

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

May 31, 2019

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

Tax Data: 56.11-2-17

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 1/29/2019

Date Review Received: 4/26/2019

Item: *JACOB GOLDMAN/66 MAIN STREET (R-1832B)*

Floor area ratio variance to allow the basement in an existing three-family dwelling with two accessory apartments to be converted to living space. The .2238-acre site is in an R-15C zoning district. Variances were previously granted for lot width, side setback, total side setback, rear setback, street frontage, maximum development coverage and more than one accessory apartment to allow the construction of the existing residential structure.

East side of Route 306, opposite Homestead Lane

Reason for Referral:

NYS Route 306, 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 information provided is insufficient to properly evaluate this variance application. It is unclear which of the existing five units will benefit from the additional living space, or how it will be accessed. Street view photography shows eight separate entrances to the building. There appear to be six electric meters and six gas meters on the north side of the building. Six garbage cans are scattered throughout the parking area. Given that this structure was approved as a three-family dwelling with two accessory apartments, eight building entrances, six electric meters, six gas meters and six garbage cans raise the question of the actual unit count. While parking spaces are not delineated on the January 29, 2019 Final Survey, six parking spaces are shown on the December 18, 2013 map previously submitted for review. This department was not in favor of allowing a second accessory apartment since the lot width was deficient. It appears that this structure contains six units. The Town's Building Department must determine the actual number of units in 66 Main Street before considering an expansion of the living space in any unit.

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2 The 2014 ZBA application for the existing three-family dwelling with two accessory apartments proposed a floor area ratio (FAR) of .90. The current application is seeking a 28 percent variance to permit an FAR of 1.15. This translates into 2,438 SF. We consider this to be a very large increase in the living space for one residential unit, and continue to question the total number of units in this structure. The gross floor area of the entire structure must be provided, as well as a breakdown by unit. An FAR calculation must be included on the map.

3 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 has been granted a 40 percent increase over the maximum permitted development coverage, as well as lot width, street frontage and several setback variances. A second accessory apartment was allowed despite the deficient lot width. 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. No additional variances shall be granted.

4 Pre-existing, non-conforming lots are given special consideration under Section 376-131.D.(1) of the Town's Zoning Law. The bulk standards for several residential zoning districts are relaxed to accommodate the residential uses permitted by right in these zones. The subject site is 9,750 SF or 35 percent smaller than the 15,000 SF minimum lot area required for new three-family residences in the R-15C zoning district. As noted above, several substantial variances were previously granted and a second accessory unit was permitted. Given that this site benefits from the application of Section 376-131.D.(1) and a non-conforming structure was approved, no additional deviations shall be allowed.

The following comments address our additional concerns about this proposal.

5 A review must be completed by the New York State Department of Transportation, and any required permits obtained.

6 The Village of Kaser is one of the reasons this proposal was referred to this department for review. The municipal boundary is 340 feet northwest 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.

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

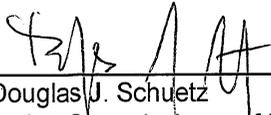
8 A review must be completed by the Rockland County Sewer District #1, and all required permits obtained.

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

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- 10 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
- 11 The February 12, 2019 denial letter from the Building Department notes that a required means of egress cannot be within ten feet of a property line as per the International Building Code. The specific egress must be called out on the Final Survey. It is unclear if this means of egress will serve the basement living space, or if it already exists. A NYS variance will likely be required.
- 12 The Final Survey shows additional building features not depicted on the December 18, 2013 map. It appears that several building entrances, stairways and window wells are less than ten feet from the property line. Additional side setback and total side setback variances will be required if these features are closer to the property line than the previous submission. This must be clarified. Any additional variances must be referred to this department for review.
- 13 The required on-site parking spaces must be delineated on the map and in the field. A turnaround area must be provided so that drivers can safely maneuver out of the parking spaces. Given the proximity of the building entrances and sidewalks, this is especially critical.
- 14 Areas designated for snow removal must be clearly delineated on the site plan so that the plow drivers will know where to place the snow piles. This will help to protect the existing landscaping from damage due to the weight of the snow and salt intrusion. In addition, providing specific locations on the site for the snow piles will reduce the loss of available parking spaces meant to be used by residents.
- 15 An explanation must be provided for the "area of refuge" shown in the southeast corner of the site.
- 16 The site plan shall 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.
- 17 All proposed bulk standard measurements must be indicated on the map.
- 18 The site plan must include a vicinity map with a north arrow and a scale.
- 19 The map shall include a revision table with the revision dates listed in chronological order.
- 20 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.
- 21 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.
- 22 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.

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Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor Michael B. Specht, Ramapo
New York State Department of State
Rockland County Department of Health
Rockland County Sewer District #1
New York State Department of Transportation
Rockland County Office of Fire and Emergency Services
Monsey Fire District

Anthony R. Celentano P.E.
Village of Kaser
Congregation Nachlas Moshe

Jacob Goldman

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.