

**DEPARTMENT OF PLANNING**  
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**Douglas J. Schuetz**  
*Acting Commissioner*

**Arlene R. Miller**  
*Deputy Commissioner*

July 22, 2020

Clarkstown Planning Board  
10 Maple Avenue  
New City, NY 10956

**Tax Data:** 50.12-1-26.2

50.12-1-4

50.12-1-3

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

**Map Date:** 6/10/2020

**Date Review Received:** 7/13/2020

**Item:** *L'DOR (C-3546C)*

Site plan and special permit for the construction of a 41,254 SF assisted living facility located on 9.78 acres in the R-15 zoning district. The building will contain 39 two-bedroom units and one one-bedroom unit. The existing building will be demolished and three lots are to be merged. Variances will be required for side buffers.

 West side of West Clarkstown Road, approximately 245 feet north of West Burda Place

**Reason for Referral:**

West Clarkstown Road (CR 35A), Town of Ramapo, Village of New Square

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 Special permit uses are, by definition, subject to a higher standard of review than as-of-right uses. In addition to complying with the bulk requirements of the zone in which they are proposed, they must meet the special permit standards outlined in Section 290-170(A).
- 2 A review must be completed by the County of Rockland Department of Highways, any concerns addressed, and all required permits obtained.
- 3 A review must be completed by the County of Rockland Department of Health, any comment or concerns addressed, and any required permits obtained.
- 4 A review must be completed by the County of Rockland Sewer District No. 1, any comments or concerns addressed, and all required permits obtained.

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5 The Town of Ramapo and Village of New Square are two of the reasons this proposal was referred to this department for review. The municipal boundary of Ramapo is approximately 39 feet west of the site. The municipal boundary of New Square is approximately 430 feet northwest 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 county-wide 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 which is supportive of the goals and objectives of the general area.

The Town of Ramapo and Village of New Square must be given the opportunity to review the proposal and its impact on community character, traffic, water quantity and quality, drainage, stormwater runoff and sanitary sewer service. The areas of countywide concern noted above that directly impact the Town of Ramapo and Village of New Square must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

6 The proposed assisted living facility must comply with all requirements of the New York State Uniform Fire Prevention and Building Code.

7 A review must be completed by the Rockland County Office of Fire and Emergency Services, the Town of Clarkstown Fire Inspector, or the Moleston Fire Department to ensure that there is sufficient maneuverability on site for fire trucks, in the event an emergency arises.

8 If there is any encroachment into the Federal wetlands, a review must be completed by the United States Army Corps of Engineers and all required permits obtained.

9 As per Section 290-20l(4), buffer areas of 75 feet are required for all special permit uses within the R-15 zoning district. Currently, variances are required for side yard buffers to the roadway on the northern and southern sides and to the reserve parking on the northern side. The Planning Board may reduce this buffer to no less than the required yard dimensions. In the case of this proposal, the side yard buffer may be reduced to 50 feet. The applicant is requesting a reduction to 55 feet for the northern side yard buffer to the building and 63 feet for the southern side yard buffer to the building. The Board must decide whether these buffers may be reduced, or if variances will be required for these requirements as well. We request the opportunity to review any variances necessary, as required by New York State General Municipal Law.

10 A conservation easement should be established over the large portion of the lot that is within the federal wetlands. This will help to preserve the environmentally sensitive area in its natural state.

11 Prior to the start of construction or grading, all soil and erosion control measures must be in place for the site. These measures must meet the latest edition (November 2016) of the New York State Standards for Urban Erosion and Sediment Control.

12 There shall be no net increase in the peak rate of discharge from the site at all design points.

13 Areas that are to be disturbed must be delineated in the field prior to grading or construction, especially given the proximity of the sitting area to the wetlands.

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- 14 The applicant is proposing to land bank nine parking spaces along the entrance roadway, east of the main parking area. A sidewalk is proposed along the roadway, between the roadway and the reserved spaces. If those spaces are needed in the future, the placement of the sidewalk in relation to the spaces may create hazardous conditions to pedestrians using the sidewalk. Either a new location for the sidewalk should be proposed, or the reserved parking spaces should be relocated to reduce the risk of hazard to pedestrians.
- 15 A crosswalk should be provided, and shown on the site plan, from the walkway along the western side of the building to the recreation and sitting area located to the northwest of the building. In addition, the walkways along the eastern and western sides of the building should be connected.
- 16 Since this is an assisted living facility, TRIPS paratransit vehicles will likely be serving the residents of the site. The planning board must be assured that the design of the inner roadway can accommodate these vehicles and that there is sufficient room for a pick-up/drop-off area. In addition, a review must be completed by the Rockland County Department of Public Transportation so that they can evaluate the site in relation to the needs of providing their service.
- 17 The phasing plan only shows the southern portion of the site within the construction zone, including a portion of the new driveway. The whole construction site must be shown so that all components of the phasing plan are illustrated, especially since the northern access is to be phased. In addition, the Phasing Plan is not clear on what is to occur and when. Components should be highlighted and/or labeled for each phase, similar to what has been done on the Preliminary Soil Erosion & Sediment Control Construction Phasing Plan.
- 18 A Garbage Truck Turning Radius Plan should be done to ensure sufficient maneuverability for access to the dumpster.
- 19 The Planting Plan shows trees are to be planted along the western edge of the pavement. However, this appears to block access to the snow storage area proposed just south of the recreation and sitting area. It must be demonstrated that this snow storage area is still accessible, or the area should be moved to a new area that is unimpeded.
- 20 The site plan indicates the lot lines between several parcels will be disclaimed. Once the application has been approved, a filed map cannot be used to convey property, nor can the tax maps be updated with the lot changes, until the deeds are filed with the County Clerk, conveying the portions of the lots that are required to achieve the lot configuration indicated on the subdivision map. The applicant and the Town must make sure that the deeds are properly filed with the Rockland County Clerk to ensure that the tax maps are properly updated.
- 21 All proposed signage must be shown on the site plan, and conform to all Town requirements.
- 22 Water is a scarce resource in Rockland County; thus proper planning and phasing of this project are critical to supplying the current and future residents of the Villages, Towns, and County with an adequate supply of water. A letter from the public water supplier, stamped and signed by a NYS licensed professional engineer, shall be issued to the municipality, certifying that there will be a sufficient water supply during peak demand periods and in a drought situation.
- 23 If any public water supply improvements are required, engineering plans and specifications for these improvements shall be reviewed by the Rockland County Department of Health prior to construction. In order to complete an application for approval of plans for public water supply improvements, the water supplier must supply an engineer's report pursuant to the "Recommended Standards for Water Works, 2003 Edition," that certifies their ability to serve the proposed project while meeting the criteria contained within the Recommended Standards for Water Works. These standards are adopted in their entirety in 10 NYCRR, Subpart 5-1, the New York State regulations governing public water systems. Further, both the application and supporting engineer's report must be signed and stamped by a NYS licensed professional engineer and shall be accompanied by a completed NYS Department of Health Form 348, which must be signed by the public water supplier.

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24 Public sewer mains requiring extensions within a right-of-way or an easement shall be reviewed and approved by the Rockland County Department of Health prior to construction.



Douglas J. Schuetz  
Acting Commissioner of Planning

cc: Supervisor George Hoehmann, Clarkstown  
Rockland County Department of Health  
Rockland County Department of Highways  
Rockland County Office of Fire and Emergency Services  
Rockland County Sewer District #1  
Moleston Fire District  
United States Army Corps of Engineers  
Rockland County Department of Public Transportation  
  
Atzl, Nasher & Zigler P.C.  
Town of Ramapo  
Village of New Square

*\*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.*