

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

August 3, 2018

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

Tax Data: 56.08-2-8

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

Map Date: 12/6/2012

Date Review Received: 6/28/2018

Item: 21 LENORE, LLC (R-2650)

Variances for total side setback, rear setback, maximum development coverage, floor area ratio, deck rear setback and number of accessory apartments to allow the construction of a three-family dwelling with three accessory apartments on .2686 acres in an R-15C zoning district.

West side of Lenore Avenue, approximately 600 feet north of Suzanne Drive

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***

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 subject site is 11,700 SF or 22 percent smaller than the 15,000 SF minimum lot area required for a new three-family residence on a conforming parcel in the R-15C zoning district. An oversized residential structure is proposed. The applicant is seeking an almost 17 percent increase over the maximum allowable floor area ratio, and a 40 percent increase over the maximum permitted development coverage. As a result, several setback variances are also required. Given that this site benefits from the application of Section 376-131, the building footprint shall be reduced and fewer units proposed so that it conforms to the relaxed standards.

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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 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. 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 additional concerns about this proposal.

3 The Village of Kaser is the reason this proposal was referred to this department for review. The municipal boundary is along the western property line of the subject site. As required under Section 239nn of the State General Municipal Law, the Village of Kaser must be given the opportunity to review the variances required for this proposal and provide any concerns related to the project to the Town of Ramapo.

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

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

6 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.

7 The November 27, 2017 denial letter from the Town of Ramapo's Building Department notes that a variance is required from Section 376-131D(1) for the proposed three-family dwelling with three accessory apartments. This variance is not included in the bulk table. It is unclear if accessory units are not permitted on non-conforming lots. Clarification must be provided. The public hearing notice will have to be reissued if it did not contain all required variances.

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 All proposed building entrances, exterior stairways, window wells, refuse containment areas and walkways must be delineated on the site plan demonstrating that they will not impact yard requirements and parking maneuverability for the site.

10 It will difficult for a vehicle parked in spaces 1 or 4 to maneuver out of these spots without a turnaround area. No building entrances, exterior stairways, refuse containment areas and walkways are shown on the site plan, making it difficult to assess the parking area in relation to the pedestrian movement on site, and whether there will be safety issues for the residents. A turnaround area must be provided so that vehicles do not have to back out into the roadway, and the building entrances, exterior stairways, refuse containment areas and walkways must be illustrated on the site plan so that safety issues can be properly evaluated.

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

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

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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.

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
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

21 Lenore, 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.

