

**DEPARTMENT OF PLANNING**

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

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

February 8, 2017

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:** 2/17/2016

**Date Review Received:** 1/5/2017

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

Variations to permit 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, rear setback, street frontage, parking in the rear/side yards, and floor area ratio variations are required for all four lots. Lots 3 and 4 also need variations for front setback, front yard, and no frontage on a public street (280A). A development coverage variance is required for Lots 2, 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 Dykstra'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. 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.

This .99 acre site can yield two conforming lots of 15,000 SF or 20,000 SF. Four 10,000 SF lots are achievable. The applicant is proposing four lots ranging in area from 10,247 SF to 11,465 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. Though accessory

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apartments are no longer proposed, the maximum development coverage has increased for each lot. In addition, since the number of units has decreased, it is not clear why the number of parking spaces have not been reduced to reflect the lower number of units. A total of 22 parking spaces are proposed, yet only 16 are required. The applicant must explain why the maximum development coverage has increased, particularly since the floor area ratio and the number of units have decreased, and why there is still a need for 22 parking spaces.

Variations are required for lot area, lot width, side setback, total side setback, rear setback, street frontage and floor area ratio for all four parcels. The lot area variations range from 42.68 percent to 48.77 percent; the floor area ratio exceeds the maximum by 55% for Lot 1 to 80% for Lot 4. A development coverage variation is required for three of the four lots, and Lots 3 and 4 do not have frontage on a public street. Additional yard and setback variations are required for each of the four lots.

The overall residential density of this proposal is now 8.08 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 variations 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, or two two-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 variations that must be addressed.

- 1 An updated review must be completed by the County of Rockland Department of Highways and all required permits obtained.
- 2 An updated review must be completed by the County of Rockland Department of Health and all required permits obtained.
- 3 An updated review 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 September 21, 2016.
- 4 An updated review must 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. Access, utility, and parking easements must be clearly indicated on the site plan so that ingress/egress, parking, and utilities can be legally provided to all lots, especially lots #3 and #4. The land within these easement areas 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 five extra spaces are proposed, five 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 The garbage enclosures are located behind 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.

8 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 significantly 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.

9 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.

10 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, it is impossible to determine if the proposed residential building will require a variance from the New York State Uniform Fire Prevention and Building Code since no deck stairs, window wells, entryways, areaways, or porches are shown on the site plan. This information must be provided.

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

12 The parking spaces must be numbered so that they are more clearly defined.

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13 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.

14 The ZBA Plan must include map notes, including district information. A scale and north arrow must be provided for the vicinity map.

15 As indicated above, window wells, entryways, areaways, porches, and deck stairs have not been provided on the plan. These features must be provided to ensure that no additional variances are required. If it is found that additional variances are required, then a new review will have to be completed.

16 It is not clear as to the purpose of the driveway extension straddling Lots 2 and 3 along the eastern portion of the site. This is a wide, paved area, that seems to be providing two parking spaces, yet is not labeled as such, or why the long length is required. This excess pavement area contributes to the overage for development coverage. The purpose of this area must be provided, and the length of the paved area reduced.

  
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Douglas J. Schuetz  
Acting Commissioner of Planning

cc: Supervisor Christopher St. Lawrence, Ramapo  
Rockland County Department of Highways  
Rockland County Sewer District #1  
Rockland County Department of Health  
Rockland County Drainage Agency  
Rockland County Office of Fire and Emergency Services  
New York State Department of State  
New York State Thruway Authority  
Monsey Fire District  
  
Civil Tec Engineering & Surveying PC  
Villages of Chestnut Ridge and Airmont

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.*