

DEPARTMENT OF PLANNING

Dr. Robert L. Yeager Health Center
50 Sanatorium Road, Building T
Pomona, New York 10970
Phone: (845) 364-3434 Fax: (845) 364-3435

Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

September 6, 2018

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

Tax Data: 57.09-1-52.101

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

Map Date: 12/13/2016

Date Review Received: 7/18/2018

Item: 12 HERRICK REALTY, LLC. (R-2277B)

Floor area ratio variance to permit the conversion of an unfinished basement to living space in one unit of a three-family residence with three accessory apartments on .3168 acres in an R-15C zoning district. Variances were previously granted for lot area, side setback, total side setback, rear setback, maximum development coverage and deck rear setback. A second ZBA application was required when a larger residential building was proposed, thereby increasing the extent of the rear setback, maximum development coverage and deck rear setback variances.

East side of Herrick Avenue, approximately 400 feet north of West Central Avenue

Reason for Referral:

Village of Spring Valley

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***

1 As noted above, the Town has previously referred two ZBA applications to our department for this non-conforming site. Pre-existing, non-conforming, residential lots are given special consideration under Section 376-131.D.1. 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. At 13,801 SF, the subject site is only eight percent smaller than the minimum lot area required for new three-family residences on conforming parcels in the R-15C zoning district. It is also deficient in meeting the minimum lot width standard of 100 feet. As a result, the site benefits from the application of Section 376-131.D.1. Given that the ZBA has already granted variances from the relaxed bulk standards, as well as a 40 percent increase over the maximum permitted development coverage, we recommend that any additional variances be denied. Allowing the owner of one condominium unit to convert his unfinished basement to living space will set a land use precedent; the owners of the adjacent units will seek the same relief.

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2 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 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. The variance for floor area ratio shall be denied.

The following comments address our additional concerns about this proposal.

3 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.

4 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.

5 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.

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

7 The on-site parking spaces must be clearly delineated and numbered on the site plan.

8 It is unclear if the concrete pads to the north and south of the parking area will be the location of the dumpster enclosures. This must be clarified. If this is the proposed location, it will be difficult for sanitation workers to access the dumpster enclosure if vehicles are parked in the northeast and southeast parking spaces. The dumpster enclosures must be moved to a more accessible locations.

9 A turnaround area appears to be necessary so that a vehicle parked in the northeast spot can safely exit.

10 The provided measurements for each bulk standard must be shown on the bulk table. The front setback, front yard, rear setback and deck rear setback figures in the table do not correspond to the measurements on the drawing. Accurate and consistent information must be provided.

11 Section 376-131.D.(1)(d) states that the minimum lot width and lot frontage for non-complying lots in the R-15C district shall be 65 feet. The bulk table indicates that the required lot width and street frontage are 75 feet. This must be corrected.

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

13 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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14 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.

15 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 Michael B. Specht, Ramapo
Rockland County Department of Health
Rockland County Sewer District #1
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 Spring Valley

12 Herrick Realty, LLC.

Mona Montal, Chief of Staff
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.

