Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

March 22, 2018

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

Tax Data: 56.20-3-66

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 12/13/2017 **Date Review Received:** 2/1/2018

Item: ***23 OLD NYACK TURNPIKE, LLC (R-972E)***

The extent of the rear variances required for Lots 1 and 2 has increased due to the roof overhang on the residential structures. Additional variances were previously sought to allow a four-lot subdivision of .99 acres in an R-15A zoning district with a detached, two-family residence on each parcel. Lot area, lot width, side setback, total side setback, street frontage and floor area ratio variances were required for all four lots. Lots 1, 2 and 4 required rear setback and rear yard variances. Lots 3 and 4 needed variances for front setback, front yard, and no frontage on a public street (280A). Variances were required for deck rear setback and development coverage for Lots 2 and 4. A variance for parking in the rear yard was necessary for Lots 1, 3 and 4. All requested variances were granted on May 3, 2017.
South side of Old Nyack Turnpike, approximately 135 feet west of Dykstra's Way West.

Reason for Referral:

Old Nyack Turnpike (CR 52), Saddle River Road (CR 73), NYS Thruway, Villages of Chestnut Ridge and Airmont

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**

The four-lot subdivision and residential development proposal was first referred to this department for review in 2015. We recommended disapproval of the subdivision and the variances required to implement it in our August 11, 2015, May 4, 2016, February 8, 2017 and July 31, 2017 GML reviews. Those recommendations are still valid.

The subject site is located in an R-15A zoning district, a medium-density residential district in which accessory apartments are allowed. Detached, single-family residences are permitted on 15,000 SF lots; detached two-family residences are permitted on 20,000 SF lots. Semi-attached, single-family residences require a minimum lot area of 10,000 SF. The maximum permitted residential density ranges from 2.904 units per acre for detached single-family residences to 4.356 units per acre for semi-attached single-family and detached, two-family residences. The addition of one accessory apartment would increase the density to 5.81 units per acre for

detached, single-family residences, 6.53 units per acre for detached, two-family residences and 8.71 units per acre for semi-attached, single-family residences. Many of the nearby properties along the south side of Old Nyack Turnpike are oversized, single-family lots. The Dykstra Road West neighborhood to the east is comprised of conforming lots with detached singe-family dwellings. One parcel, immediately adjacent to the subject site, meets the minimum lot area requirement and contains a detached, single-family dwelling. Granting the requested variances to permit this increased residential density will set a land use precedent. Neighboring property owners will seek the same relief thereby changing the community character of the surrounding area.

This .99 acre site can yield two conforming lots of 15,000 SF or 20,000 SF. Four 10,000 SF lots are achievable. The applicant is proposing four lots ranging in area from 10,500 SF to 11,052 SF. This would be acceptable if semi-attached, single-family residences were proposed. The applicant is proposing a detached two-family residence on each of the four lots. Variances were granted for lot area, lot width, side setback, total side setback, rear setback, street frontage and floor area ratio for all four parcels. The lot area variances ranged from 44.74 percent to 47.5 percent; the floor area ratio variances ranged from 62.5 percent to 80 percent. A development coverage variance was required for Lots 2 and 4. Lots 3 and 4 needed front setback and front yard variances. These lots do not have frontage on a public street. Additional variances are now needed for Lots 1 and 2 to permit an overhang on each structure that was not initially illustrated, further exacerbating the rear yard deficiencies.

The overall residential density of this proposal is 7.92 units per acre, significantly higher than the maximum permitted for detached two-family residences in the R-15A zoning district. The number and the magnitude of the required variances are a clear indication that this proposal will result in a gross overutilization of the site. It is unclear whether fire trucks or other emergency vehicles can safely access this development. The number of lots must be reduced, as well as the number of units, to more closely conform to the R-15A bulk standards. The current proposal must be denied.

Listed below are additional concerns about the proposed variances required to achieve the four-lot subdivision. that must be addressed.

1 Ingress and egress to the four lots is being proposed by a single access drive that contains most of the parking. Though General Note #33 indicates that a "blanket easement will be provided for shared access and utilities," cross access easements must be clearly indicated on the site plan so that ingress/egress can be legally achieved to all lots, especially lots #3 and #4. This easement area should not be included in the minimum lot area, which will thereby further exacerbate the net lot area deficiencies

2 The maintenance responsibility for the private road must be established, and included in the map notes, as well as recorded in the deeds.

3 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 proposed subdivision will create four significantly undersized parcels. As indicated above, the applicant needs development coverage variances for two of the four lots, and is seeking an increase of between 62.5 and 80 percent over the maximum permitted floor area ratio. The ability of the existing infrastructure to accommodate increased residential density on undersized 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 footprints and the number of units must be reduced to more closely conform to the R-15A bulk standards.

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12 In order to ensure that the proposed landscaping is not damaged by the weight of the snow or salt intrusion during snow removal, areas must be designated on the site plan for the storage of snow piles. Parking spaces must not be used for this purpose.

13 To help reduce the extent of the variances required for development coverage, and to lessen the amount of stormwater runoff from the site, pervious pavers must be provided in the paved surfaces, such as in the parking lots.

14 The parking spaces shall be numbered on the site plan so that they are more clearly defined.

15 All proposed building features including staircases, window wells and walkways must be delineated on the site plan demonstrating that they will not impact yard requirements and parking maneuverability for the site.

16 The purpose of the driveway extension straddling Lots 2 and 3 along the eastern portion of the site must be specified. The wide, paved area provides access to two parking spaces on Lot 3. These two parking spaces can be relocated closer to the main access drive thereby reducing the impervious surface area. This excess pavement contributes to the overage for development coverage. An explanation must be provided as to the need for this additional paved area.

17 The vicinity map must include a north arrow and scale.

18 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.

19 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.

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

cc: Supervisor Michael B. Specht, Ramapo
Rockland County Department of Highways
Rockland County Sewer District #1
Rockland County Department of Health
Rockland County Drainage Agency
New York State Thruway Authority
New York State Department of State
Rockland County Office of Fire and Emergency Services
Monsey Fire District

Civil Tec Engineering & Surveying PC
Villages of Chestnut Ridge and Airmont

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4 The bulk table indicates that four parking spaces are required for each lot. A total of 18 parking spaces are provided. Lots 1, 2 and 3 each contain four spaces. While the bulk table indicates that five spaces are provided on Lot 4, there are actually six shown. The bulk table must be corrected. The excess parking spaces must be eliminated. This will reduce the development coverage, and allow for more green space on the site, as intended under the R-15A bulk standards.

5 An updated review of the December 13, 2017 drawings must be completed by the Rockland County Highway Department with particular attention to the proposed access into the site. All required permits must be obtained. The applicant shall also comply with the conditions of the Highway Department's October 17, 2017 letter.

6 An updated review of the December 13, 2017 drawings must be completed by the Rockland County Health Department, and all required permits obtained. In addition, the conditions of the October 12, 2017 letter from the Health Department must be met.

7 An updated review of the December 13, 2017 drawings must be completed by the Rockland County Sewer District #1, and all required permits obtained. In addition, the conditions of the October 16, 2017 letter from the Sewer District must be met.

8 A review shall be completed by the New York State Thruway Authority, and any required permits obtained.

9 It must be demonstrated that emergency vehicles have suitable maneuverability on the site. An emergency vehicle movement plan must be provided illustrating that the largest fire trucks can access and maneuver within the site. A turnaround area must be provided for emergency vehicles. The County of Rockland Office of Fire and Emergency Services, the Town Fire Inspector or the Monsey Fire Department must review this plan to ensure that there are no issues for their emergency equipment or needs.

10 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.

11 The Villages of Airmont and Chestnut Ridge are two of the reasons this proposal was referred to this department for review. The municipal boundary for the Village of Airmont is located is approximately 450 feet southwest of the site, and the Village of Chestnut Ridge's boundary is approximately 260 feet south 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 Villages of Airmont and Chestnut Ridge 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 Villages of Airmont and Chestnut Ridge must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

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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.