



Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

October 30, 2017

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

Tax Data: 56.11-2-80

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 2/15/2017

Date Review Received: 10/4/2017

Item: *CONGREGATION BIRCHOS YOSEF (R-2620)*

Use variance to allow the construction, maintenance and use of a three-family dwelling with three accessory apartments on .237 acres in an R-15A zoning district. Variances from the R-15C bulk standards are also required including lot area, lot width, side setback, total side setback, rear setback, street frontage and maximum development coverage.

East side of Saddle River, approximately 150 feet north of Lane Street

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 Avenue, 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, acting as the transitional district and thereby buffering the increased density of the R-15C zoning district to the east.

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

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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.

If the Town is considering whether denser residential development should be permitted along this section of Saddle River Road, it must undertake a thorough analysis of the surrounding land uses to determine which zoning district is more appropriate. This is a more suitable land use planning technique than granting use variances. In addition, the Comprehensive Plan will have to be amended accordingly

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 Since the incorrect Use Group and bulk standards are specified in the bulk table, the degree of non-conformity from the R-15C requirements is understated. Detached, three-family residences are included in Use Group x-1; the standards indicated are for semi-attached, three-family residences or Use Group x-3. The bulk table must be corrected to reflect the bulk standards for Use Group x-1.
- 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 applicant is seeking a 31 percent reduction in the required minimum lot area and a 10 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. As noted above, the building footprint must be reduced and fewer units permitted.
- 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.
- 5 The April 25, 2017 denial letter from the Town of Ramapo Building, Planning and Zoning Department contains 21 comments from the Fire Inspector which must be satisfactorily addressed.
- 6 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.
- 7 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.

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

9 The Village of Kaser is the reason this proposal was referred to this department for review. The municipal boundary is approximately 355 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.

10 All proposed entrances, stairways, decks, window wells and walkways must be delineated on the site plan demonstrating that they will not impact yard requirements and parking maneuverability for the site.

11 A dumpster enclosure must be shown on the site plan and easily accessible to sanitation workers. Parked vehicles must not block access.

12 General Note 3 indicates that this parcel is located in an R-15 zoning district. This zoning designation is also specified in the April 25, 2017 denial letter from the Town of Ramapo Building, Planning and Zoning Department. The GML referral form and the application form both indicate R-15C zoning. Our tax parcel information and the Town's zoning map specify the R-15A zoning. The zoning designation must be clarified. All application materials must be consistent. The public hearing notice must be reissued if it did not include all required variances or the correct zoning district.

13 General Note 25 incorrectly references Section 239N of the General Municipal Law. As this is an application for variances, Section 239L and M apply. The note must be corrected.

14 Pursuant to the Rockland County Sanitary Code, Article XIII, Section 13.8.1, all multiple dwellings with three or more rental units must register and obtain a Multiple Dwelling Rental Certificate (MDRC). If this proposed multi-family dwelling meets the requirements of the Multiple Dwelling Rental Registry requirement, then the owner must register and obtain the MDRC. Failure to comply is a violation of Article XIII, which may result in penalties of \$2,000 per day.

15 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.

16 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.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor Yitzchok Ullman, Ramapo
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

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Lanc & Tully Engineering, P.C.

Congregation Birchos Yoseph

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.