

**DEPARTMENT OF PLANNING**

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

**Arlene R. Miller**  
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July 31, 2017

Ramapo Planning Board  
237 Route 59  
Suffern, NY 10901

**Tax Data:** 56.20-3-66

**Re: GENERAL MUNICIPAL LAW REVIEW:** Section 239 N

**Map Date:** 6/16/2017

**Date Review Received:** 7/3/2017

**Item: 23 OLD NYACK TURPIKE - 4 LOT SUBDIVISION (R-972D)**

Four-lot subdivision of .99 acres in an R-15A zoning district; a detached, two-family residence is proposed on each parcel. Lot area, lot width, side setback, total side setback, street frontage and floor area ratio variances are required for all four lots. Lots 1, 2 and 4 require rear setback and rear yard variances. Lots 3 and 4 need variances for front setback, front yard, and no frontage on a public street (280A). Variances are required for deck rear setback and development coverage for Lots 2 and 4. A variance for parking in the rear yard is necessary for Lots 1, 3 and 4. All requested variances were granted on May 3, 2017.

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 in which accessory apartments are allowed. 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. The addition of one accessory apartment would increase the density to 5.81 units per acre for detached, single-family residences, 6.53 units per acre for detached, two-family residences and 8.71 units per acre for semi-attached, single-family residences.

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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 10,500 SF to 11,052 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. Variances 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 variances range from 44.74 percent to 47.5 percent; the floor area ratio variances range from 62.5 percent to 80 percent. A development coverage variance is required for Lots 2 and 4. Lots 3 and 4 need front setback and front yard variances. These lots do not have frontage on a public street.

The overall residential density of this proposal is 7.92 units per acre, significantly higher than the maximum permitted for detached two-family residences in the R-15A zoning district. The number and the magnitude of the required variances 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 current proposal must be denied.

Listed below are additional concerns about the proposed subdivision that must be addressed.

1 Ingress and egress to the four lots is being proposed by a single access drive that contains most of the parking. Though General Note #33 indicates that a "blanket easement will be provided for shared access and utilities," cross access easements must be clearly indicated on the site plan so that ingress/egress can be legally achieved to all lots, especially lots #3 and #4. This easement area should not be included in the minimum lot area, which will thereby further exacerbate the net lot area deficiencies.

2 The maintenance responsibility for the private road must be established, and included in the map notes, as well as recorded in the deeds.

3 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 proposed subdivision will create four significantly undersized parcels. As indicated above, the applicant needs development coverage variances for two of the four lots, and is seeking an increase of between 62.5 and 80 percent over the maximum permitted floor area ratio. The ability of the existing infrastructure to accommodate increased residential density on undersized 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. The building footprints and the number of units must be reduced to more closely conform to the R-15A bulk standards.

4 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. These spaces nearest the County highway must be removed from the drive and relocated elsewhere.

5 No handicapped parking spaces are shown on the drawings. The minimum required of handicapped parking spaces must be provided.

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6 The bulk table indicates that four parking spaces are required for each lot. A total of 20 parking spaces are provided. Lots 1 and 2 contain five spaces each. Only four spaces are located on Lot 3. While the bulk table indicates that five spaces are provided on Lot 4, there are actually six. The bulk table must be corrected. The excess parking spaces must be eliminated. This will reduce the development coverage, and allow for more green space on the site, as intended under the R-15A bulk standards. In addition, the parking calculation incorrectly indicates that 14 parking spaces are required. This must be corrected to reflect that four spaces are required for each lot, for a total of 16 spaces.

7 The Layout Plan is difficult to read because the existing conditions are also show. A separate existing conditions drawing must be submitted that clearly indicates which structures are to be removed.

8 While the legend includes a symbol for trash enclosures, they are not shown on the drawings. Trash enclosures must be depicted on the layout plan and be easily accessible to sanitation workers. Parked vehicles must not block access.

9 The grading plan is difficult to read, and several of the topographic lines do not seem to connect back into the existing topography. For example, the new topographic line at the southern portion of the lot, where it crosses the driveway, just ends, not tying back into any existing topography. The new topographic lines must clearly demonstrate the grading changes, and the elevations provided. In addition, the impact of the proposed grading on the NYS Thruway lands and the adjacent residential properties must be demonstrated on the grading plan.

10 As required by the Rockland County Stream Control Act, the subdivision plan must be reviewed and signed by the Chairman of the Rockland County Drainage Agency before the County Clerk can accept the plan to be filed.

11 An updated review of the June 16, 2016 drawings must be completed by the Rockland County Highway Department with particular attention to the proposed access into the site. All required permits must be obtained. The applicant shall also comply with the conditions of the Highway Department's February 16, 2017 letter.

12 An updated review of the June 16, 2016 drawings must be completed by the Rockland County Health Department, and all required permits obtained. In addition, the conditions of the December 14, 2015 letter from the Health Department must be met.

13 An updated review of the June 16, 2016 drawings must be completed by the Rockland County Sewer District #1, and all required permits obtained. In addition, the conditions of the April 19, 2017 letter from the Sewer District must be met.

14 A review shall be completed by the New York State Thruway Authority, and all required permits obtained.

15 It must be demonstrated that emergency vehicles have suitable maneuverability on the site. An emergency vehicle movement plan must be provided illustrating that the largest fire trucks can access and maneuver within the site. A turnaround area must be provided for emergency vehicles. 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.

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16 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.

17 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.

18 Additional low evergreen landscaping must be provided along the western property line of proposed Lot 1 and the eastern property line of proposed Lot 2 near Old Nyack Turnpike. The parking spaces proposed on these lots are in close proximity to the county highway. Headlight glare must be prevented from shining onto the county road. Denser landscaping will also buffer the adjacent single-family residential properties. In addition, it is unclear what type of fence is proposed along the southern boundary of this site. Since there will be disturbance up to the property line in the central portion of the site, we recommend that supplemental landscaping be provided.

19 In order to ensure that the proposed landscaping is not damaged by the weight of the snow or salt intrusion during snow removal, areas must be designated on the site plan for the storage of snow piles.

20 The playground on Lot 2 is located over a stormwater maintenance easement area. These are not compatible uses. One of the facilities must be relocated.

21 A stormwater pollution prevention plan (SWPPP) was not provided. The SWPPP, if required, shall conform to the current regulations, including the New York State Stormwater Management and Design Manual (January 2015) and local ordinances.

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22 In February 2017, the Rockland County Department of Health amended the Rockland County Sanitary Code, Article VII, Realty Subdivisions. Therefore, all major subdivisions, i.e., those with three or more lots, must be reviewed and approved by the Rockland County Department of Health (RCDOH) prior to filing with the county clerk. RCDOH is mandated by New York State law to ensure that such subdivisions will have both an adequate and satisfactory water supply and adequate and satisfactory sewerage facilities. A Long EAF must be provided with any 3-lot or greater subdivision.

23 Water is a scarce resource in Rockland County; thus proper planning and phasing of this project are critical to supplying the current and future residents of the Villages, Towns, and County with an adequate supply of water. If any public water supply improvements are required, engineering plans and specifications for these improvements shall be reviewed and approved by the Rockland County Department of Health prior to construction in order to ensure compliance with Article II (Drinking Water Supplies) of the Rockland County Sanitary Code and Part 5 of the New York State Sanitary Code.

24 For installation of a sanitary sewer system, engineering plans and specifications shall be reviewed and approved by the Rockland County Department of Health prior to construction

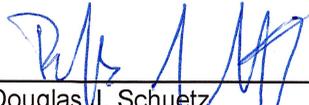
25 To help reduce the extent of the variances required for development coverage, and to lessen the amount of stormwater runoff from the site, pervious pavers must be provided in the paved surfaces, such as in the parking lot.

26 Prior to the start of construction or grading, a soil and erosion control plan shall be developed and in place for the entire site that meets the latest edition of the New York State Guidelines for Urban Erosion and Sediment Control.

27 There shall be no net increase in the peak rate of discharge from the site at all design points.

28 Pursuant to General Municipal Law (GML) Section 239-m and 239-n, if any of the conditions of this GML review are overridden by the board, then the local land use board must file a report with the County Commissioner of Planning of the final action taken. If the final action is contrary to the recommendation of the Commissioner, the local land use board must state the reasons for such action.

29 In addition, pursuant to Executive Order 01-2017 signed by County Executive Day on May 22, 2017, County departments are prohibited from issuing a County permit, license, or approval until the report is filed with the County Commissioner of Planning. The applicant must provide to any County agency which has jurisdiction of the project: 1) a copy of the Commissioner report approving the proposed action; or 2) a copy of the Commissioner of Planning recommendations to modify or disapprove the proposed action, and a certified copy of the land use board statement overriding the recommendations to modify or disapprove, and the stated reasons for the land use board's override.

  
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Douglas J. Schuetz  
Acting Commissioner of Planning

cc: Supervisor Yitzchok Ullman, Ramapo  
Rockland County Department of Highways  
Rockland County Drainage Agency  
Rockland County Department of Health  
Rockland County Sewer District #1

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New York State Thruway Authority  
New York State Department of State  
Rockland County Office of Fire and Emergency Services  
Monsey Fire District

Civil Tec Engineering & Surveying PC  
Villages of Chestnut Ridge and Airmont

23 Old Nyack Turnpike, LLC

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.*