

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

January 7, 2020

Ramapo Zoning Board of Appeals

237 Route 59

Suffern, NY 10901

Tax Data: 49.19-6-41

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

Map Date: 10/23/2019

Date Review Received: 12/9/2019

Item: *MOSES & RACHEL SALAMON/201 BLAUVELT ROAD (R-2707)*

Variations are required for front setback, front yard, side setback, rear setback, rear setback deck, development coverage, floor area ratio, parking stall turnaround, accessory unit entrance locations, and accessory units exceeding 50 percent of principal dwelling to permit the construction of a three-family residence with three accessory apartments on .3513 acres in an R-15C zoning district.

West side of Blauvelt Road, approximately 130 feet north of Carlton Road

Reason for Referral:

Village of Kaser, NYS Route 306

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 survey map submitted with this application depicts a townhouse structure rather than a three-family dwelling. Four separate residential sections are proposed within the three-story structure; three contiguous sections are labeled as one-family dwellings with the fourth section identified as three accessory apartments. This residential layout is not permitted in the R-15C zoning district. Accessory units, are by definition, subordinate to the primary residence. As proposed, the accessory units are separate and apart from the principal dwellings. They are not in compliance with Section 376-65. The one-family dwellings do not, in fact, contain accessory dwellings. What appears to be proposed is a three-family dwelling constructed in a townhouse style attached to a three-family dwelling constructed as flats. As noted above, the proposed structure is not a permitted use in this residential zone. The Zoning Board must not allow these deviations from Section 376-65. The land use precedent that will be set will negatively affect the surrounding community character, and undermine the integrity of the zoning ordinance. While denser residential development is permitted in the R-15C zoning district, it is achieved in one-, two- and three-family dwelling with up to three accessory units allowed on lots wider than 75 feet. We believe the proposed layout lends itself to the illegal creation of additional units within the one-family dwellings; at a minimum, a nine-unit structure is achievable under the proposed construction style. The infrastructure capacity implications of such an increase in residential density cannot be downplayed. This unit configuration shall not be permitted.

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2 As configured, the driveway access and turnaround area is woefully deficient. At a minimum, 24 feet must be provided to allow adequate room for simultaneous ingress and egress to and from the site, and for vehicles to safely enter and exit parking spaces. We do not believe the proposed 19-foot width is sufficient for emergency vehicles to navigate around the site. The Town must not grant variances which result in unsafe conditions.

3 As noted above, 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 is seeking a 40 percent increase over the maximum permitted development coverage, as well as a 22 percent increase over the very generous maximum floor area ratio standard. Yard and setback variances ranging from 33.3 to 75 percent are also sought. Of particular concern are the deviations from Section 376-65 which we believe will lead to the illegal creation of additional accessory units. The ability of the existing infrastructure to accommodate increased residential density in oversized structures 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 proposed residential layout must not be permitted. The applicant shall redesign the structure so that the fourth section is eliminated, and one accessory apartment must be contained within each of the one-family units. This will allow for closer conformance with the R-15C bulk standards, a safer parking lot layout and the provision of recreational space.

The following comments address our additional concerns about this proposal.

4 Section 376-65.D. requires that the location of the accessory apartment may not extend beyond the footprint of the principal dwelling. As previously noted, the three accessory apartments are not located within the principal dwellings. A variance from Section 376-65.D. is required but not noted. This variance must be indicated in the application materials including the bulk table, the project narrative and the Building Department's denial letter. The public hearing notice must be reissued if it did not contain all variances required for this proposal.

5 A review must be completed by the New York State Department of Transportation, and any required permits obtained.

6 Town officials have previously expressed concern to this department about the increasing traffic congestion along the Route 306 corridor. The issue of pedestrian safety has been raised repeatedly. In direct contradiction to these concerns, the Town's Zoning Board of Appeals overrides our GML recommendations by granting variances to allow increased residential density in oversized structures such as the subject application. Land use and traffic generation are not mutually exclusive concepts. If more intense uses are permitted, additional traffic will be generated causing increased congestion on the roadway network, and putting the walking population at greater risk. The Town must consider the affect of this proposal on traffic congestion and pedestrian safety.

7 The applicant must comply with the conditions of the Rockland County Health Department's letter of December 30, 2019.

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

9 The proposed residential building must comply with all requirements of the New York State Uniform Fire Prevention and Building Code. It appears that a NYS variance is required since the four decks on the south side of the residential structure are within five feet of the property line.

10 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. The deficient driveway width will likely restrict on-site truck turning movements.

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11 The Village of Kaser is one the reasons this proposal was referred to this department for review. The municipal boundary is along the northern property line 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 county-wide 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 which is supportive of the goals and objectives of the general area.

The Village of Kaser 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 Village of Kaser must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

12 All proposed building entrances, exterior stairways and window wells 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.

13 it is unclear what the rectangular features between parking spaces 1 and 2, 3 and 4, and 4 and 5, as well as east of the handicapped parking space access aisle represent. Clarification must be provided.

14 It will be difficult for a vehicle parked in space 6 to maneuver out of the space without a turnaround area particularly given the deficient driveway width and the proximity of the dumpster enclosure. An appropriately-sized turnaround area must be provided so that vehicles can safely exit the parking space with minimal turning maneuvers.

15 It will be difficult for sanitation workers to access the dumpster enclosure in its current location. The deficient driveway width will restrict the ability of sanitation vehicles to maneuver on the site. The dumpster enclosure must be moved to a more accessible location.

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

17 The project narrative, the bulk table and the Building Department's denial letter indicate that a rear setback variance is required for the proposed decks. Since the decks are on the south side of the residential structure and within the side setback, it is unclear if it is a rear setback variance that is required, or rather a side setback variance. Clarification must be provided.

18 The proposed accessory apartments must comply with all standards contained in Section 376-65.

19 The bulk table indicates that the maximum floor area for an accessory unit is 1,200 SF. Section 376-65.C specifies that an accessory apartment can be up to 1,500 SF. The bulk table must be corrected.

20 The parcel location on the application form and the GML referral form is incorrect. The subject site is not north of Cedar Lane. The correct location must be indicated.

21 The site plan shall contain map notes that list all appropriate information, including the district details. The applicant's engineer has been reminded of this requirement, and the importance of providing these details.

22 The subject parcel shall be centered on the vicinity map.

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23 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.

24 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 Transportation
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

Anthony R. Celentano P.E.
Village of Kaser

Moses & Rachel Salamon

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.