# Rockland County

Ed Day, Rockland County Executive

**DEPARTMENT OF PLANNING**
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**Douglas J. Schuetz**
*Acting Commissioner*

**Arlene R. Miller**
*Deputy Commissioner*

January 15, 2019

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

**Tax Data:** 56.15-3-32

**Re: GENERAL MUNICIPAL LAW REVIEW:** Section 239 L and M
**Map Date:** 8/31/2018 **Date Review Received:** 11/21/2018

**Item:** ***MOSHE SCHEINER/5 MIELE ROAD (R-2673)***

Variances for lot area, lot width, front setback, side setback, total side setback, street frontage, development coverage and floor area ratio to allow the construction of a two family dwelling with one accessory apartment on .2633 acres in an R-15A zoning district.
South side of Miele Road, approximately 295 feet west of Saddle River Road

**Reason for Referral:**

Saddle River Road (CR 73), Old Nyack Turnpike (CR 52), NYS Thruway, Village of Airmont

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 subject site is located within an R-15A zoning district, a medium density residential district. The residential uses permitted by right in this zone include detached and semi-attached single-family residences, as well as detached two-family residences. Accessory apartments are also permitted. A minimum lot area of 15,000 SF is required for detached, single-family dwellings; semi-attached, single-family dwellings require a minimum lot area of 10,000 SF; and a minimum lot area of 20,000 SF is needed for detached, two-family dwellings.

The subject site does not meet the minimum lot area standard of 15,000 SF required for the existing single-family residence. The applicant is proposing to construct a two-family residence with only 57 percent of the required lot area provided. Additional non-conformities include lot width and street frontage. The proposed building will require a floor area ratio variance of 95 percent. Side setback, total side setback and development coverage variances are necessary to accommodate an oversized residential building on an undersized parcel. The surrounding neighborhood is characterized by similarly-sized parcels. Granting these bulk variances will set a precedent that may result in nearby property owners seeking the same relief. A doubling of the residential density in this neighborhood of non-conforming parcels will negatively impact its community character and infrastructure capacity. Additional residents will generate more traffic on the local streets. The potential for traffic conflicts is

great. While two-family residences with an accessory unit are permitted as of right in the R-15A zoning district, they are subject to stricter bulk requirements. This site is particularly deficient in meeting these more stringent standards. The required variances must be denied.

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, several significant variances are required for this proposal. 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 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.

The following comments address our additional concerns about this proposal.

3 The applicant must comply with the conditions of the Rockland County Highway Department's letter of November 29, 2018.

4 A review must be completed by the Rockland County Department of Health to ensure compliance with Article XIX (Mosquito Control) of the Rockland County Sanitary Code.

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

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

7 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.

8 All proposed building entrances, exterior stairways, window wells and walkways must be delineated on the site plan demonstrating that they will not impact yard requirements and parking maneuverability for the site.

9 It will be difficult for vehicles parked in the two southern spaces to maneuver out of these 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 pedestrian movement on the 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; all building entrances, exterior stairways and walkways must be illustrated on the site plan so that safety issues can be properly evaluated.

10 The refuse containment area must be illustrated on the site plan. Access to this area shall be unimpeded, and it must be demonstrated that its location will not impact yard requirements and parking maneuverability for the site.

11 The parking requirement must be indicated on the ZBA Plan. Six parking spaces are shown where five are required. This additional parking space results in more impervious surface area, contributing to the need for a development coverage variance. All parking spaces shall be numbered, and the sixth space eliminated.

12 The vicinity map does not include a north arrow or a scale. These features must be provided. The applicant's engineer has been reminded of this requirement, and the importance of providing these details.

13 The general notes provided on the ZBA Plan must be expanded to contain all appropriate information including the district details. The applicant's engineer has been reminded of this requirement, and the importance of providing this information.

**MOSHE SCHEINER/5 MIELE ROAD (R-2673)**

14 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.

15 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 Highways
New York State Thruway Authority
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

Civil Tec Engineering & Surveying PC
Village of Airmont

Moshe Scheiner

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.*