



Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING

Dr. Robert L. Yeager Health Center

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Douglas J. Schuetz

Acting Commissioner

Arlene R. Miller

Deputy Commissioner

February 13, 2020

Ramapo Zoning Board of Appeals

237 Route 59

Suffern, NY 10901

Tax Data: 56.19-4-7

56.20-3-67

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

Map Date: 10/16/2019

Date Review Received: 1/17/2020

Item: 19 OLD NYACK TURNPIKE, LLC (R-2159D)

Variances to permit a four-lot subdivision of two existing lots located on 0.95 acres in the R-15A zoning district. The variances required for all lots include lot area, lot width, front setback, front yard, rear setback, street frontage, and floor area ratio. A side setback variance is required for Lots 1, 2, and 4. A variance for maximum development coverage required for Lots 1 and 2. Lots 3 and 4 will also need a variance for no frontage on a public street.

South side of Old Nyack Turnpike, north side of the NYS Thruway, approximately 326 feet east of Saddle River Road

Reason for Referral:

Old Nyack Turnpike (CR 52), Saddle River Road (CR 73), NYS Thruway (NYS Route 87/287) Villages of Airmont & Chestnut Ridge

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 in an R-15A zoning district, a medium-density residential district. Detached, single-family residences are permitted on 15,000 SF lots; detached two-family residences are permitted on 20,000 SF lots. Semi-attached, single-family residences require a minimum lot area of 10,000 SF. The maximum permitted residential density ranges from 2.904 units per acre for detached single-family residences to 4.356 units per acre for semi-attached single-family and detached, two-family residences.

This 0.95-acre site can yield two conforming single-family lots of over 15,000 SF, four semi-attached single-family lots of 10,000 SF, or two two-family lots of 20,000 SF. The applicant is proposing four lots with an area of just over 10,000 SF each. This would be acceptable if semi-attached, single-family residences were proposed. However, the applicant is proposing a two-family detached house on each lot. Variances are required for lot area, lot width, front setback, front yard, rear setback, street frontage, and floor area ratio for each lot. In addition, variances are required for side setback for Lots 1, 2, and 4 and maximum development coverage for Lots 1 and 2. Lots 3 and 4 also require a variance for no frontage on a public street.

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The overall residential density of this proposal is 8.4 units per acre, significantly higher than the maximum permitted for any housing type in the R-15A zoning district. The number and the magnitude of the required variances are a clear indication that this proposal will result in a gross overutilization of the site. The number of lots must be reduced, as well as the number of units, to more closely conform to the R-15A bulk standards. The current proposal 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. The lot area for each lot is only approximately 50% of the required minimum. The lot width is 30% deficient for Lots 1 and 4 and 43% deficient for Lots 2 and 3. The front yard and front setback are approximately 67% deficient for Lots 1 and 3 and 81% deficient for Lot 2. Lot 4 has no front yard or front setback when 35 feet are required. The side setback for Lots 1 and 3 is only 50% of the required standard while it is only 60% for Lot 4. The rear yard ranges from being only 29% compliant to 69% compliant between the four lots. The street frontage for Lots 1 and 2 are 70% and 68% compliant, respectively. Lots 3 and 4 have no street frontage when 125 feet are required, and no frontage on a public street. Lot 1 exceeds the maximum development coverage by 11% while Lot 2 exceeds this requirement by 18%. The floor area ratio is exceeded by 75% for lot 3, 80% for Lots 1 and 4, and 83% for Lot 2. 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. As stated above, the variances must be denied.

3 All required parking must be provided on each individual lot. One parking space, and a portion of a second space, for Lot 4 is located on Lot 1. Fewer units would require less parking. The proposal must be scaled back to semi-attached single-family dwellings with the requisite parking on-site.

The following comments address our additional concerns about the proposal:

4 The applicant must comply with the comments made by the Rockland County Highway Department in their letter of January 28, 2020.

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 The Villages of Airmont and Chestnut Ridge are two of the reasons this proposal was referred to this department for review. The municipal boundary for the Village of Airmont is located approximately 310 feet southwest of the site, and the Village of Chestnut Ridge's boundary is approximately 245 feet south 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.

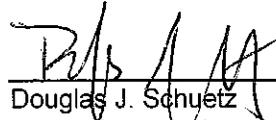
The Villages of Airmont and Chestnut Ridge must be given the opportunity to review the proposal and its impact on community character, traffic, water quantity and quality, drainage, stormwater runoff and sanitary sewer service. The areas of countywide concern noted above that directly impact the Villages of Airmont and Chestnut Ridge must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

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- 7 A review must be completed by the New York State Thruway Authority, any comments or concerns addressed, and any required permits obtained.
- 8 A review must be completed by the County of Rockland Sewer District No. 1, any comments or concerns addressed, and all required permits obtained.
- 9 It must be demonstrated that emergency vehicles have suitable maneuverability on the site. An emergency vehicle movement plan must be provided to show that the largest fire trucks can access and maneuver within the site. The County of Rockland Office of Fire and Emergency Services, the Town Fire Inspector, or the Monsey Fire Department must review this plan to ensure that there are no issues for their emergency equipment or needs.
- 10 The proposed residential structures must comply with all requirements of the New York State Uniform Fire Prevention and Building Code.
- 11 No garbage enclosures are identified on the site layout plans. The garbage enclosures must be illustrated on the plans and located so that they are easily accessible.
- 12 The Designated Street Line (DSL) on the Layout Plan is labeled as the dashed line in one area and as the sidewalk in another area. It must be confirmed as to where the DSL is actually located. In addition, the measurements are taken from the buildings to the sidewalk. If the DSL is the dashed line, the measurements must be taken from that point.
- 13 Many of the lines that appear on the site plan do not appear in the legend. In addition, the sidewalks on the site plan use a different symbol than what is shown in the legend. An updated legend must be provided that portrays all lines and symbols that appear accurately.
- 14 Lots 1 and 2 use the yard along the private road as their front yard. However, the side and rear yards appear to be based on Old Nyack Turnpike representing the front yard. The measurements to the west of the building on Lot 1 and east of the building on Lot 2 are used as the side yard and the measurements to the south of the buildings on both lots are used as the rear yard. These yards should be switched. The magnitude of the requested side and rear yard variances may be altered based on this. We request the opportunity to review the variances that may be required by this change.
- 15 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 or increase the development coverage. Parking maneuverability shall not be affected by the location of these features.
- 16 The development coverage and floor area ratio calculations must be provided on the site plan so their accuracy can be verified.
- 17 Easements for access, utilities, and parking are required and must be clearly delineated on the site plan.
- 18 Map note #7 references Section 239N of New York State General Municipal Law. This shall be corrected to Sections 239L & M as this is an application for variances, not a subdivision.
- 19 The first tax parcel listed on the Referral Form is incorrect. The parcel is 56.19-4-7 rather than 50.13-2-4-7. If the public hearing notice was issued with the incorrect information, it must be reissued with the proper tax parcels.
- 20 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.

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21 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 State
New York State Thruway Authority
Rockland County Department of Health
Rockland County Department of Highways
Rockland County Drainage Agency
Rockland County Office of Fire and Emergency Services
Rockland County Sewer District #1
Monsey Fire District

Civil Tec Engineering & Surveying PC
Villages of Airmont & Chestnut Ridge

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.