked along the 20-foot driveway to this flag lot. This raises questions about unhampered emergency vehicle access to the residential structure.

6 The on-site parking must be illustrated on the ZBA Plan. The bulk table indicates that four parking spaces are provided but they are not shown. As a result, the feasibility of the configuration of the four parking spaces cannot be evaluated. It is also not possible to verify the previously granted front yard variance without this information. In addition, it is not clear why a parking variance was granted if the four required parking spaces are provided. This must be clarified.

7 Since an indoor pool is proposed, the floor area ratio must be recalculated. We believe a floor area ratio variance is also required for this proposal. If so, the public hearing notice must be revised and reissued.

8 The vicinity map must include a north arrow and a scale.

9 Map Note 9 must be corrected to reflect that Section 239L & M of the NYS General Municipal Law applies as this is not a subdivision application.

10 The project narrative and the Town of Ramapo Building, Planning and Zoning Department's September 13, 2016 denial letter specify the incorrect tax identification number for the subject parcel. The correct information must be provided.

11 The bulk table must indicate the date on which the previously granted variances were approved. It is unclear whether that application was referred to this department for review as required under the NYS General Municipal Law.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor Christopher St. Lawrence, Ramapo
Rockland County Department of Highways
New York State Thruway Authority

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Rockland County Department of Health
Rockland County Drainage Agency
Rockland County Sewer District #1
New York State Department of State
Rockland County Office of Fire and Emergency Services
Monsey Fire District
Civil Tec Engineering & Surveying

Ezckiel Y. Rosenberg

**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.

