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

October 3, 2018

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

Tax Data: 49.20-3-67

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 5/6/2018 **Date Review Received:** 8/8/2018

Item: ***SIMON OSTREICHER/17 FRANCIS PLACE (R-2658)***

Variances to allow three accessory units in an existing three-family dwelling on .2758 acres in an R-15C zoning district. In addition, other required variances include rear yard and maximum development coverage. Section 376-65.G.(3) restricts the number of accessory apartments to one in structures other than townhouse style, and a flat-style structure is proposed.

West side of Francis Place, approximately 95 feet south of Nancy Lane

Reason for Referral:

Village of Kaser

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 Town of Ramapo's 2004 Comprehensive Plan recommended allowing accessory apartments in the R-15C zoning district. At that time, only one accessory unit was to be permitted. This department was opposed to the recommendation given the problems associated with the R-15C zoning district. These problems were enumerated and acknowledged in the 2004 Comprehensive Plan. The Zoning Code was amended to allow one accessory apartment in residential structures in the R-15C zoning district despite our contradictory recommendation. In 2007, the Town amended their Zoning Code to allow three accessory units in three-family dwellings constructed in a townhouse style in which each dwelling unit extends from foundation to roof. This department was also opposed to that Zoning Code amendment. The current proposal will set a land use precedent that the Town hoped to prevent in enacting Section 376-65.G.(3). We strongly caution the Town against setting this precedent. Permitting property owners of existing three-family dwellings to carve out an additional three units will result in overdeveloped parcels due to the increased parking requirements. The surrounding neighborhood is characterized by similarly-sized parcels. Granting this variance from Section 376-65.G.(3) will set a precedent that may result in nearby property owners seeking the same relief. A tripling of the residential density in this neighborhood of non-conforming parcels will negatively impact its community character. Additional residents will generate more traffic on the local streets. The potential for traffic conflicts is

great. The Town must uphold the integrity of its zoning ordinance by denying these variances.

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 applicant is seeking a 20 percent increase over the maximum permitted development coverage to accommodate additional parking spaces. 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. Three accessory apartments shall not be permitted.

The following comments address our additional concerns about this proposal.

3 The Village of Kaser is the reason this proposal was referred to this department for review. The municipal boundary is approximately 155 feet west 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 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 proposal.

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

5 A review must be completed by the Rockland County Sewer District #1, and all required permits obtained.

6 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.

7 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.

8 It will difficult for a vehicles parked in spaces 3 and 4 to maneuver out of the spots without a turnaround area. The proximity of the entrance is also a concern. The potential for traffic conflicts between pedestrians and vehicles is great. A resident exiting the building will walk directly behind parked vehicles. A turnaround area must be provided so that cars do not have to back out into the roadway, and to provide sufficient space between moving vehicles and pedestrians.

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

10 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.

11 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.

12 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

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

Simon Ostreicher

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.