

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

December 5, 2017

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

Tax Data: 56.07-4-48

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

Map Date: 10/3/2017

Date Review Received: 10/31/2017

Item: *AHARON FRIEDMAN - 3 FAMILY RESIDENCE W/3 ACC. APARTMENTS (R-2223B)*

A variance application for floor area ratio to allow a 3-family residence, with 3 accessory apartments, on 0.22 acres in the R-15C zoning district. Previous variances have been granted for front setback, front yard, side setback, total side setback, rear setback, and maximum development coverage.

Eastern side of Blauvelt Road, approximately 50 feet south of Cameo Ridge Road.

Reason for Referral:

NYS Route 306, 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:

****Recommend the following modifications***

1 Pre-existing, non-conforming lots are given special consideration under Section 376-131 of the Town's Zoning Law. The bulk standards for several residential zoning districts are relaxed to accommodate the residential uses permitted by right in these zones. The applicant is proposing a residential building with a Floor Area Ratio (FAR) of 1.29, with 75 percent of the undersized, 9,660 SF lot developed. This is a 43% increase over the already generous maximum FAR requirement of 0.9, and a 50 percent increase over the maximum standard for development coverage for this use in the R-15C zoning district. Since the lot area is almost 36 percent less than the minimum required for conforming lots, variances were also required for total side setback, rear setback and rear deck setback, which have already been granted. This department is not in favor of new construction projects that do not meet the bulk requirements of the zone in which they are proposed. Given that this site benefits from the application of Section 376-131, we recommend that the proposed residential building be scaled back and the number of units reduced to more closely conform to the R-15C bulk standards.

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2 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 deck is located closer than ten feet to the property line.

3 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 must be provided.

4 A review shall be completed by the New York State Department of Transportation and any required permits obtained.

5 The Village of Kaser is one of the reasons this proposal was referred to this department for review. The municipal boundary is along Route 306, approximately 185 feet east 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 Village of Kaser 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 Village of Kaser must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

6 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. Variances have already been granted for front setback, front yard, side setback, total side setback, rear setback, and maximum development coverage. The current application requests an FAR of 1.29, a 43% increase over the Town's standard. 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.

7 All 19 of the Ramapo Fire Inspector's letter of October 12, 2017 must be met.

8 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.

9 A parking turnaround area must be provided. Vehicles parked in spaces 3 and 6 will have difficulty entering and exiting this space. Given the proximity of the entrance stairs and the deck to the parking area, we recommend that a smaller structure with fewer units be reconfigured on the site so that the required parking can be safely provided. The current layout raises pedestrian safety concerns.

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- 10 It will be difficult for sanitation workers to access the dumpster enclosure if a vehicle is parked in space 3. The dumpster enclosure must be moved to a more accessible location.
- 11 More detailed information must be provided about the accessory apartments to determine if they comply with the applicable supplementary regulations outlined in Section 376-65 of Article VI.
- 12 The site plan must include map notes, including district information.
- 13 A review must be completed by the County of Rockland Sewer District #1 and all required permits obtained from them.
- 14 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.
- 15 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.
- 16 There shall be no net increase in the peak rate of discharge from the site at all design points.
- 17 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.
- 18 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.
- 19 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.
- 20 The following additional comment is offered strictly as an observation and is not part of our General Municipal Law (GML) review. The board may have already addressed this points or may disregard it without any formal vote under the GML process:

The title of the map is spelled differently than what is indicated on the application form and in the project narrative. All application materials must be consistent.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor Yitzchok Ullman, Ramapo
New York State Department of Transportation
New York State Department of State
Rockland County Department of Health
Rockland County Drainage Agency

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Rockland County Sewer District #1
Rockland County Office of Fire and Emergency Services
Monsey Fire District

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

**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.