Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

July 9, 2019

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

Tax Data: 56.16-2-14.1-2

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 1/30/2019 **Date Review Received:** 6/13/2019

Item: ***CHANNA SILBER (R-2265H)***

Variances for front setback and front yard to permit the addition of a deck to an existing condominium unit (#2) on 0.45 acres in the R-15A zoning district. Variances for floor area ratio, lot width, front setback, front yard, side setback, and rear setback were previously granted.
East side of Hammond Street, North side of Old Nyack Turnpike (CR 52)

Reason for Referral:

Old Nyack Turnpike (CR 52), NYS Thruway (I-87/287)

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:

Recommend the following modifications

1 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 applicant has already been granted variances for floor area ratio, lot width, front yard, and front, side, and rear setbacks. 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.

2 A review must be completed by the County of Rockland Department of Highways and any concerns addessed and required permits obtained.

3 The actual building height provided must be indicated on the bulk table, rather than "< 35'." The bulk table shall not include estimations.

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4 Although the bulk table indicates a variance for lot area has been granted, our records for this parcel indicate that no variance has ever been sought. The most recent review completed for lot 56.16-2-14.1-2 with a site plan by Sparaco Engineering & Land Surveying, P.C., dated 1-8-09 (revised), showed a lot area of 20,000 square feet in the bulk table. A review by the Town Zoning Board of Appeals (ZBA) and a GML review must be completed this variance official.

5 The same application, as indicated in #4 above, shows that a floor area variance (FAR) of 57.5% was required for the parcel. The bulk table with the current application does not indicate that a floor area variance was previously granted, even with a lot that is somewhat smaller than the 20,000 square feet previously indicated. It should be noted that the 2009 review was the second time a FAR variance was sought for the proposal. The bulk table must be revised to show that FAR variances were previously granted as per ZBA Case # XBA-3098 on 10-21-04 and ZBA Case # XBA-3184 on 12-8-05, and if granted, in 2009 when last sought.

6 It must be clarified, and illustrated as such, if stairs are to be provided to the proposed deck. The current stairs to the existing deck seem to be built over so the plans must illustrate how access will be obtained.

7 The site plan shall include map notes that list all appropriate information, including the district details.

8 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.

9 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

Anthony R. Celentano P.E.

Mona Montal, Chief of Staff

**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.