



Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING

Dr. Robert L. Yeager Health Center

50 Sanatorium Road, Building T

Pomona, New York 10970

Phone: (845) 364-3434 Fax: (845) 364-3435

Douglas J. Schuetz

Acting Commissioner

Arlene R. Miller

Deputy Commissioner

October 8, 2019

Clarkstown Zoning Board of Appeals

10 Maple Avenue

New City, NY 10956

Tax Data: 34.19-2-20

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

Map Date: 8/6/2019

Date Review Received: 9/20/2019

Item: *MICHAEL STEWART/70 OLD ROUTE 304 (C-1029A)*

Variances for lot area to permit the subdivision of a 1.3 acre lot into two lots in the R-40 zoning district. The lot area variance is required for both lots.

Southwest corner of Old Route 304 and Christie Drive

Reason for Referral:

Old Route 304 (CR 29)

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 The narrative from the Law Firm of Kenneth Moran states that the reason the lot area variances should be granted is because the proposed lots are similar in size to the existing lots in the neighborhood. While the lots located on Almuth Drive and Meyer Lane are smaller in size than the two proposed lots, they are located within the R-15 zoning district, not the R-40 zoning district. The remaining surrounding lots are within the R-40 zoning district, and range in size from approximately a half-acre to $\frac{3}{4}$ -acre. However, these parcels were part of subdivisions that were designed using average density, and which preserved large tracts of land (6 to 7 acres) as neighborhood open space and parkland, with access points located throughout the area. Comparison therefore of the lot size in the neighborhood is not justified, as average density subdivisions permit lower lot sizes in exchange for land preservation. The subdivision must not be granted.

MICHAEL STEWART/70 OLD ROUTE 304 (C-1029A)

2 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 proposed lots are both almost 29 percent deficient in meeting the bulk requirements. The ability of the existing infrastructure to accommodate increased residential development on undersized 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 following comments address our additional concerns about the proposal:

3 The applicant must comply with the conditions of the Rockland County Highway Department in their letter of October 3, 2019.

4 A review must be completed by the County of Rockland Department of Health, any comment or concerns addressed, and any required permits obtained.

5 A review must be completed by the County of Rockland Sewer District No. 1, any comments or concerns addressed, and all required permits obtained.

6 As required by the Rockland County Stream Control Act, the subdivision plan must be reviewed and signed by the Chairman of the Rockland County Drainage Agency before the County Clerk can accept the plan to be filed.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor George Hoehmann, Clarkstown
Rockland County Department of Health
Rockland County Department of Highways
Rockland County Sewer District #1
Rockland County Drainage Agency

Paul Gdanski P.E., PLLC
Kenneth Moran, Esq.

Clarkstown Planning Board, Attention Joe Simoes
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.