

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

March 6, 2019

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

Tax Data: 49.19-5-23.1

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

Map Date: 11/28/2018

Date Review Received: 1/28/2019

Item: *ROUTE 306 VILLAS 1 (R-2438C)*

Floor area ratio variance to legalize the conversion of basement space to living space in Unit 1 of a three-family dwelling with three accessory apartments on .2225 acres in an R-15C zoning district. Variances were previously granted for lot area, front setback, front yard, rear setback, building height, development coverage, deck rear setback, and wall height and setback along the side and rear lot lines.

West side of Route 306, opposite Rita Avenue

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***

The project narrative submitted with this application is one sentence in length. The December 6, 2018 denial letter from the Building Department does not provide further details. Without more detailed information, it was not possible to determine the specific need for the variance. As a result of this insufficient information, this department had to seek additional details from the Town and the applicant's engineer.

While the current application was especially short on appropriate details, we have repeatedly cautioned the Town about accepting and referring incomplete development applications. We are taking this opportunity to reiterate that request. Given the number of General Municipal Law applications referred to the County Planning Department, the Town of Ramapo must review the project submissions to ensure that complete referrals with clear, concise narratives and correct information are provided before forwarding onward. The need to investigate the intent of referrals to obtain a complete understanding of what is proposed, or to track down missing information, is not the best use of County staff time.

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1 In 2014, this department recommended that variances sought for this proposal be denied. The two-lot subdivision proposed at that time created undersized lots. The maximum residential density was sought resulting in a large residential structure requiring variances for development coverage (55 percent), yards and setbacks. It appears that a building height variance was also required but that was not included in the referral to this department. Four of the six required parking spaces were proposed within the designated street line. The current application for a 32 percent increase over the maximum allowable floor area ratio will exacerbate the extent of the non-conformities. We cannot recommend approval of this variance to correct a previous miscalculation, particularly for floor area ratio. The Town must require that the gross floor area of the structure and a floor area ratio calculation be provided on all ZBA plans so that the accuracy of the proposed figures can be verified.

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 on undersized 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. The floor area ratio variance must be denied.

The following comments address our additional concerns about this proposal.

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

4 The Village of Kaser is one of the reasons this proposal was referred to this department for review. The municipal boundary is along the northern and eastern property lines 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.

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

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

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.

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- 9 The total square footage of the subject accessory unit must be provided so we can determine if it complies with Section 376-65.
- 10 The site plan shall contain map notes that list all appropriate information, including the district details.
- 11 The incorrect lot is highlighted on the vicinity map. The subject site must be highlighted and centered on the vicinity map.
- 12 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.
- 13 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.
- 14 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
New York State Department of Transportation
New York State Department of State
Rockland County Office of Fire and Emergency Services
Monsey Fire District

Anthony R. Celentano P.E.
Village of Kaser

Nesanel Kerpel

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.*

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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.