

**DEPARTMENT OF PLANNING**

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**Douglas J. Schuetz**  
*Acting Commissioner*

**Arlene R. Miller**  
*Deputy Commissioner*

January 2, 2018

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

**Tax Data:** 56.14-3-5

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

**Map Date:** 10/18/2017

**Date Review Received:** 12/11/2017

**Item:** *YOEL & RIFKA BLEIER (R-2585B)*

Minimum lot area variances to allow a two lot subdivision of .8383 acres in an R-15 zoning district, and the construction, maintenance and use of a detached, two-family residence on each parcel. As a result of lot area deductions for the land area within the Designated Street Line, the extent of the minimum lot area variance required for each lot has increased. Variances were previously granted for lot area, lot width, side setback, total side setback, street frontage and floor area ratio for both lots, as well as a rear setback variance for Lot 1.

East side and terminus of South Remsen Street, approximately 840 feet south of Route 59, and the north side of the NYS Thruway

**Reason for Referral:**

NYS Thruway, Village of 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:

***\*Recommend the following modifications***

1 The applicant is proposing to create two undersized parcels that are also deficient in meeting the lot width and street frontage requirements for two-family residences. The proposed residential structures are oversized, requiring variances for floor area ratio, as well as several yard and setback variances. The subject site can yield one conforming 15,000 SF lot for a single-family residence and one conforming 20,000 SF lot for a detached, two-family residence. Due to its irregular shape, it will be non-conforming in terms of lot width and street frontage for any proposed residential development. The current proposal must be scaled back to more closely conform to the R-15 bulk standards. The building footprints must be reduced, and one residential unit eliminated.

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2 While detached, two-family residences are permitted by right in the R-15 zoning district, the surrounding neighborhood is predominantly characterized by single-family residences. Granting the requested bulk variances will set a precedent that will change the community character of the adjacent area. Other property owners will seek the same relief, thereby creating a much denser residential neighborhood. The Town must evaluate these potential community character issues before considering this request for variances.

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 ability of the existing infrastructure to accommodate increased residential density on undersized and 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.

4 An updated review of the October 18, 2017 ZBA Plan must be completed by the Rockland County Health Department. In addition, the applicant must comply with the conditions of the Health Department's letter of May 17, 2017.

5 An updated review of the October 18, 2017 ZBA Plan must be completed by the Rockland County Sewer District #1. In addition, the applicant must comply with the conditions of the Sewer District #1's letter of July 21, 2017.

6 A review must be completed by the New York State Thruway Authority and any required permits obtained.

7 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 buildings must be held to the requisite minimum standards and comply with all requirements of this code.

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 The Village of Airmont is one of the reasons this proposal was referred to this department for review. The municipal boundary is approximately 245 feet southwest of the subject property line. As required under Section 239nn of the State General Municipal Law, the Village of Airmont must be given the opportunity to review the proposal and provide any concerns related to the project to the Town of Ramapo.

10 A five-foot wide shade tree easement is not indicated on the map. The Town must confirm whether Section 258-3 (the shade tree easement requirement) applies to this proposal. The Director of Public Works shall determine if it is possible to plant one tree for every 40 linear feet of shade tree easement as required in Section 258-3 of the Town Code.

11 Vehicles parking in the two outdoor spaces proposed on Lot 2 will reverse directly into the driveway serving Lot 1. This arrangement has the potential for vehicular conflicts. The parking spaces on Lot 2 must be reconfigured so that vehicles do not reverse into the driveway. A turnaround area might be appropriate.

12 Cross easements will be required for ingress/egress, emergency access and utilities, and must be illustrated on the map.

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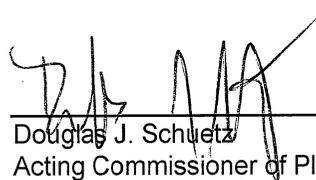
13 The existing conditions are illustrated on the ZBA Plan making it difficult to evaluate the proposed development. It is not possible to read the net lot area proposed on Lot 2. A separate existing conditions map must be prepared. This information shall be removed from the ZBA Plan.

14 The bulk table indicates that an increased minimum lot area variance is required for Lot 1 but not for Lot 2. As noted above, it is not possible to read the net lot area proposed on Lot 2 because of overlapping information on the map. The October 18, 2017 project narrative implies that the DSL lot area deduction results in greater lot area variances for both parcels. The November 22, 2017 denial letter from the Town of Ramapo Building, Planning and Zoning Department specifies that both lots require lot area variances. The lot area indicated for Lot 2 is less than what is shown in the bulk table. All application materials must be consistent. The public hearing notice will have to be reissued if it did not contain all the required variances.

15 General Note 23 shall be eliminated as accessory apartments are not permitted in the R-15 zoning district.

16 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.

17 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.

  
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Douglas J. Schuetz  
Acting Commissioner of Planning

cc: Supervisor Michael B. Specht, Ramapo  
New York State Thruway Authority  
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  
  
Civil Tec Engineering & Surveying PC  
Village of Airmont  
Town of Ramapo Planning Board  
  
Yoel & Rifka Bleier

*\*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.*

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*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.*