



Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

April 26, 2019

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

Tax Data: 56.15-3-42.3

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

Map Date: 12/26/2018

Date Review Received: 3/14/2019

Item: 12 SUMMIT, LLC (R-1807F)

Floor area ratio and deck rear setback variances to allow the construction of a detached, single-family dwelling with an accessory apartment on .23 acres in an R-15A zoning district. Variances for lot area, lot width, side setback, total side setback, street frontage, maximum building height and floor area ratio were previously granted.

East side of Summit Avenue, approximately 75 feet north of Fred Eller Road

Reason for Referral:

Monsey Glen Park, NYS Thruway

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 Our department first commented on this application in September of 2013. At that time, the applicant was seeking approval for a three-lot subdivision. Each lot was to be developed with a single-family dwelling containing an accessory apartment. A minimum lot area variance was required for all three parcels. The extent of the lot area variance for the subject parcel was 33 percent. The oversized residential structure proposed on Lot 3 required a 20 percent increase over the maximum permitted floor area ratio. In May of 2017, we reviewed a revised proposal for a detached two-family dwelling. The magnitude of the required variances increased as a result. We noted that a minimum lot area of 20,000 SF was required for a detached, two-family dwelling in the R-15A zoning district. We considered a 50 percent variance from the minimum lot area standard to be excessive. Since a larger residential structure was proposed, the extent of the floor area ratio variance increased to 45 percent. We recommended that these substantial, self-imposed increases in non-conformity be denied, and the original approval for a detached single-family dwelling with one accessory apartment stand.

The current proposal is for a single-family dwelling with an accessory apartment, thereby reducing the extent of the lot area and lot width variances. However, the building footprint has increased so a floor area ratio (FAR) variance of 62.5 percent is now required, as well as a variance for deck rear setback. Given that an accessory apartment cannot exceed 1,500 SF, we question whether a two-family dwelling is still proposed. A single-family dwelling with an accessory apartment should be smaller than a detached two-family dwelling proposed on the

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same parcel. The building footprint must be reduced so the original FAR variance of 20 percent is not exceeded.

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 to increase the degree of non-conformity on Lot 3 with an even larger residential building. 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 residential structure must be scaled back so that it conforms with the previously granted FAR variance.

3 We caution the Town against granting additional variances that result in a development that is less compliant with the applicable bulk standards. We raised this concern in an earlier review of the subject site, and in our October 3, 2018 and April 26, 2019 GML reviews of the adjacent property. This has the potential to set a dangerous land use precedent in which applicants propose a less intense use only to return to the Zoning Board of Appeals with a more intense use requiring greater deviations from the code. Permitting a more intensive use, which will result in greater non-conformity, must not be allowed.

The following comments address our additional concerns about this proposal.

4 The applicant must satisfactorily address all concerns raised by the Division of Environmental Resources in their May 4, 2017 letter.

5 An updated review of the current proposal for Lot 3 must be undertaken by the Rockland County Health Department and all required permits obtained. In addition, the applicant must comply with the conditions of the Health Department's letter of March 22, 2016.

6 The applicant must comply with the conditions of the Rockland County Sewer District's letter of April 17, 2019.

7 The proposed residential building must comply with all requirements of the New York State Uniform Fire Prevention and Building Code.

8 The development coverage calculation must be provided on the site plan so its accuracy can be verified

9 The building footprint is approximately 2,700 SF. The number of stories is not specified. Based on the FAR of .65, indicated on the bulk table, a 6,512 SF structure is proposed. The gross floor area must be provided, as well as an FAR calculation.

10 It is not possible to determine if the accessory apartment complies with the requirements of Section 376-65. Additional information must be provided about this unit.

11 It appears that a fourth parking space is proposed immediately east of space 3. This again raises the question of whether a two-family dwelling is proposed. The parking area must be reconfigured so this 19'x9' area does not serve as an additional parking space.

12 It will difficult for a vehicle parked in space 1 to maneuver out of the spot without a turnaround area. The proximity of the exterior staircase is also a concern. The potential for traffic conflicts between pedestrians and vehicles is great. A resident descending the stairs will walk directly behind the parked vehicle. A turnaround area must be provided so that vehicles do not have to back out into the roadway, and the stairs should be re-oriented so that they do not descend directly into the parking area, behind a parked vehicle.

13 The site plan must contain map notes that list all appropriate information, including the district details. The applicant's engineer has been reminded of this requirement, and the importance of providing these details.

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14 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.

15 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 Division of Environmental Resources
New York State Thruway Authority
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.

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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.

