

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

June 25, 2019

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

Tax Data: 49.20-2-20

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

Map Date: 9/16/2009

Date Review Received: 5/20/2019

Item: *SAMUEL KLEIN/11 RALPH BOULEVARD (R-2697)*

Variances for front setback, front yard, total side setback, rear setback, development coverage and deck rear setback to allow the construction of a three-family residence with three accessory apartments on .2735 acres in an R-15C zoning district.

South side of Ralph Boulevard, approximately 450 feet east of Route 306

Reason for Referral:

NYS Route 306, Villages of Kaser and New Square

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 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 11,913 SF or 21 percent smaller than the 15,000 SF minimum lot area required for new three-family residences in the R-15C zoning district. The proposed structure requires yard and setback variances ranging from 17 to 50 percent. The maximum permitted development coverage is exceeded by 40 percent. Given that this site benefits from the application of Section 376-131.D.(1), the proposed structure must more closely comply with the applicable bulk standards. The building footprint and the number of units shall be reduced.

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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. As noted above, the proposed structure requires yard and setback variances of significant magnitude. The applicant is also seeking a substantial increase over the maximum permitted development coverage. The ability of the existing infrastructure to accommodate increased residential density on undersized, nonconforming parcels is a countywide concern and must be evaluated.

This evaluation must consider whether State, County and local roads will become more congested. Town officials have previously expressed concern to this department about the increasing traffic congestion along the Route 306 corridor. The issue of pedestrian safety has been raised repeatedly. In direct contradiction to these concerns, the Town's Zoning Board of Appeals overrides our GML recommendations by granting variances to allow increased residential density on undersized lots such as the subject site. Land use and traffic generation are not mutually exclusive concepts. If more intense uses are permitted, additional traffic will be generated causing increased congestion on the roadway network, and putting the walking population at greater risk.

The impact on the sewer system, stormwater management systems and the public water supply must also be evaluated to determine if they will be overburdened. The Town must consider the cumulative and regional impacts of permitting such development. A smaller building and fewer units will allow for closer conformance with the requisite standards.

The following comments address our additional concerns about this proposal.

3 The Villages of Kaser and Spring Valley are two of the reasons this proposal was referred to this department for review. The Kaser municipal boundary is along the southern property line of the site; the Spring Valley municipal boundary is approximately 193 feet north 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 Villages of Kaser and 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 Villages of Kaser and Spring Valley must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

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

5 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.

6 The applicant must comply with the conditions of the Rockland County Sewer District #1's June 14, 2019 letter.

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

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8 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.

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

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

11 Given the size of the building footprint, we believe the FAR may be understated. The gross floor area must be indicated on the site plan, as well as the floor area ratio calculation. If a variance is required for FAR, a revised ZBA application must be referred to this department for review as mandated by the New York State General Municipal Law.

12 As indicated on the site plan, a portion of the lot is within the 100 year floodplain. It is unclear whether the appropriate lot area deductions have been calculated. A net lot area calculation must be provided on the map. A reduced lot area will exacerbate the development coverage variance and impact the FAR. If increased or new variances are required, a revised ZBA application must be referred to this department for review as mandated by the New York State General Municipal Law.

13 The Floodplain Administrator for the Town of Ramapo shall certify that the proposed construction is in compliance with the floodplain regulations of the Town and the Federal Emergency Management Agency.

14 It will difficult for a vehicle parked in spaces 3 and 6 to maneuver out of the spots without a turnaround area. No building entrances, exterior stairways or walkways 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 so that vehicles do not have to back out into the roadway. The building entrances, exterior stairways or walkways must be illustrated on the site plan so that safety issues can be properly evaluated.

15 It will be difficult for sanitation workers to access the dumpster enclosure if vehicles are parked in spaces 4 and 5. The dumpster enclosure must be moved to a more accessible location. It must also be labeled on the site plan.

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 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.

18 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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19 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
New York State Department of Transportation
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
Federal Emergency Management Agency

Anthony R. Celentano P.E.
Villages of Kaser and New Square

Samuel Klein

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.