Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

February 19, 2020

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

Tax Data: 56.16-2-15.3

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 9/24/2019 **Date Review Received:** 2/4/2020

Item: ***USHER ZELIG & FRAIDY GUTWEIN/34 OLD NYACK TURNPIKE (R-2450A)***

Variances for side setback and floor area ratio to allow the conversion of an unfinished basement to living space in an existing two-family dwelling with an accessory apartment on .2086 gross acres (.2018 net acres) in an R-15A zoning district.

North side of Old Nyack Turnpike, opposite Dykstra Way West and 100 feet east of Hammond Street

Reason for Referral:

Old Nyack Turnpike (CR 52), 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 This department issued comments on the variances required for the existing two-family dwelling with one accessory apartment on April 24, 2014. At that time, we recommended that the variances be denied. We noted that two-family residences are uses permitted by right in the R-15A zoning district subject to the bulk requirements for Use Group x.2. One accessory apartment is also permitted. The proposal required variances for 11 of the 14 bulk standards. The lot area is less than 45 percent of the minimum required for two-family residences; it does not meet the single-family residence standard. A variance of 45 percent was needed for lot width and street frontage. The development coverage and floor area ratio exceeded the permitted maximums by 36 and 87.5 percent respectively. Yard and setback variances were required ranging from 48.5 percent to 80 percent.

We pointed out that the proposed residential building also did not comply with the New York State Uniform Fire Prevention because exit stairs and ramps were within ten feet of the property line. We noted that an aerial apparatus access road will be required if the building is over 30 feet.

We cautioned the Zoning Board of Appeals that the two-family residence, as proposed, would result in an overutilization of the site as evidenced by the number and magnitude of the variances requested. We recommended that the proposal be scaled back significantly. We suggested that a smaller residential building,

not exceeding 3,600 SF, would more closely conform to the R-15A bulk standards. We also recommended that the accessory apartment be eliminated and no more than two residential units be permitted on this undersized parcel.

The applicant is now seeking to increase the degree of non-conformity by converting an unfinished basement to living space. The floor area ratio will increase to .97 requiring a variance of 143 percent. A window well is needed resulting in a further encroachment into the side setback. A 97 percent variance is required. We are opposed to the creation of approximately 1900 SF of additional living space and recommend that these variances be denied. We question whether this space will serve as a fourth residential unit. This must be clarified, as a second accessory unit is not permitted in the R-15A zoning district, and will require a use variance, as well as additional parking. These actions will be subject to a GML review by this department, as mandated by the NYS General Municipal Law.

2 It appears that a total side setback variance is also required. The addition of the proposed window well will reduce the total side setback from 25 feet to 21.7 feet. A revised ZBA application must be submitted, and referred to this department for review, as mandated under the NYS General Municipal Law.

3 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, 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. No additional variances shall be granted.

The following comments address our additional concerns about this proposal.

4 A review must be completed by the Rockland County Highway Department, any concerns addressed, and all required permits obtained.

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

6 The residential structure 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 The bulk table specifies that the five required on-site parking spaces are provided. These spots must be delineated on the site plan as the drawing reviewed by this department in 2014 has been greatly modified. There is insufficient land area for five parking spaces to be located south of the building. Given that the site fronts on a County road, adequate on-site parking must be provided so the safe and efficient flow of traffic is not negatively affected. Under no circumstances can vehicles back directly or park within the County right of way.

9 A dumpster enclosure must be shown on the site plan and easily accessible to sanitation workers. Parked vehicles must not block access.

10 A vicinity map shall be provided on the site plan. It must include a north arrow and scale.

11 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.

12 A revision table must be provided on the site plan. The revision dates shall be listed chronologically.

USHER ZELIG & FRAIDY GUTWEIN/34 OLD NYACK TURNPIKE (R-2450A)

13 Pursuant to the Rockland County Sanitary Code, Article XIII, Section 13.8.1, all multiple dwellings with three or more rental units must register and obtain a Multiple Dwelling Rental Certificate (MDRC). If this proposed multi-family dwelling meets the requirements of the Multiple Dwelling Rental Registry requirement, then the owner must register and obtain the MDRC. Failure to comply is a violation of Article XIII, which may result in penalties of $2,000 per day.

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.

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 Highways
New York State Thruway Authority
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.

Usher Zelig & Fraidy Gutwein

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.