

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

April 28, 2016

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

Tax Data: 45.18-1-3

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 3/17/2016

Date Review Received: 4/5/2016

Item: *MAYNOR NACLERIO (C-3560)*

Variances for less than the required side yard and rear yard, and greater than permitted floor area ratio, to permit the demolition of an existing dwelling, and the construction of a new single-family dwelling located on .155 acres in the R-15 zoning district.

East side of Collyer Avenue, approximately 762 feet northeast of Landing Road

Reason for Referral:

Rockland Lake Road (CR 80), Rockland Lake State Park, Hook Mountain State Park, Long Path

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 conditions and comments in the April 19, 2016 letter from the Palisades Interstate Park Commission must be met. All required permits must be obtained prior to any demolition or construction on the property.
- 2 A review must be completed by the County of Rockland Department of Highways and all required permits obtained.
- 3 A review must be completed by the County of Rockland Department of Health. As indicated in General Note #20, the existing well must be properly decommissioned prior to its removal. The Rockland County Department of Health must be notified of the intent to decommission the well, and monitor the process to ensure that it is done in compliance with the specifications of Article II of the Rockland County Sanitary Code. All required permits must be obtained from them.

MAYNOR NACLERIO (C-3560)

4 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 an oversized residential structure on an undersized parcel must be evaluated. The applicant is proposing a dwelling that exceeds the maximum floor area ratio by over 130%. The size of the proposed residence must be reduced so as to eliminate any negative impacts to the adjacent State parkland or County road.

5 The proposed dwelling is located within the view shed of the Long Path, a regional hiking trail that traverses from the west end of the George Washington Bridge to the Adirondack State Park. A review must be completed by the New York - New Jersey Trail Conference and any concerns addressed.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor George Hoehmann, Clarkstown
Palisades Interstate Park Commission
Rockland County Department of Highways
Rockland County Department of Health
New York - New Jersey Trail Conference
Sparaco & Youngblood, PLLC

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.