

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
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August 24, 2018

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

Tax Data: 56.07-4-34

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 6/25/2018

Date Review Received: 7/13/2018

Item: *BUILDERS EXPEDITING, INC. (OIRY VEYISHY, LLC.)/3 HOPAL LANE (R-2654)*

Variances for front setback, front yard, side setback, total side setback, rear setback, maximum development coverage and deck rear setback to permit the construction of a three-family dwelling with three accessory apartments on .348 acres in an R-15C zoning district.

South side of Hopal Lane, approximately 130 feet west of Blauvelt Road

Reason for Referral:

Village of Kaser, 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 project narrative states that "granting relief will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties because the proposed development is consistent with the established pattern of development and character of the neighborhood." We disagree. Denser residential development is not appropriate in an established neighborhood characterized by one- and two-family dwellings. Residents of Hopal Lane and Blauvelt Road have expressed serious misgivings about the increased residential densities proposed in the cul-de-sac, and have requested that the original R-15 zoning designation be restored to this area. This department did not support the recommendation of the 2004 Comprehensive Plan to extend the boundaries of the R-15C zoning district and to allow accessory apartments in this zone. We opposed the zoning code amendment that increased the allowed number of accessory units from one to three. The ensuing density has given rise to traffic congestion, pedestrian injuries, insufficient parking, sewer capacity issues and water pressure problems. The Town must undertake a thorough evaluation of the existing land use pattern, and balance the need for denser housing with the expectation of current homeowners that the character of their community will be protected. A land use moratorium was proposed in the R-15C zoning district for this purpose but not adopted. We recommend that the Town proceed with the moratorium since proposals such as this will have a deleterious effect on the surrounding neighborhood.

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2 In his July 2, 2018 denial letter, the Building Inspector notes that a variance will be required if there are more than nine families living on the cul-de-sac. The land use data available to this department indicates that two-family dwellings are located on five of the six lots fronting on Hopal Lane. The subject site contains a two-family dwelling. The sixth lot contains a single-family dwelling. An application is currently pending for this property. Land area from Lot 56.07-3-49 is proposed to be added to the parcel so that the enlarged lot can be subdivided, and semi-attached structures containing a total of nine units constructed. This department has cautioned the Town against approving the nine units proposed on Lot 56.07-4-37. We pointed out that the proposed residential development was a significant departure from the existing community character. The Town's Department of Public Works and their Planning Consultant share these same concerns, as noted in their respective memos of January 8, 2018 and January 10, 2018.

With these two applications, 15 additional units are proposed, or six more than the permitted maximum number of units served by a cul-de-sac. A total of 23 residential units on Hopal Lane raises serious concerns about emergency access, pedestrian safety and traffic congestion. Given the short length of Hopal Lane and that eleven residential units are currently fronting on the cul-de-sac, we recommend that this proposal to increase the number of units on the subject site from two to six also be denied.

3 Increased residential density on a cul-de-sac raises safety concerns about insufficient parking, and access for emergency vehicles and delivery trucks. Given the one space per unit parking requirement in the R-15C zoning district, we are concerned that additional household vehicles will park along the curb and in the cul-de-sac bulb of Hopal Lane. This department has noticed this trend in other residential developments with similar minimal on-site parking requirements. Several fire districts have cautioned the Town about their inability to access residential units in an emergency due to the abundance of vehicles parked along curbs and in cul-de-sacs. Aerial and street side photography available to this department shows vehicles parked along Hopal Lane and perpendicular to the curb in the cul-de-sac bulb. Increased residential density will result in additional vehicles parked in this manner. This will create an unsafe condition and must not be permitted. The variances required for the three-family dwelling and accessory apartments shall be denied.

4 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 applicant is seeking a 30 percent increase over the maximum permitted development coverage, as well as yard and setback variances ranging from over 14 percent to 60 percent. The ability of the existing infrastructure to accommodate increased residential density in oversized structures 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 shall be reduced to more closely comply with the R-15C bulk requirements.

The following comments address our additional concerns about this proposal.

5 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.

6 A review must be completed by the Rockland County Sewer District #1, and all 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 building must be held to the requisite minimum standards and comply with all requirements of this code.

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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 Kaser is the reason this proposal was referred to this department for review. The municipal boundary is approximately 165 feet east and 275 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 county-wide 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 which 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.

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

11 All proposed building entrances, exterior stairways, 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.

12 It will difficult for a vehicle parked in space 3 or 6 to maneuver out of the spot without a turnaround area. No building entrances, exterior stairways or 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 or walkways must be illustrated on the site plan so that safety issues can be properly evaluated.

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

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

15 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.

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.

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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.



Douglas J. Schuetz
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
Abraham Pinkovics

Builders Expediting, Inc.

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.