

**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 Miller**  
*Deputy Commissioner*

June 25, 2020

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

**Tax Data:** 53.13-2-16

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

**Map Date:** 11/26/2019

**Date Review Received:** 6/10/2020

**Item:** *JILK PROPERTIES, LLC (C-3655)*

Variations to permit the construction of a two-family dwelling located on 0.23 acres in the MF-1 zoning district. The variations required include lot area, lot width, side yard, rear yard, building coverage, lot coverage, and floor area ratio. Additional variations from Section 280-a of NYS Town Law (buildings not on improved mapped streets) and Sections 290-20.F(2) (number of units per acre), 290-20.F(11)f (open parking area/driveway closer than 20 feet to a building or lot line), and 290-20.I(7) (no access to a state or county major or secondary road) of the Clarkstown Zoning Code are required.

South side of High Street, approximately 413 feet east of U.S. Route 9W

**Reason for Referral:**

U.S. Route 9W, Rockland Lake State Park

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 subject site does not meet the minimum lot area standard of 40,000 square feet required for a residence in the MF-1 zoning district, providing only a quarter of the lot area required. The lot itself is non-conforming for width, as well. The proposed two-family residence will require substantial yard variations to accommodate an oversized residential building on an undersized parcel. A doubling of the residential density in this neighborhood will negatively impact its community character and infrastructure capacity. Additional residents will generate more traffic on the local streets, leading to congestion and traffic conflicts. While two-family residences are permitted as of right in the MF-1 zoning district, this site is particularly deficient in accommodating a dwelling of the size proposed and, therefore, cannot meet the standards required for the district. We recommend that the required variations be denied, and that only a single-family residence be permitted.

**JILK PROPERTIES, LLC (C-3655)**

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 lot area is deficient by 75%. The lot width is only two-thirds of the required minimum. The side yard and rear yard are deficient by 60% and 30%, respectively. The building coverage and lot coverage exceed the permitted maximum by 45% and 11%, respectively. The floor area ratio exceed the maximum by 44%. Additionally, two 3-bedroom units are proposed, requiring a density of four units per acre and a land area of 10,750 SF per unit. As mentioned above, only 10,000 SF is provided for the total lot. To comply with a lot of this size, only a density of 0.92 units per acre can be achieved. The ability of the existing infrastructure to accommodate increased residential density 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. As stated above, the variances should be denied, and only a single-family residence be permitted.

3 The proposed measurements for the two-family dwelling must be clarified. The site plan indicates a front yard depth of 25 feet and a rear yard depth of 35 feet. The Building Permit Application specifies a proposed front yard depth of 30 feet and a rear yard depth of 30 feet. Similarly, the site plan indicates a floor area ratio of 0.72 and a lot coverage of 36.74%, whereas the Building Permit Application states the floor area ratio will be 0.46 and the lot coverage will be 34.43%. Depending on which measurements are correct, the number and extent of the variances being sought might be altered.

4 The bulk table on the site plan indicates the lot area and lot width are existing non-conforming conditions. Pre-existing, non-conforming bulk only applies to existing buildings. As this is new construction, variances will be required for these two standards.

The following comments address our additional concerns about the proposal:

5 A review must be completed by the New York State Department of Transportation, any comments or concerns addressed, and any required permits obtained.

6 A review must be completed by the Palisades Interstate Park Commission, and any raised concerns addressed.

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

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

9 The Cover Page and Zoning Board of Appeals Application indicate a tax parcel ID of 53.13-3-16. This shall be corrected to 53.13-2-16. If the public hearing notice was issued with the incorrect parcel information, it must be corrected and reissued.

10 Map Note #8 indicates United Water is the water supplier for the site. This should be updated to Suez.

11 We request the opportunity to review any additional or altered variances that may be needed to implement the proposed site plan, as required by New York State General Municipal Law, Section 239-m (3)(a)(v).

  
\_\_\_\_\_  
Douglas J. Schuetz  
Acting Commissioner of Planning

cc: Supervisor George Hoehmann, Clarkstown  
New York State Department of Transportation  
Palisades Interstate Park Commission  
Rockland County Department of Health

**JILK PROPERTIES, LLC (C-3655)**

Rockland County Sewer District #1

Brooker Engineering, PLLC

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.*