

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

November 14, 2018

Ramapo Town Board
237 Route 59
Suffern, NY 10901

Tax Data:

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

Map Date:

Date Review Received: 10/11/2018

Item: *TOWN OF RAMAPO/ACCESSORY APARTMENT SIZE RESTRICTION (R-2666)*

Local Law to amend the Zoning Law to remove certain size restrictions regarding accessory apartments. Throughout the R-15A and R-15C zoning districts.

Reason for Referral:

State and County roads, parks, streams and facilities, and adjacent municipalities.

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 Section 376-65.C. of the June 14, 2006 Zoning Law specified that an accessory unit must be between 600 and 1000 SF. In April of 2007, the Town Board amended Section 376-65.C. to allow accessory units of up to 1100 SF. In January of 2012, the size limit was increased to 1200 SF. A 25 percent increase in the maximum size of an accessory unit is now proposed. This is substantial, and especially so when compared to the original size of 600 to 1000 SF. It represents an increase of 50 to 150 percent over the what was proposed in the 2004 Comprehensive Plan. As originally envisioned in the Comprehensive Plan, accessory apartments were to provide additional low- and moderate-income rental housing options for single persons, young families and the elderly while helping to defray the mortgage payments and/or maintenance expenses of the homeowner. The size restrictions and bedroom limitations were appropriate given the goals and objectives espoused in the Comprehensive Plan. The proposed 300 SF increase translates to two or more additional bedrooms. This gives rise to infrastructure capacity concerns due to increased population density. The ability of the existing infrastructure to accommodate increased population density in the R-15A and R-15C zoning districts 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 substantially larger accessory apartments.

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2 While an accessory unit still cannot exceed 50 percent of the principal building, an increase to 1500 SF will also allow for a larger principal unit. Our concern is that this increase will lead to more requests for floor area ratio variances to accommodate larger structures. Variances for maximum development coverage will likely also be required. The integrity of the Zoning Law must not be compromised by amendments that result in nonconforming structures.

3 By definition, in Section 376-5, an accessory apartment is incidental and subordinate to a permitted principal residence use. In past reviews of proposed amendments to Section 376-65, this department has questioned whether a dwelling unit that can be up to 50 percent of the floor area of the principal unit can really be considered "secondary" or "accessory." We have recommended that the secondary dwelling unit be less than 50 percent of the principal dwelling. The current proposal will essentially create a two-family dwelling rather than a principal dwelling with an accessory unit. For an accessory apartment to be incidental and subordinate to a permitted principal residence use, it must be limited in size and less than half of the of the principal dwelling. As noted above, the proposed increase in floor area will result in nonconforming structures requiring variances. This must not be permitted.

4 Section 1 (Legislative Intent) specifies both price and size restrictions as impediments for prospective purchasers in obtaining mortgage financing. Since the Town is proposing a separate local law to eliminate price restrictions, the reference to pricing must be eliminated from Section 1.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor Michael B. Specht, Ramapo
New York State Department of Transportation
Rockland County Department of Highways
Palisades Interstate Park Commission
Rockland County Division of Environmental Resources
Rockland County Drainage Agency
Rockland County Office of Fire and Emergency Services
New York State Department of State
Rockland County Department of Health
Rockland County Sewer District #1

Clarkstown, Haverstraw
Airmont, Chestnut Ridge, Kaser, Hillburn,
Montebello, New Hempstead, New Square,
Sloatsburg, Spring Valley, Suffern, Wesley Hills
Alan Berman, First Deputy Town Attorney

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.

