

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene Miller
Deputy Commissioner

April 8, 2020

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

Tax Data: 49.18-1-5

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

Map Date: 7/21/2019

Date Review Received: 2/28/2020

Item: *CHAYA SCHLESINGER/72 CARLTON ROAD (R-2497A)*

Variances to permit a two-lot subdivision of .83 acres in an R-35 zoning district. An existing single-family dwelling will remain on Lot 1; variances will be required for lot area, lot width (Carlton Road), front setback (Kupperman Lane), front yard (Kupperman Lane), side setback and side yard. A single-family dwelling is proposed on Lot 2; variances are needed for lot area, lot width, side setback, total side setback, street frontage and parking in the front yard.

Northwest corner of Carlton Road and Kupperman Lane

Reason for Referral:

College Road (CR 81)

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 exceeds the minimum lot area standard of 35,000 SF required for the existing single-family residence in the R-35 zoning district by 1,369 SF or 4 percent. The applicant is proposing to subdivide the property into two grossly undersized, non-conforming lots. Both parcels will require variances for lot area and lot width; the street frontage is also deficient for Lot 2. The proposed residential structure on Lot 2 will require side setback and total side setback variances. There are pre-existing, non-complying yard and setback conditions on Lot 1. The surrounding neighborhood, within a 500-foot radius, is characterized by lots ranging in size from .52 acres to 2.7 acres. While many are less than 35,000 SF, none are as undersized as the proposed lots. The lot area analysis included with the application materials focuses primarily on properties that are more than 1,000 feet from the subject site, and most of those lots exceed .38 and .44 acres. Granting the bulk variances required to create this subdivision 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 local streets and the nearby County road. The potential for traffic conflicts is great. Town officials have previously expressed concern to this department about the increasing traffic congestion along State and County roads in Ramapo. The issue of pedestrian safety has been raised repeatedly. In direct contradiction to these concerns, the Town's

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Zoning Board of Appeals overrides our GML recommendations by granting variances to allow increased residential density on undersized lots such as the current proposal. Land use and traffic generation are not mutually exclusive concepts. If undersized, non-conforming parcels are allowed to be created through the subdivision process, additional traffic will be generated causing increased congestion on the roadway network while putting the walking population at greater risk.

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 variances required for the two-lot subdivision shall not be granted.

The following comments address our additional concerns about this proposal.

3 A review must be completed by the Rockland County Highway Department, and any required permits obtained.

4 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.

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

6 It appears that the proposed street frontage for Lot 2 is overstated in the bulk table as the map measurement is 77.35 feet. As a result, the extent of the variance required is increased. The bulk table must be corrected. If the public hearing notice lists the incorrect measurement, it must be corrected and redistributed.

7 The drawings transmitted digitally by the project engineer on April 1, 2020 specify a last revision date of 10-8-2019; the map submitted as part of the GML referral to the Rockland County Planning Department has a last revision date of 7-21-2019. All materials sent to the County Planning Department and referral agencies must be the same as what is being reviewed by the Town of Ramapo to ensure consistency. In addition, the County Planning Department only received Sheet 1 from the Town, whereas there were in fact five sheets for the application. All materials submitted to the Town must also be forwarded to the individual agencies.

8 Map Note 29 states: "Existing structures to be demolished and all debris removed from and disposed of as approved by the Town of Ramapo...". The existing residence on Lot 1 is not proposed to be demolished. This map note must be updated or removed to more accurately portray the proposal.

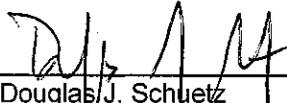
9 The development coverage and floor area ratio calculations must be provided on the site plan so their accuracy can be verified.

10 The site shall be centered on the vicinity map so that the entire neighborhood surrounding the parcel is illustrated.

11 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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12 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 Drainage Agency
Rockland County Department of Health
Rockland County Department of Highways
Rockland County Sewer District #1

Anthony R. Celentano P.L.S.

Chaya Schlesinger

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.

