Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

July 6, 2017

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

Tax Data: 49.20-2-40.3

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 5/25/2016 **Date Review Received:** 6/7/2017

Item: ***CHAIM Y. HIRSCH/4 RITA AVENUE - UNIT 3 (R-2055D)***

Variances for total side setback, rear setback, maximum development coverage and courtyard width to allow the construction, maintenance and use of an addition and an accessory apartment to an existing condominium unit on .2968 acres in the R-15C zoning district. The existing three-family residence is divided into separate condominium units.

East side of Rita Avenue, approximately 85 feet north of Ida Road

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**

In 2004, variances were granted for lot area, lot width, front setback, side setback, total side setback and street frontage to allow an addition to and the conversion of a single-family dwelling to a three-family dwelling. The property owner is now proposing additions to the structure and accessory units in two of the three condominium units. The proposed additions will require yard and setback variances. Two more parking spaces are needed for the proposed accessory apartments. As a result, this proposal requires a 50 percent increase over the maximum permitted development coverage. As evidenced by the extent of the development coverage variance, this is an overutilization of the site. The building footprint and the number of units must be reduced to more closely comply with the R-15C bulk standards.

The following comments address our other concerns about this proposal.

CHAIM Y. HIRSCH/4 RITA AVENUE - UNIT 3 (R-2055D)

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. As noted above, the applicant is seeking a 50 percent increase over the maximum permitted development coverage. 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.

2 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 subject site is 12,939 SF or 14 percent smaller than the minimum lot area required for new three-family residences on conforming lots in the R-15C zoning district. Given that this site benefits from the application of Section 376-131, the proposed development must comply with the relaxed bulk standards. As recommended above, the building footprint and the number of units shall be reduced.

3 The Village of Kaser is the reason this proposal was referred to this department for review. The municipal boundary is along Rita Avenue, 50 feet west 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.

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 Since the building height has not been specified, it cannot be determined if the residential structure is greater than 30 feet to the eaves. This information must be provided. If the building is greater than 30 feet above the grade plane, an aerial apparatus access road shall be provided.

6 A review must be completed by the Rockland County Office of Fire and Emergency Services or the Monsey Fire Department to ensure that there is sufficient maneuverability on site for fire trucks, in the event an emergency arises.

CHAIM Y. HIRSCH/4 RITA AVENUE - UNIT 3 (R-2055D)

7 The Town of Ramapo Building, Planning & Zoning Department's March 10, 2017 denial letter includes 18 separate comments from the Fire Inspector that must each be satisfactorily addressed.

8 As noted in the Town of Ramapo Building, Planning & Zoning Department's March 10, 2017 denial letter, the three existing sheds must be relocated so they are not within ten feet of the property line.

9 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.

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

11 The reconfigured parking area is very constrained. It raises concerns about pedestrian safety and maneuverability. The landscaped area along the building façade will have to be eliminated or reduced in size to accommodate the additional parking spaces. As currently shown, the existing curbing runs through parking space 3 and the handicapped access aisle. The proximity of the entry staircase is also of concern. The staircase is in the path of a vehicle reversing out of parking space 3. This dangerous parking layout is another indication that too many units are proposed on this site. Fewer, if any, accessory units shall be permitted. It must be possible to provide a turnaround area so that vehicles do not have to reverse onto Rita Avenue and can safely maneuver on the site.

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

13 The site plan shall contain map notes that list all appropriate information, including the district details.

14 The vicinity map must include a north arrow.

15 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.

16 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.

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

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

Chaim Y. Hirsch

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.