

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

October 17, 2016

Clarkstown Zoning Board of Appeals
10 Maple Avenue
New City, NY 10956

Tax Data: 42.20-3-49

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 5/2/2016

Date Review Received: 9/22/2016

Item: *JERICK ALCANTARA (C-3570)*

Variations to permit the construction of several additions (a two-story addition that includes a garage expansion, a one-story addition with a proposed deck and masonry patio, the enlargement of a portico, a proposed cabana, and new pavers) to an existing dwelling located on .54 acres in the R-15 zoning district. Required variations include: side yard, total side yard, maximum building coverage, and maximum lot coverage.

North side of Grand Street, opposite Carrie Drive, and approximately 253 feet west of Badger Street

Reason for Referral:

West Clarkstown Road (CR 35A)

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 A review must be completed by the County of Rockland Department of Highways and any concerns addressed and required permits obtained.
- 2 The comment in the September 22, 2016 letter from the Rockland County Department of Health must be addressed.

JERICK ALCANTARA (C-3570)

3 We caution the town to consider the cumulative impact of permitting such development and the land use precedent that will be set. This neighborhood is characterized by similar lot sizes and residential structures. The applicant is seeking yard deficiencies of 59.5% for the side yard, and 29.75% for the total side yard, as well as variances for maximum building coverage that is 21.74% greater than permitted, and a lot coverage that is exceeded by 17.39%. While the granting of these variances may not have an impact on West Clarkstown Road, a County highway and our reason for purview, it may set a precedent for other property owners within close proximity to also request similar variances, and thereby change the character of the neighborhood. The Town of Clarkstown should evaluate this proposal in context to the surrounding community, and the precedent that could be set, as well as study whether the existing infrastructure can accommodate the cumulative increased runoff if other properties also request building and lot coverage variances.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor George Hoehmann, Clarkstown
Rockland County Department of Highways
Rockland County Department of Health
Robert E. Sorace, PLS

Clarkstown Planning Board, Attention Joe Simoes

**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.