Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

April 23, 2018

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

Tax Data: 56.16-2-9

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 12/8/2017 **Date Review Received:** 3/19/2018

Item: ***CHAI X CHAI, LLC. II/18 HAMMOND STREET (R-781D)***

Variances for lot area, lot width, side setback, total side setback, street frontage and floor area ratio to permit the construction, maintenance and use of a detached two family-residence with an accessory apartment on .2657 acres in an R-15A zoning district.
West side of Hammond Street, approximately 290 feet north of Old Nyack Turnpike

Reason for Referral:

Old Nyack Turnpike (CR 52), Saddle River Road (CR 73)

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 subject site is located within an R-15A zoning district, a medium density residential district. The residential uses permitted by right in this zone include detached and semi-attached single-family residences, as well as detached two-family residences. Accessory apartments are also permitted. A minimum lot area of 15,000 SF is required for detached, single-family dwellings; semi-attached, single-family dwellings require a minimum lot area of 10,000 SF; and a minimum lot area of 20,000 SF is needed for detached, two-family dwellings. At 11,574 SF, the subject site only meets the minimum lot area requirement for a semi-attached, single-family dwelling in the R-15A zoning district; an accessory apartment is allowed as well.

The applicant is proposing a detached, two-family dwelling with one accessory apartment on a parcel with only 58 percent of the required lot area available. Additional non-conformities include lot width and street frontage. The proposed building will require a floor area ratio variance of almost 63 percent. Additional setback variances are necessary to accommodate an oversized residential building on an undersized parcel. A doubling of the residential density in this neighborhood of non-conforming parcels will negatively impact its community character and infrastructure capacity. This density is not consistent with the recommendations of the Town's

comprehensive plan. Additional residents will generate more traffic on the local streets and the County Highway. The potential for traffic conflicts is great. The Rockland County Highway Department raised concerns about the limited space for internal circulation, pedestrian safety and traffic generation in a letter dated March 21, 2018. While detached, two-family residences are permitted as of right in the R-15A zoning district, they are subject to stricter bulk requirements. This site is deficient in meeting these more stringent standards.

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. We recommend that the required variances be denied, and that only a semi-attached, single-family dwelling be permitted to be constructed.

The following comments address our additional concerns about this proposal.

1 The applicant must comply with the conditions of the Rockland County Highway Department's letter of March 21, 2018. The Town must consider their concerns about the internal circulation, pedestrian safety and traffic generation.

2 An updated review of the December 8, 2017 ZBA plan for Lot 56.19-2-9 must be completed by the Rockland County Health Department, and all required permits obtained. In addition, the applicant must comply with the conditions of the Health Department's letter of November 16, 2015.

3 An updated review of the December 8, 2017 ZBA plan for Lot 56.19-2-9 must be completed by the Rockland County Sewer District #1, and all required permits obtained. In addition, the applicant must comply with the conditions of the Sewer District #1's letter of February 17, 2017.

4 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.

5 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.

6 The project narrative and bulk table specify that a variance is required for street frontage. This variance is not included in the Building Inspector's February 1, 2018 denial letter. All application materials must be consistent. If the public hearing notice did not include all required variances, it will have to be reissued.

7 All proposed building entrances, exterior staircases, decks and window wells must be delineated on the site plan demonstrating that they will not impact yard requirements and parking maneuverability for the site.

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8 Six parking spaces are proposed although only five are required. A turnaround area is not provided. It will be difficult for vehicles parked in the western spaces to maneuver out of the space without a turnaround area. As noted above, no building entrances or exterior staircase 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. The proposed parking area is immediately adjacent to what appears to be a walkway. Therefore, there will be no separation between residents and vehicles reversing out of parking spaces. One of the six spaces must be eliminated to allow for a safer configuration. A turnaround area must be provided so that vehicles do not have to back out into the roadway, and all building features must be illustrated on the site plan so that safety issues can be properly evaluated. As mentioned above, the Rockland County Highway Department also raised the issues of limited space for internal circulation and pedestrian safety in their March 21, 2018 letter.

9 It will be difficult for sanitation workers to access the garbage enclosure if a vehicle is parked in the northwestern space. The garbage enclosure must be moved to a more accessible location.

10 The vicinity map must include a scale.

11 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.

12 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.

13 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 Highways
Rockland County Drainage Agency
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

Civil Tec Engineering & Surveying PC

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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.