

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

March 22, 2018

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

Tax Data: 57.05-1-41.2

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

Map Date: 12/1/2017

Date Review Received: 2/2/2018

Item: *YALDIE RASHBI TRUST/109 DECATUR AVENUE (R-2119A)*

Variations for front setback, front yard, side setback, total side setback, side yard, rear yard, rear setback, maximum development coverage, deck rear setback and distance to an accessory structure to legalize decks, stairs, walkways, a concrete patio and a shed that were added to the two-family structure without the proper approvals. The ZBA previously granted variations for lot area, lot width, front setback, front yard, side setback, total side setback, side yard, rear yard, street frontage and maximum development coverage to permit the conversion of a single-family dwelling to a two-family dwelling. The .1343-acre site is in an R-15C zoning district.

West side of Decatur Avenue, 200 feet south of First Street

Reason for Referral:

Village of Spring Valley

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***

In October of 2006, this department recommended that the variations needed to convert an existing single-family residence to a two-family residence be denied. We considered the proposal to be an overutilization of the site. The lot is significantly undersized requiring a variance of 61 percent. The lot width and street frontage are also deficient. Numerous yard and setback variations were needed for the proposed two-family structure. The ZBA voted to override our recommendation and granted the variations. To date, we have not received the minutes or report for reasons for overriding our disapproval in granting these variations. The applicant subsequently increased the degree of non-conformity without seeking additional variations or approvals. This department is opposed to "legalizing" these transgressions. We recommend that the decks, patio and shed be removed, as well as the stairs that provide access to the illegal decks.

The following comments address our additional concerns about the two-family residence.

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1 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, this site is only 39 percent of the minimum lot area required; the lot width and street frontage also do not meet the minimum standards. The residential building required multiple yard and setback variances. The applicant exacerbated the non-conformity of the structure by constructing additional building features after the fact. 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.

2 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.

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

4 The Village of Spring Valley is one of the reasons this proposal was referred to this department for review. The municipal boundary is 230 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 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 Spring Valley 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 Spring Valley must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

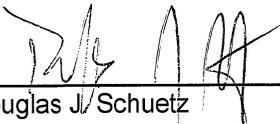
5 The proposed parking spaces must be indicated on the site plan so it can be determined that vehicles can maneuver on the site without jeopardizing pedestrian safety.

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

7 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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8 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
Spring Valley Fire District

Anthony R. Celentano P.L.S.
Village of Spring Valley

Yaldie Rashbi Trust

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.

