

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

July 28, 2020

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

Tax Data: 56.11-2-49.2

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

Map Date: 1/19/2020

Date Review Received: 7/14/2020

Item: *TZIPORA R. ENGEL/8 ORCHARD STREET (R-2195A)*

Variances for lot area, lot width, front setback, front yard, side setback, total side setback, rear setback, street frontage, development coverage, floor area ratio and deck rear setback to permit the construction of an addition to a two-family condominium on .2024 acres in an R-15A zoning district.

South side of Orchard Street, 250 feet west of Route 306

Reason for Referral:

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 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 subject site does not meet the minimum lot area standard of 20,000 SF required for a two-family residence. The applicant is proposing to demolish the existing residential building and construct a much larger two-family residence with only 44 percent of the required lot area provided. Additional non-conformities include lot width and street frontage. The maximum permitted floor area ratio is exceeded by 62.5 percent. The maximum allowable development coverage is also exceeded. Yard and setback variances are required for the oversized residential building. The ability of the existing infrastructure to accommodate noncompliant structures on undersized, nonconforming 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 building footprint must be reduced to more closely comply with the R-15A bulk standards.

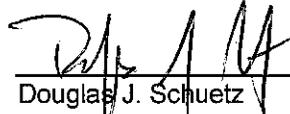
The following comments address our additional concerns about this proposal.

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- 2 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 (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 factors in its evaluation of this application.
- 3 A review must be completed by the New York State Department of Transportation, any comments or concerns addressed, and all 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 The proposed two-family residence must comply with all requirements of the New York State Uniform Fire Prevention and Building Code.
- 7 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.
- 8 Given the size of the building footprint, we believe the FAR is understated. The gross floor area must be indicated on the site plan, as well as the floor area ratio calculation.
- 9 The development coverage calculation must be provided on the site plan so its accuracy can be verified.
- 10 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.
- 11 It will be difficult for a vehicle parked in space 2 or 4 to maneuver out of the spot without a turnaround area. No building entrances, exterior stairways or walkways have been 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. A turnaround area must be provided so that vehicles do not have to back out into the roadway, and the building entrances, exterior stairways and walkways must be illustrated on the site plan so that safety issues can be properly evaluated.
- 12 The location of the dumpster or garbage enclosure area must be illustrated on the site plan. Access to the dumpster or garbage enclosure area must be unimpeded, and it must be demonstrated that its location will not impact yard requirements or parking maneuverability for the site.
- 13 The GML referral form, application and project narrative state that an addition to the existing two-family condominium is proposed. However, a new residential structure is shown on the site plan rather than an addition. The project engineer has confirmed that new construction is proposed. All application materials must be consistent. If the public hearing notice contained inaccurate information, it must be reissued.
- 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
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
New York State Department of Transportation
Anthony R. Celentano P.L.S.

Tzipora R. Engel

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.