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 3, 2018

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

Tax Data: 56.11-2-6.2

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 4/21/2018 **Date Review Received:** 6/11/2018

Item: ***14 HOMESTEAD HOLDINGS, LLC/14 HOMESTEAD LANE - UNIT 2 (R-2386C)***

Floor area ratio variance to allow the conversion of an unfinished basement to living space in a condominium unit within a three-family dwelling with one accessory apartment on .1875 acres in an R-15C zoning district. Variances were previously granted for lot area, lot width, side setback, total side setback, side yard, rear setback, street frontage, maximum development coverage and deck rear setback to permit a two lot subdivision of the .3648 acre parent parcel, and the construction of a semi-attached, three-family dwelling with one accessory apartment on each lot.

North side of Homestead Lane, approximately 300 feet west of Main Street

Reason for Referral:

Village of Kaser, Main Street (NYS Route 306)

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 The subject site is non-conforming in terms of lot area, lot width and street frontage. A variance of more than 18 percent was granted for lot area, and of almost 21 percent for lot width and greater than 20 percent for street frontage. The residential structure also required several yard and setback variances. The building footprint and on-site parking resulted in a more than 36 percent increase over the permitted maximum development coverage. We believe that granting a variance to permit the conversion of the basement to additional living space will set an undesirable land use precedent. Nearby property owners will seek the same relief resulting in larger than permitted residential units and increased population. This department is in receipt of a similar proposal for the adjacent property. The R-15C bulk standards are very generous, allowing for increased residential density in specific areas to create more housing units to fulfill the demand. If the Town believes that more liberal standards are necessary, they must undertake a comprehensive land use analysis of the R-15C zoning district, and amend the Zoning Code accordingly. Granting large bulk variances is not an appropriate land use planning tool and must only be used in limited circumstances. The more than 33 percent increase over the maximum allowable floor area ratio must be denied.

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. As noted above, several variances were previously granted to create this lot and permit construction of the residential structure. The ability of the existing infrastructure to accommodate increased residential density on undersized, nonconforming 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. No additional variances shall be granted.

The following comments address our additional concerns about the proposal.

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

4 The Village of Kaser is one of the reasons this proposal was referred to this department for review. The municipal boundary is along the northern property line 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.

5 A review must be completed by the Rockland County Health Department to ensure compliance with Article XIX (Mosquito Control) of the Rockland County Sanitary Code.

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

7 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.

8 Floor plans must be submitted that demonstrate where Unit 2 is within the residential structure, and how its residents will access the basement.

9 The required on-site parking must be delineated on the site plan demonstrating that there is sufficient area to provide four parking spaces.

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

11 The site plan shall contain map notes that list all appropriate information, including the district details. The applicant's engineer has been personally reminded of this requirement. The present site plan is incomplete as provided.

14 HOMESTEAD HOLDINGS, LLC/14 HOMESTEAD LANE - UNIT 2 (R-2386C)

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.

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.

for Arlene Miller
Douglas J. Schuetz
Deputy ~~Acting~~ Commissioner of Planning

cc: Supervisor Michael B. Specht, Ramapo
New York State Department of Transportation
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 Kaser

14 Homestead Lane Holdings 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.