



COUNTY OF ROCKLAND
DEPARTMENT OF PLANNING

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May 12, 2015

Wesley Hills Zoning Board of Appeals
432 Route 306
Wesley Hills, NY 10952

Tax Data: 41.18-1-45

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

Map Date: 1/20/2015

Date Review Received: 4/13/2015

Item: *NAFTALI KLEIN (Whi-135)*

Variances for side yard for a replacement carport and an existing shed on .83 acres in an R-35 zoning district. The two structures are located within a 20-foot deeded municipal drainage easement. South side of South Parker Avenue, 75 feet west of Martha Road

Reason for Referral:

Town of Ramapo, Village of Montebello

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:

****Recommend the following modifications***

1 The Town of Ramapo and the Village of Montebello are the reasons this proposal was referred to this department for review. The Ramapo municipal boundary is along the southern property line of the site; the Montebello municipal boundary is along the western 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 countywide 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 that is supportive of the goals and objectives of the general area.

The Town of Ramapo and the Village of Montebello must be given the opportunity to review the proposal and its impact on water quantity and quality, drainage and stormwater runoff. The areas

NAFTALI KLEIN (Whi-135)

of countywide concern noted above that directly impact the Town of Ramapo and the Village of Montebello must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

2 The subject site is constrained by a 20-foot wide drainage easement along its western boundary that benefits the Town of Ramapo and the Village of Wesley Hills. The easement contains a drainage pipe that will potentially require repairs or replacement. Ideally, no permanent or temporary structures shall be permitted within the drainage easement area. The carport appears to be attached to the residential structure and therefore must be considered an addition to the primary structure not an accessory structure. As such, it is subject to the same bulk standards as the primary structure in terms of maximum building coverage and minimum yard/setback requirements. Additional information must be provided about the carport structure and its connection to the primary structure. The Town and Village must be able to access the pipe within the drainage easement. While the existing shed can be easily relocated, a more permanent structure will be difficult to move. We recommend that the replacement carport be relocated out of the drainage easement. Alternatively, the feasibility of relocating the drainage easement must be explored.

3 Applications to the Zoning Board of Appeals must include a bulk table with the applicable bulk standards indicated, as well as what is proposed. Without this information, it is not possible to properly evaluate this proposal.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Mayor Marshall Katz, Wesley Hills

Anthony R. Celentano P.L.S.
Town of Ramapo, Village of Montebello

Naftali Klein

**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.