

DEPARTMENT OF PLANNING

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Acting Commissioner

Arlene R. Miller
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July 19, 2019

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

Tax Data: 49.19-6-14.1

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

Map Date: 10/24/2017

Date Review Received: 6/28/2019

Item: *CHAYA GRODZINSKY/7 CEDAR LANE (R-2574B)*

Variations to permit the construction of a three-family dwelling with three accessory apartments on 0.235 acres in the R-15C zoning district. The variations requested include floor area ratio and lot width for two additional accessory units. Variations were previously granted for front setback, front yard, rear setback, development coverage, deck rear setback, less than 50 percent attached and courtyard width.

South side of Cedar Lane, approximately 540 feet east of Dover Terrace

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 proposed building will require a floor area variance of 10%. Also, a lot width variance for the two additional accessory units is sought. Multiple variations have previously been acquired, including one that exceeded the allowed maximum development coverage by 27%. Variations for the front yard and front setback were also granted, and the rear setback and rear deck setback variations were deficient by 50%. The surrounding neighborhood is characterized by similarly-sized parcels. Granting these bulk variations will set a precedent that may result in other nearby property owners seeking the same relief. Permitting an oversized structure which does not conform to the requisite requirements will negatively impact the community character of the surrounding neighborhood. While a three-family semi-attached residence, with three accessory units, is permitted as of right in the R-15C zoning district, it is apparent, given the magnitude and number of variations required to implement the proposal, that this site is not suitable for the proposed development. We recommend that the variations requested be denied. The building footprint and the number of units must be reduced to more closely comply with the R-15C bulk standards.

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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 ability of the existing infrastructure to accommodate increased residential density in oversized structures 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 building footprint and the number of units shall be reduced.

3 Our department reviewed the two-lot subdivision application creating this parcel on April 4, 2017. The variances required for the subdivision were reviewed on August 24, 2016. The proposed residential structures is exactly the same size as in the previous submission, yet the floor area ratio has increased by 0.09%. Inaccuracies and conflicting information warrant that the development coverage and floor area ratio calculations be provided on the site plan so that their accuracy can be verified.

4 In addition, only one accessory apartment was proposed in the previous submission, with no reduction in the floor area ratio or development coverage from the initial ZBA application. We questioned why a reduction in units did not also result in a smaller structure and a decreased floor area ratio. The current application proposes three accessory apartments in the three-family dwelling with, again, no changes to the building size. This raises the question as to whether the intent was always to design the proposed residential structure with three accessory units. An explanation must be provided as to why the difference in the number of units has not changed the size of the building.

5 As per Section 376-65G, only one accessory apartment is permitted on parcels with a lot width of less than 75 feet. The lot width of the subject site is 65 feet. Therefore, one accessory apartment is allowed. The second and third accessory apartments must be eliminated. This will allow for closer conformance with the R-15C bulk requirements. The required on-site parking will be reduced to four spaces resulting in a lower development coverage. A smaller building footprint will also be possible with fewer accessory units.

6 The project narrative revised on January 31, 2019 indicates that a lot width variance is required to allow three accessory apartments. This is inaccurate. The lot width of 65 feet exceeds the minimum lot width requirement of 62.5 feet. A variance is required for the second and third accessory apartments which are not permitted on lots with less than a 75-foot lot width as per Section 376-65G. The purpose of Section 376-65G is to limit the number of units permitted on narrow lots. The ZBA application must be revised and resubmitted for our review as mandated under the NYS General Municipal Law.

The following comments address our additional concerns about this proposal.

7 The Village of Kaser is the reason this proposal was referred to this department for review. The municipal boundary is approximately 400 feet northeast of the subject property line. As required under Section 239nn of the State General Municipal Law, the Village of Kaser must be given the opportunity to review the proposed subdivision and provide any concerns related to the project to the Town of Ramapo.

8 An updated review must be completed by the County of Rockland Department of Health, all comments and concerns addressed, and all required permits obtained.

9 An updated review must be completed by the County of Rockland Sewer District #1, all comments and concerns addressed, and all required permits obtained.

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.

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

12 The front setback and front yard measurements are incorrect. They are measured from the lot line to the northern side of parking space 5 instead of the residential building. The front setback and front yard appear to exceed the 33 feet noted in the bulk table. The measurement and the bulk table must be corrected.

13 The original subdivision proposal created one conforming parcel (Lot 1) and one non-conforming parcel that did not meet the minimum standards for lot area, lot width or street frontage. A three-family dwelling with one accessory unit is proposed on Lot 2. However, the on-site parking requirement of four spaces cannot be provided on this narrow, undersized parcel. The fourth space is provided on Lot 1 thereby increasing the development coverage on this parcel. All required parking must be provided on the lot on which the unit is located. Parking for Lot 2 must be removed from Lot 1.

14 It will difficult for a vehicle parked in spaces #5 or #10 to maneuver out of the space without a turnaround area. In addition, no building entrances or exterior stairs are shown on the site plan, making it difficult to assess the parking area in relation to the pedestrian movement on site, and whether there will be safety issues for the residents. A turnaround area must be provided; the building entrances and exterior stairs must be illustrated on the site plan so that safety issues can be properly evaluated.

15 The handicapped parking space must be labeled as such. Sidewalk connections from the space to the building shall be provided and illustrated on the site plan.

16 All proposed building entrances, exterior stairways, and window wells must be delineated on the site plan demonstrating that they will not impact yard requirements or increase the development coverage. Parking maneuverability shall not be affected by the location of these features.

17 It will be difficult for sanitation workers to access the garbage area if a vehicle is parked in space 5. The garbage area must be moved to a more accessible location.

18 The Town of Ramapo Building Department's June 28, 2019 denial letter does not specify that a variance is required for the second and third accessory apartments. All application materials must be consistent. The public hearing notice must be reissued if it did not include all required variances.

19 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.

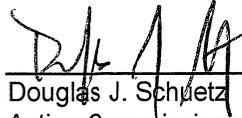
20 The subject site must be centered on the vicinity map. Locating the parcel on the edge of a vicinity map defeats the purpose of providing one.

21 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.

22 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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23 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
Rockland County Office of Fire and Emergency Services
Monsey Fire District
New York State Department of State

Anthony R. Celentano P.E.
Village of Kaser

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.