



Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

January 14, 2020

Clarkstown Planning Board
10 Maple Avenue
New City, NY 10956

Tax Data: 65.11-3-28

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 N

Map Date: 12/4/2019

Date Review Received: 12/20/2019

Item: **WOODFORD SUBDIVISION (C-1516A)**

Two-lot subdivision of 0.3 acres in the R-10 zoning district. Lot 1 is proposed to be 4,341 SF and will require lot area and rear yard variances. Lot 2 is proposed to be 8,808 SF and will require a lot area variance.

South side of Willow Avenue, north side of Gillis Avenue, approximately 535 feet east of West Broadway

Reason for Referral:

Sean Hunter Ryan Memorial Park, Long Path Hiking Trail

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 existing lot is 13,149 SF, which is only 24% greater than the 10,000 SF permitted. Therefore, any subdivision of the lot will result in the creation of at least one non-conforming lot. This application proposes to create two non-conforming lots with one of them being 57% deficient for lot area. The surrounding neighborhood is characterized by similarly-sized parcels. Granting this subdivision will set a precedent that may result in nearby property owners seeking the same relief. A doubling of the residential density in this neighborhood through the creation of non-conforming parcels will negatively impact its community character, infrastructure capacity, and undermine the intent of the zoning district. Additional residents will generate more traffic on the local streets, leading to congestion and traffic conflicts. We recommend that the subdivision be denied.

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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 will be 57% deficient for Lot 1 and 12% deficient for Lot 2. The rear yard is also only 67% of the required minimum for Lot 1. 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 subdivision must be denied.

The following comments address our additional concerns about the proposal:

3 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.

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 Division of Environmental Resources and any concerns addressed.

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

7 A review must be completed by the New York - New Jersey Trail Conference and any concerns addressed.

8 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.

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

10 The project description on the Request for Report and Recommendations form states a 13,149 SF and a 4,341 SF lot will be created. The total SF of the two lots together is 13,149 SF. The description shall be updated to reflect the 8,808 SF for the former lot, as shown on the bulk table, so that all materials remain consistent.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor George Hoehmann, Clarkstown
New York - New Jersey Trail Conference
Rockland County Department of Health
Rockland County Division of Environmental Resources
Rockland County Drainage Agency
Rockland County Sewer District #1

Atzl, Nasher & Zigler P.C.

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.*

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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.