Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
Dr. Robert L. Yeager Health Center
50 Sanatorium Road, Building T
Pomona, New York 10970
Phone: (845) 364-3434 Fax: (845) 364-3435

Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

August 14, 2018

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

Tax Data: 49.19-5-30.2

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 7/2/2018 **Date Review Received:** 7/6/2018

Item: ***MELVIN MUELLER (R-1805H)***

Floor area ratio variance to legalize an existing semi-attached, three-family dwelling with three accessory apartments on .2026 acres in an R-15C zoning district. Variances were previously granted for lot area, lot width, side setback, total side setback, side yard, street frontage and maximum development coverage to allow the construction of the residential structure, and the continued use of an illegally constructed metal deck.

West side of Blauvelt Road, approximately 215 feet south of Carlton 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 In January of 2007, this department issued a General Municipal Law (GML) review for the variances required for the semi-attached, three-family residences proposed on this parcel and the lot immediately north of the subject site. At that time, the applicant was seeking lot area, lot width and street frontage variances for each parcel. All other R-15C bulk requirements for this use were achieved. The minutes of the February 20, 2007 Town of Ramapo Planning Board meeting stated that a three-family, semi-attached dwelling, with no accessory apartments, was proposed on each of the two lots created by the subdivision of Lot 58.15-5-30. The applicant's attorney indicated that the map would include a map note confirming that no accessory apartments would be proposed. In subsequent GML reviews of the variances required to allow the addition of a basement staircase to each residential building, this department noted that the aforementioned map note had not been added to the map. It is unclear whether a deed restriction was in place prohibiting accessory apartments on either parcel or if the map note referenced by the applicant's attorney was ever added to the map. This issue was never clarified, and in 2010, variances were sought for lot area, lot width, side setback, total side setback, side yard, street frontage and maximum development coverage to permit a semi-attached, three-family residence with three accessory apartments. The applicant did not apply for a variance for more than one accessory apartment despite

the fact that the lot width was less than 75 feet and not in conformance with Section 376-65.G.3. This restriction was added to the Zoning Code on April 25, 2007. It appears that the Town's Building Inspector and Director of Planning and Zoning Administration overlooked that this variance was required. This was a serious oversight that must still be resolved.

Another review was completed by this Department on June 26, 2018 for the same floor area ratio (FAR) variance. It is not clear as to why this same variance is in again before the Zoning Board of Appeals. In our comments for the June review, it was questioned as to the rationale for the need for this variance, as no narrative or explanation was provided as to why this increased FAR was required. We requested that additional information be provided, justifying why the 21% FAR variance was required, and whether this variance is required to once again resolve illegal construction. Despite this request, this new application still provides no explanation as to the need for the larger FAR, and therefore, the variance request.

The Town has permitted the creation of an undersized, non-conforming lot and the construction of an oversized residential building with more units than allowed. The ZBA has previously granted additional variances for an illegally constructed metal deck. It appears that the current application may also be for an existing condition. The Town has a very generous FAR ratio, and permitting an even greater footprint is indicative that the site is grossly overutilized. The variance for the FAR must be denied.

In addition, the issue regarding the need for a variance to permit more than one accessory apartment required for this residential structure is subject to a review by this department, as mandated by the New York State General Municipal Law, and must be resolved.

2 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, 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. The floor area ratio variance shall not be granted.

The following comments address our additional concerns about this proposal.

3 The Village of Kaser is one of the reasons this proposal was referred to this department for review. The municipal boundary is 150 feet southeast 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 recently 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 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 revised site plan and additional variances.

MELVIN MUELLER (R-1805H)

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 existing 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 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.

7 An updated review of the July 2, 2018 map must be completed by the Rockland County Sewer District #1. The applicant must comply with the conditions of the Sewer District #1's letter of May 10, 2017.

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

9 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.

10 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

11 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 Health
Rockland County Sewer District #1
New York State Department of State
Rockland County Office of Fire and Emergency Services
Monsey Fire District
New York State Department of Transportation

Anthony R. Celentano P.L.S.
Village of Kaser

MELVIN MUELLER (R-1805H)

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.