Rockland County

Ed Day, Rockland County Executive

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

July 26, 2019

Ramapo Town Board
237 Route 59
Suffern, NY 10901

Tax Data:

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: **Date Review Received:** 5/24/2019

Item: ***TOWN OF RAMAPO/PARTIAL BUILDING PERMITS (R-2692A)***

Proposed Local Law amending the Zoning Ordinance to allow the issuance of partial building permits. Throughout the Town of Ramapo

Reason for Referral:

State and County roads, streams, parks and facilities, and adjacent municipalities

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**

This GML referral was received three days after we issued comments on an earlier version of the local law. A June 26, 2019 public hearing date was specified in the Assistant Town Attorney's May 24, 2019 transmittal letter. The public hearing was subsequently cancelled and this department sought clarification as to the status of the local law. Since the Town has not confirmed whether they are proceeding with an amendment to allow the issuance of partial building permits, we are issuing a second GML review.

While we recognize that certain conditions may warrant the issuance of a partial building permit, we consider the proposed local law to be lacking in sufficient detail to properly regulate these applications. The current version of the local law contains fewer sections than the original submission. More specificity must be provided to ensure that the partial building permit process results in code compliant construction that conforms to an approved overall site plan. The Town shall revise the current version of the local law to include the following recommendations.

1 The local law shall contain a procedures section that specifies the submittal requirements, fees and the required approvals that must be in place prior to review of the permit application.

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2 The local law must include specific conditions that warrant the issuance of a partial building permit. These permits must be issued on a limited basis to ensure that the full site plan approval process is not circumvented.

3 The types of projects that are eligible for partial building permits must be indicated. It is unclear whether these permits are intended only for footings and foundations, or structural frames and complete buildings in a multi-building proposal. It must also be specified if partial building permits will be allowed for all structure types including residential, commercial, institutional and industrial uses. A separate section must address eligible projects.

4 The second sentence of Section 2 states that "no such Partial Building Permit shall be issued before the entire plans and detailed statement of said building or structure shall have been previously approved by the appropriate Town reviewing Agency, Board or Department." We recommend that all required approvals be itemized in a separate section. Required applications for special permits, variances and site plans must be reviewed and approved before a partial building permit is considered.

5 The last sentence of Section 2 states that "the building inspector may require, in appropriate cases, the posting of a bond to insure that any such improvements are removed in the event the building or structure is not timely completed." We recommend that the posting of a bond be a requirement for the issuance of a partial building permit. We are aware of several abandoned construction sites within the Town. Unfinished construction projects become a neighborhood eyesore. Illegal dumping can occur, as well as other criminal activities. The Town must ensure that funding is available to remove partially constructed structures.

6 The proposed local law must be reviewed by the New York State Department of State to ensure that the requirements of the New York State Uniform Building Code are adequately addressed.

7 The New York State Environmental Quality Review Act (SEQRA) is not referenced in the proposed local law. Since all actions are subject to SEQRA, an SEAF or FEAF must be part of the full site plan application to ensure that the environmental impacts of the entire project are considered prior to the start of any construction.

8 Design requirements related to the building code, fire protection, accessibility and utilities must be addressed in detail in the local law.

9 A detail plan, as well as the full site plan, must accompany a partial building permit application. The plan must contain notes with appropriate information including the responsible party for the preliminary construction.

10 Environmental constraints and historic resources must be considered in the local law.

11 Construction inspections must be addressed in the local law. Regular inspections by the Building Inspector will ensure that the partial construction does not deviate from the approved site plan.

12 Time limits must be established for completion of the entire project to ensure that partially constructed structures do not remain on a site indefinitely. The question of permit extensions must also be considered. Language shall be added to the amendment so that the partial permits cannot be used as a way to meet construction commencement date deadlines (as per Section 376-146) or to extend time deadlines for unfinished or stalled construction projects.

13 Given our substantial concerns about the deficiencies of the proposed local law, we request that a revised partial building permit law be submitted for our review that contains specific guidelines that are more comprehensive in nature, and which address our concerns.

14 The Town and future applicants must comply with the conditions of the Rockland County Sewer District #1's letter of April 29, 2019.

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15 The Town must satisfactorily address the safety violation concern raised by the Town of Clarkstown in their May 9, 2019 letter and May 8, 2019 Planning Board resolution.

16 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.

17 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 Highways
New York State Department of Environmental Conservation
Rockland County Drainage Agency
Palisades Interstate Park Commission
Rockland County Division of Environmental Resources
New York State Department of State

Towns of Clarkstown, Haverstraw and Orangetown
Airmont, Chestnut Ridge, Hillburn, Kaser,
Montebello, New Hempstead, New Square, Pomona,
Sloatsburg, Spring Valley, Suffern & Wesley Hills
Dennis Lynch, Assistant Town Attorney

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.