



Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING

Dr. Robert L. Yeager Health Center

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Pomona, New York 10970

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Douglas J. Schuetz

Acting Commissioner

Arlene R. Miller

Deputy Commissioner

January 23, 2020

Clarkstown Zoning Board of Appeals

10 Maple Avenue

New City, NY 10956

Tax Data: 50.12-1-6.2

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

Map Date: 5/31/2019

Date Review Received: 1/9/2020

Item: *MANUEL MIZHIRUMBAY (C-1943B)*

Variances to permit the addition of two bedrooms and a family room, expand the single-car garage to a two-car garage, and legalize the second floor addition and covered porch. The parcel is located on 0.789 acres in the R-15 zoning district. The variances requested include side yard, total side yard, lot coverage, and the expansion of a non-conforming use.

West side of West Clarkstown Road, approximately 55 feet northeast of West Burda Place

Reason for Referral:

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

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 applicant must comply with the comments made by the Rockland County Highway Department in their letter of October 29, 2019.
- 2 As per their letter of November 13, 2019, should the Board require a stormwater management system to remediate the increase in impervious surface, an application is to be made to the Rockland County Department of Health to ensure compliance with the County Mosquito Control.
- 3 The Town of Ramapo is one of the reasons this proposal was referred to this department for review. The municipal boundary is approximately 235 feet west of the site. As required under Section 239nn of the State General Municipal Law, the Town of Ramapo must be given the opportunity to review the proposed variances and provide any concerns related to the project to the Town of Clarkstown.
- 4 The applicant must comply with the comments made by the Rockland County Sewer District No. 1 in their letter of November 7, 2019.

MANUEL MIZHIRUMBAY (C-1943B)

- 5 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 side yard is 75% deficient in meeting the bulk requirements and the total side yard is 72% deficient. In addition, the proposed lot coverage exceeds the permitted standard by 31%. The ability of the existing infrastructure to accommodate increased 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 precedent that will be set by permitting the expansion of a non-conforming use. In addition, the Town must consider the cumulative and regional impacts of permitting such development.
- 6 The letter from the Deputy Building Inspector, dated October 9, 2019, only lists the need for side yard setback and lot coverage variances. It does not include the total side yard setback variance. If the public hearing notice was issued without all necessary variances, it must be reissued with the correct information.
- 7 The site plan shall include map notes that list all appropriate information, including the district details.
- 8 A vicinity map that contains a north arrow and scale must be provided.



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

Atzl, Nasher & Zigler P.C.
Town of Ramapo
George Hodosh Associates - Architects, P.C.

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.