

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

May 24, 2018

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

Tax Data: 56.07-4-1

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

Map Date: 3/28/2018

Date Review Received: 4/17/2018

Item: *LUCKY START, LLC. (R-2571A)*

Variances to permit the construction of a three-family dwelling with three accessory apartments on .468 acres in the R-15C zoning district. Required variances include: lot width, front setback, front yard, street frontage, floor area ratio, driveway closer than 75 feet from an existing intersection, and more than one accessory apartment on a lot less than 75 feet in width. Side setback, total side setback, side yard, rear setback, rear deck setback and development coverage variances were previously granted.

East side of Blauvelt Road, just south of the northern leg of Manor Drive

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 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. While the gross lot area of 20,286 SF exceeds the minimum lot area required for a new three-family residence, the lot area deductions for the land area with the designated street line result in a deficient lot width and street frontage. In addition, front yard and front setback variances are required, and the maximum floor area ratio is exceeded. Only one accessory apartment is permitted since the lot width is less than 75 feet. Given that this site benefits from the application of Section 376-131, the proposal must be scaled back to more closely comply with the R-15C bulk standards. Two accessory units must be eliminated and the building footprint reduced so that the floor area ratio is not exceeded, and the development coverage is more compliant.

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2 As per Section 376-65G, only one accessory apartment is permitted on parcels with a lot width of less than 75 feet. The lot width of the subject site is 68.4 feet. Therefore, as noted above, one accessory apartment is allowed. The second and third accessory apartments must be eliminated. This will allow for closer conformance with the R-15C bulk requirements. The required on-site parking will be reduced to four spaces resulting in a lower development coverage. A smaller building footprint will also be possible with fewer accessory units.

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. As noted above, the applicant is seeking additional variances including an 11 percent increase over the maximum permitted floor area ratio, and more than one accessory unit. Previously granted variances include a 30 percent increase over the maximum allowable development coverage, and multiple yard and setback deviations. The ability of the existing infrastructure to accommodate increased residential density on 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. Given the extent of the variances requested, the building footprint must be scaled back and the number of accessory units reduced.

The following comments address our additional concerns about the required variances.

4 The Village of Kaser is one of the reasons this proposal was referred to this department for review. The municipal boundary is directly north and east 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.

Those areas of countywide concern, including but not limited to traffic, drainage, stormwater management, sewer capacity, water supply and community character, that directly impact the Village of Kaser must be considered and satisfactorily addressed.

5 A review shall be completed by the New York State Department of Transportation and any required permits obtained.

6 An updated review of the March 28, 2018 site plan must be completed by the Rockland County Sewer District #1 and all required permits obtained. The applicant must also comply with the conditions of the Sewer District's letter of September 9, 2016.

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

8 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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9 The Town's Fire Inspector raises serious firematic safety concerns in his March 27, 2018 memorandum. These issues must be satisfactorily addressed.

10 A review must be completed by the Rockland County Office of Fire and Emergency Services or the Monsey Fire Department to ensure that there is sufficient maneuverability on site for fire trucks, in the event an emergency arises.

11 As noted in our previous review, the Town of Ramapo denial letter dated July 11, 2016 stated that variances were also required for the fence location, and the lack of a turnaround for the garage space. These variances are still not noted on the site plan. All materials must be consistent. The Town must clarify whether these variances are required. The public hearing notice will have to be re-issued if it did not include these two variances and they are required. The site plan will also have to be updated to include these two variances.

12 All proposed decks, exterior stairways, and window wells must be delineated on the site plan demonstrating that they will not impact yard requirements, pedestrian safety and parking maneuverability for the site. Many of these features were shown on the June 10, 2016 plot plan reviewed by this department. It appears that a NYS variance is required as the rear deck is only 8.3 feet from the property line.

13 Two of the six proposed parking spaces are within the designated street line, further demonstrating that the project must be scaled back. All on-site parking must be provided beyond the designated street line so that parking spaces are not eliminated due to future road improvements.

14 Nine separate building entrances are shown on the residential structure labeled as a three-family with three accessories. The rear portion of the building, or the third unit of the three-family dwelling, is significantly larger than the western portion. The section of the building that extends to the south has a footprint of approximately 1500 SF. It is unclear why this unit is so large, or how many accessory apartments it contains given the five entrances illustrated on the site plan. A garage is also shown even though six on-site parking spaces are provided elsewhere. Clarification must be provided.

15 The 10-foot wide driveway providing access to the garage in the proposed third unit is approximately 115 feet long. This 1,150 SF area of macadam and the garage are unnecessary and must be removed. Eliminating this driveway will allow for closer conformance with the maximum development coverage standard.

16 Further information must be provided about the well casing shown on the site plan. A well serving this many units is considered a public well. Therefore, the well must be decommissioned as per code, or brought up to standards. If the existing well will no longer be used following the proposed site development, a formal notation on the approved plans must specify that the wells will be decommissioned in compliance with Article II of the Rockland County Sanitary Code. Furthermore, approval must be obtained from the Rockland County Department of Health prior to initiating any decommissioning activity. Alternatively, the Health Department must review this proposal to determine if the proposed development meets the definition of a NYS public water system. Private wells cannot be used to provide potable water to public systems.

17 The bulk table shall specify the actual minimum requirements rather than the measurements for the previously granted variances.

18 A net lot area calculation shall be provided that subtracts the area within the designated street line from the gross lot area. Floor area ratio and development coverage must be calculated using the net lot area. Those calculations must also be provided.

19 It is unclear if the floor area ratio has increased due to lot area deductions for the land within the designated street line, or if a larger building is proposed. An explanation must be provided. As noted above, the floor area ratio calculation must be indicated on the site plan.

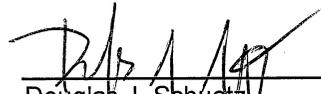
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20 Given the number and magnitude of the variances previously granted, and currently sought, as well as the irregular lot shape, we recommend that further development of the southeastern portion of the site be restricted. This restriction shall be noted on the site plan, and included in the deed.

21 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.

22 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.

23 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 Drainage Agency
Rockland County Sewer District #1
New York State Department of State
Rockland County Office of Fire and Emergency Services
Monsey Fire District

Lanc & Tully Engineering & Surveying, P.C.
Village of Kaser

Lucky Start, 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.

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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.

