Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

September 19, 2019

Ramapo Planning Board
237 Route 59
Suffern, NY 10901

Tax Data: 49.10-1-3.2 49.10-1-3.1

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 7/24/2019 **Date Review Received:** 8/28/2019

Item: ***TEACHER MOMMY DAYCARE (R-2431D)***

Site plan for a daycare center on 1.3 acres in an RR-50 zoning district. Two partially constructed residential dwellings on two separate tax parcels are to be altered for the daycare use. The lots will be combined. Variances for lot area, front setback, front yard, side setback, total side setback, rear setback, and development coverage have been granted. A variance is also necessary to permit two principal buildings on one lot.

South side of Viola Road, opposite Quince Lane

Reason for Referral:

Viola Road (CR 74), Rockland Community College

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 In our February 5, 2019 GML review of the site plan for this proposal, we noted that the bulk table specifies that a variance is required to permit two principal buildings on a single lot. Our review of the Table of General Use Requirements (Section 376-31) in the Zoning Law indicates that this is true of residential buildings in most residential zones. The only other reference to multiple principal buildings is in Section 376-62 (Spacing) of the Supplementary Regulations. We believe this spacing requirement is for more than one principal building on a lot in a commercial, industrial or multi-family zoning district. The permitted number of principal buildings is not addressed in the Table of Bulk Requirements (Section 376-41). Given that a limitation on the number of principal buildings is not considered in the bulk requirements, we believe that a use variance is required to permit both structures to be used as daycare centers on the combined lots. We requested clarification on this matter in our earlier review.

The August 13, 2019 project narrative submitted with the current application includes a footnote that states, in part, "An earlier determination by the Building Department that a use variance was needed to allow the two principal buildings that are proposed has been withdrawn." The Building Department's determination has not been

shared with this department despite the request for clarification on this matter. The supporting documentation must be submitted for our review as we continue to maintain that a use variance is required. An applicant must demonstrate that an unnecessary hardship exists for a use variance to be granted. Use variances are also subject to a review by this department as mandated under the New York State General Municipal Law.

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 lot area of the two parcels is only 65 percent of the required minimum while the maximum permitted development coverage is exceeded by 40 percent. The front yard and front setback are deficient by 50 percent. The side setback and total side setback are also 70 percent deficient. The ability of the existing infrastructure to accommodate more intensive land uses 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 day care center use shall not be permitted as it is deficient in meeting many bulk standards.

The following comments address our additional concerns about this proposal:

3 Day care centers are allowed as a principal use in the RR-50 zoning district by special permit. As such, they are subject to a higher standard of review. It is unclear whether the Planning Board has determined if this proposal complies with the special permit standards outlined in Article XII. This must be addressed.

4 The applicant must comply with the comments made by the Rockland County Highway Department in their letter of September 4, 2019.

5 A review must be done by the Rockland County Department of Health to ensure compliance with the Rockland County Sanitary Code, Article XIX, Mosquito Control.

6 A review must be completed by the Facilities Management Division of the Rockland County Department of General Services, and any comments or concerns satisfactorily addressed.

7 A review must be completed by Rockland Community College, and any comments or concerns satisfactorily addressed.

8 As required by the Rockland County Stream Control Act, the subdivision plan must be reviewed and signed by the Chairman of the Rockland County Drainage Agency before the County Clerk can accept the plan to be filed.

9 The applicant must comply with the conditions of the Rockland County Sewer District #1's letter of August 29, 2019.

10 The daycare center buildings must comply with all requirements of the New York State Uniform Fire Prevention and Building Code.

11 The applicant must satisfactorily address the comments in the Town of Ramapo Fire Inspector's letter of August 31, 2018.

12 The applicant must satisfactorily address the concerns raised in the Tallman Fire Department's letter of September 2, 2019.

13 Areas designated for snow removal must be clearly delineated on the site plan so that the plow drivers will know where to place the snow piles. This will help to protect the proposed landscaping from damage due to the weight of the snow and salt intrusion. In addition, providing specific locations on the site for the snow piles will reduce the loss of limited parking spaces meant to be used by staff and parents.

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14 The Planning Board must determine if the land banked parking spaces are necessary and, if so, when they shall be developed. The development of such land banked parking spaces will result in a loss of recreational space for the children. This change will result in the fencing around the recreational area being only three feet from the drop off area, rather than the nine feet as proposed originally. The Board must determine if this is adequate separation to provide for the safety of the children.

15 A drop off area is inappropriate given the age range of the children to be served. Infants and toddlers will have to be escorted into the daycare building. There is insufficient room for vehicles to stack and/or park in the drop off area. Since this is likely also a fire lane, parking is not permitted. Parking spots must be designated for short-term parking to allow parents to bring infants and toddlers to and from their classrooms.

16 Given the proposed daycare center use, fencing must be provided around the stormwater detention pond to ensure the safety of the children.

17 The use of pervious pavers shall be considered to reduce the extent of the development coverage variance.

18 A net lot area calculation must be provided, as approximately 4,690 SF of the lot area is within the designated street line.

19 Water is a scarce resource in Rockland County; thus proper planning and phasing of this project are critical to supplying the current and future residents of the Villages, Towns, and County with an adequate supply of water. The water system must be evaluated to determine if the additional water supply demands of the proposed development can be met. Domestic and fire demands of the project must be determined by a Licensed Professional Engineer and provided to the supplier of water for analysis. Demand calculations and results of the analysis must be provided to the Rockland County Department of Health for review.

20 For installation of a sanitary sewer system, engineering plans and specifications shall be reviewed and approved by the Rockland County Department of Health prior to construction.

21 Prior to the start of construction or grading, a soil and erosion control plan shall be developed and in place for the entire site that meets the latest edition of the New York State Guidelines for Urban Erosion and Sediment Control.

22 There shall be no net increase in the peak rate of discharge from the site at all design points.

23 A stormwater pollution prevention plan (SWPPP) was not provided. The SWPPP, if required, shall conform to the current regulations, including the New York State Stormwater Management and Design Manual (January 2015) and local ordinances.

24 The bulk table must be corrected to reference the total side setback standard rather than total side yard.

25 Map Note 7 must be corrected to reflect Section 239 L and M of the General Municipal Law, as this is an application for a site plan not a subdivision.

26 Map Note 12 must be corrected to indicate the Tallman Fire District rather than Monsey.

27 Map Note 14 must be corrected to indicate that SUEZ is the water supplier rather than United Water.

28 It is unclear if any of the map notes must be revised due to the proposed change in use. This must be clarified.

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29 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.

30 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 General Services,
Division of Facilities Management
New York State Department of State
Rockland Community College
Rockland County Department of Health
Rockland County Department of Highways
Rockland County Sewer District #1
Tallman Fire District
Rockland County Drainage Agency

Fusco Engineering & Land Surveying, P.C.

Teacher Mommy Daycare

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.