



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 27, 2017

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

Tax Data: 56.14-3-17

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

Map Date: 6/20/2017

Date Review Received: 10/4/2017

Item: *MOSHE STREICHER (R-2621)*

Variances for lot area, lot width, side setback, total side setback and floor area ratio to allow the construction, maintenance and use of a two-family residence with one accessory apartment on .3630 acres in an R-15 zoning district.

West side of Suffern Place, approximately 100 feet south of Route 59

Reason for Referral:

NYS Route 59

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 The subject site is located within an R-15 zoning district, a medium density residential 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 not permitted. A minimum lot area of 15,000 SF is required for detached, single-family dwellings; semi-attached, single-family dwellings require a minimum lot area of 10,000 SF; and a minimum lot area of 20,000 SF is needed for detached, two-family dwellings. At 15,812 SF, the subject site just exceeds the minimum lot area required for a detached, single-family residence in the R-15 zoning district. The subject site does not meet the minimum lot area standard of 20,000 SF required for a detached, two-family residence. An additional non-conformity is lot width. The applicant is proposing to construct a two-family residence with only 79 percent of the required lot area available. The proposed building will require a floor area ratio variance of almost 38 percent. Additional setback variances are necessary to accommodate an oversized residential building on an undersized parcel. The surrounding neighborhood is characterized by similarly-sized parcels. Granting these bulk variances will set a precedent that may result in nearby property owners seeking the same relief. A doubling of the residential density in this neighborhood of non-conforming parcels will negatively impact its community character. Additional residents will generate more traffic on the local streets. The potential for traffic conflicts is great. While two-family residences are permitted as of right in the R-15 zoning district, they are subject to stricter bulk requirements. This site is deficient in meeting these more

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stringent standards. The non-conformity is compounded by the addition of an accessory apartment which is not permitted in the R-15 zoning district. The building footprint must be reduced and the accessory apartment eliminated.

2 Section 376-65 of the Zoning Law includes the requirements for accessory apartments in the R-15A and R-15C zoning districts. These are the only zoning districts in which accessory apartments are permitted. As noted above, the proposed accessory unit must be eliminated. Alternatively, the applicant must apply for a use variance to permit this additional unit. The use variance required for this proposal is subject to a review by this department as mandated by the New York State General Municipal Law.

3 A review must be completed by the New York State Department of Transportation, and any required permits obtained.

4 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 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.

5 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.

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.

7 The Town of Ramapo Building, Planning & Zoning Department's June 30, 2017 denial letter includes 18 comments from the Fire Inspector that must be satisfactorily addressed.

8 It will difficult for vehicles parked in the two western spaces to maneuver out of these spots given the proximity of the proposed sidewalk. A turnaround area must be provided so that vehicles can safely exit parking spaces, and do not have to back out into the roadway,

9 The zoning designation for the subject site must be confirmed. Most application materials, the GML referral form and the Town of Ramapo's Building, Planning and Zoning Department's denial letter specify R-15 zoning. General Note 3 on the ZBA Plan indicates that the zoning designation is R-15A, but R-15 is specified on the bulk table. All application materials must be consistent. The public hearing notice will have to be reissued if it did not include all required variances.

10 General Note 3 must be corrected if the zoning designation for the subject site is R-15.

11 A north arrow and scale must be provided on the vicinity map.

12 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.

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13 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.

14 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
New York State Department of Transportation
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

Civil Tec Engineering & Surveying PC

Moshe Streicher

**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.

