

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

September 8, 2020

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

Tax Data: 56.14-3-13

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

Map Date: 2/22/2016

Date Review Received: 7/31/2020

Item: *PINCHES & LILLIAN FRIED/7 SOUTH REMSEN AVENUE (R-2563A)*

Variances for lot area, lot width, side setback, total side setback, street frontage, development coverage and floor area ratio to permit the construction of a two-family dwelling on .2582 acres in an R-15 zoning district.

East side of South Remsen Avenue, approximately 165 feet south of Route 59

Reason for Referral:

NYS Route 59, NYS Thruway

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 July of 2016, this department recommended that the variances sought for an earlier version of this proposal be denied. The current submission is for a larger residential structure requiring more variances of a greater magnitude. The subject site does not meet the minimum lot area standard of 15,000 SF required for the existing single-family residence. The applicant is proposing to construct a two-family residence with only 56 percent of the required lot area available. Additional non-conformities include lot width and street frontage. The proposed building will require a floor area ratio variance of 115 percent. The permitted maximum development coverage is exceeded by 20 percent. Setback variances are necessary to accommodate an oversized residential building on an undersized parcel. The surrounding neighborhood is characterized by similarly-sized parcels. Granting these bulk variances 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. Additional residents will generate more traffic on the local streets. The potential for traffic conflicts is great. While two-family residences are permitted as of right in the R-15 zoning district, they are subject to stricter bulk requirements. This site is particularly deficient in meeting these more stringent standards. The required variances shall be denied.

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2 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 substantial variances, particularly for minimum lot area and maximum floor area ratio. The ability of the existing infrastructure to accommodate increased residential density on undersized, non-conforming 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 a two-family dwelling shall not be granted.

The following comments address our additional concerns about this proposal.

3 Town officials have previously expressed concern to this department about the increasing traffic congestion along the Route 59 corridor. The issue of pedestrian safety has been raised repeatedly. In direct contradiction to these concerns, the Town's Zoning Board of Appeals (ZBA) overrides our GML recommendations by granting variances to allow increased residential density on undersized lots such as the subject site. 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 ZBA must consider these issues when evaluating variance applications.

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 shall be completed by the Rockland County Sewer District #1 and all required permits obtained.

6 The proposed residential building must comply with all requirements of the New York State Uniform Fire Prevention and Building Code.

7 It will difficult for vehicles parked in spaces 2 and 4 to maneuver out of the spots without a turnaround area. No building entrances, exterior stairways or walkways are shown on the site plan, making it difficult to assess the parking area in relation to the pedestrian movement on site, and whether there will be safety issues for the residents. These features must be illustrated on the site plan so that safety issues can be properly evaluated. A turnaround area must be provided so that vehicles do not have to back out into the roadway,

8 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

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 plan shall contain map notes that list all appropriate information, including the district details.

11 A north arrow must be provided on the site plan.

12 The subject site must be centered on the vicinity map.

13 Remsen is misspelled in the title block. This must be corrected.

14 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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15 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
New York State Thruway Authority
Rockland County Department of Health
Rockland County Sewer District #1
New York State Department of State

Pinches & Lillian Fried

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.