Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

February 26, 2019

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

Tax Data: 56.07-4-37

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 12/20/2018 **Date Review Received:** 1/9/2019

Item: ***MONSEY DEVELOPMENT GROUP, LLC/4 HOPAL LANE (R-791C)***

Variances for front setback, front yard, side setback, total side setback, rear setback, deck rear setback and maximum development coverage to permit the construction of a three-family dwelling with three accessory apartments on .398 acres in an R-15C zoning district.
North side of Hopal Lane, 110 feet west of Blauvelt Road

Reason for Referral:

Village of Kaser, NYS Route 306

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 applicant is no longer seeking to enlarge the subject site by adding the adjacent R-15C zoned portion of Lot 56.07-3-49 to it. Three fewer residential units are now proposed for a total of six. However, since the lot is irregularly shaped, so too is the residential structure. The odd-shaped building requires several yard and setback variances. The floor area is maximized with no thought of using the extra land area to buffer the increased density. The maximum development coverage is exceeded. This development proposal represents a significant departure from the existing community character. Residents of Hopal Lane and Blauvelt Road have expressed serious misgivings about allowing multi-family residential development in an established neighborhood characterized by one- and two-family dwellings. These property owners have demanded that the original R-15 zoning designation be restored to this area. Given these concerns about community character, the building footprint and the number of units must be reduced to more closely conform to the R-15C bulk standards

2 This site is subject to a property line dispute that has not been resolved. The application cannot advance until there is a resolution.

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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. As noted above several yard and setback variances are required, and the maximum permitted development coverage is exceeded. The ability of the existing infrastructure to accommodate increased residential density 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 must be reduced so that the R-15C bulk standards are achieved.

4 This department recently reviewed a similar proposal for 3 Hopal Lane, directly opposite the subject site. In his July 2, 2018 denial letter for that project, the Building Inspector notes that a variance will be required if there are more than nine families living on the cul-de-sac. The land use data available to this department indicates that two-family dwellings are located on five of the six lots fronting on Hopal Lane, including 3 Hopal Lane. The subject site contains a single-family dwelling. With these two applications, 12 additional units are proposed, or three more than the permitted maximum number of units served by a cul-de-sac. A total of 20 residential units on Hopal Lane raises serious concerns about emergency access, pedestrian safety and traffic congestion. Given the short length of Hopal Lane and that eleven residential units are currently fronting on the cul-de-sac, we recommend that this proposal to increase the number of units on the subject site from one to six be denied.

5 Increased residential density on a cul-de-sac raises safety concerns about insufficient parking, and access for emergency vehicles and delivery trucks. Given the one space per unit parking requirement in the R-15C zoning district, we are concerned that additional household vehicles will park along the curb and in the cul-de-sac bulb of Hopal Lane. This department has noticed this trend in other residential developments with similar minimal on-site parking requirements. Several fire districts have cautioned the Town about their inability to access residential units in an emergency due to the abundance of vehicles parked along curbs and in cul-de-sacs. Aerial and street side photography available to this department show vehicles parked along Hopal Lane and perpendicular to the curb in the cul-de-sac bulb. Increased residential density will only exacerbate this situation, resulting in additional vehicles parked in this manner. This will create an unsafe condition and must not be permitted. The variances required for the three-family dwelling and three accessory apartments shall be denied.

The following comments address our additional concerns about this proposal.

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

7 The Village of Kaser is one of the reasons this proposal was referred to this department for review. The municipal boundary is approximately 195 feet southeast 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.

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8 An updated review of the December 20, 2018 ZBA Plan must be completed by the Rockland County Health Department. In addition, the applicant must comply with the conditions of the Health Department's letter of August 24, 2018.

9 An updated review of the December 20, 2018 ZBA Plan must be completed by the Rockland County Sewer District # 1. In addition, the applicant must comply with the conditions of the Sewer District # 1's letter of August 24, 2018.

10 As noted above, we are concerned about the building configuration and its consistency with other residences in the surrounding neighborhood. This community is characterized by detached residential buildings. The massing of the proposed structure is a significant departure from what currently exists in this area. An oddly-shaped residential structure with the maximum allowable floor area is depicted on the ZBA Plan. A floor area ratio calculation is not provided so it is not possible to determine how the .90 indicated on the bulk table was derived. This information must be included on the drawing to verify that an additional variance is not required. The public hearing notice will have to be revised and reissued if it did not include all necessary variances.

11 Given the amount of impervious surface area shown on the ZBA Plan, a development coverage calculation must be provided to verify the accuracy of the figure shown on the bulk table.

12 The adjacent properties must not be subject to additional stormwater runoff related to the development of this parcel. To reduce the development coverage percentage, pervious pavers shall be used for the sidewalks, driveway and parking area.

13 The net lot area calculation must be provided on the ZBA Plan as this figure is used to calculate both the floor area ratio and the development coverage. It must specify what comprises the 980 SF lot area deductions noted on the bulk table.

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

15 A review must be completed by the Rockland County Office of Fire and Emergency Services or the Monsey Fire Department to ensure that there is sufficient maneuverability on site for fire trucks, in the event an emergency arises.

16 An updated review of the December 20, 2018 ZBA Plan must be completed by the Town of Ramapo Fire Inspector. In addition, the applicant must satisfactorily address the 19 comments contained in the Fire Inspector's January 11, 2018 memorandum.

17 Height information shall be provided for the proposed retaining wall. Walls that are over four (4) feet in vertical height shall be designed by a licensed New York State Professional Engineer and be in compliance with the NYS Fire Prevention and Building Code. Design plans shall be signed and sealed by the licensed NYS Professional Engineer.

18 While walkways and decks are illustrated on the ZBA Plan, certain building features are not shown. All proposed building entrances, stairways and window wells must also be delineated on the map demonstrating that they will not impact yard requirements and parking maneuverability for the site.

19 The December 26, 2018 narrative prepared by Construction Expediting indicates that a variance is required for FAR rather than development coverage. This must be corrected.

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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.

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

Lanc & Tully Engineering and Surveying, P.C.
Village of Kaser

Monsey Development Group, LLC.

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.