

**DEPARTMENT OF PLANNING**

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**Douglas J. Schuetz**  
*Acting Commissioner*

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

May 4, 2016

New Hempstead Zoning Board of Appeals  
108 Old Schoolhouse Road  
New City, NY 10956

**Tax Data:** 50.09-1-14

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

**Map Date:** 2/5/2016

**Date Review Received:** 4/12/2016

**Item:** *LANDMARKS BY KLEIN (NH-103A)*

Variations for lot area, street frontage, lot width, side yard, total side yards, and maximum impervious surface to permit a two-lot subdivision of .71 acres in the 2R-15 zoning district. A single-family dwelling is proposed on each lot.

West side of Union Road, opposite Naomi Lane

**Reason for Referral:**

Viola Road

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 Information provided with this application indicates that the variations currently being sought had been granted, and that a re-approval is being sought. No specific information, such as the Zoning Board of Appeals case number or the date that the variations were granted, was provided. The last time that we reviewed an application for variations for the subject site was in December 2008. This review was for a three lot subdivision in which variations were required for lot area, lot frontage, lot width, and front yard. We have never reviewed variations for a two-lot subdivision configuration.

In our December 16, 2008 review, one of our comments was to refer the subdivision application to the County Planning Department, as required under Section 239-n of the General Municipal Law. We never reviewed that subdivision, nor have we been given the opportunity to review the two-lot subdivision associated with these variations. The subdivision plat must be submitted for our review and comments, and the information provided regarding the previous variance approval.

**LANDMARKS BY KLEIN (NH-103A)**

2 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.

3 A review must be done by the Rockland County Department of Health to ensure compliance with the Rockland County Sanitary Code, Article XIX, Mosquito Control.

4 Since the site is within 500 feet of a County highway, a review must be completed by the County of Rockland Department of Highways and all required permits obtained.

5 A review must be completed by the County of Rockland Sewer District #1 and all required permits obtained.

6 We caution the Village in granting these variances for the proposed subdivision and creation of two undersized lots. Similar lots are located further north along Union Road. Granting of these variances for the creation of undersized lots could set a precedent, resulting in other property owners to subdivide their lots that are slightly larger than the required 15,000 sq. ft., which can lead to a change in the character of the neighborhood.



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Douglas J. Schuetz  
Acting Commissioner of Planning

cc: Mayor Fred Brinn, New Hempstead  
Rockland County Department of Highways  
Rockland County Department of Health  
Rockland County Sewer District #1  
Rockland County Drainage Agency  
  
Anthony R. Celentano P.E.

*\*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.*