



**COUNTY OF ROCKLAND**  
**DEPARTMENT OF PLANNING**

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County Executive

THOMAS B. VANDERBEEK, P.E.  
Commissioner

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Deputy Commissioner

April 20, 2012

New Square Zoning Board of Appeals  
766 North Main Street  
Spring Valley, NY 10977

**Tax Data:** 50.07-2-15.6

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

**Map Date:** 3/14/2012

**Date Review Received:** 3/19/2012

**Item:** *TRUMAN AVENUE PHASE 2 (NS-6L)*

Lot area variances for proposed Lots 4, 5, 9, 10, 11 and 15 to allow a 16-lot subdivision of 4.5895 acres in a C-2 zoning district. Front yard, side yard, rear yard and parking variances are required for the multi-family dwellings proposed on 15 of the 16 lots.

East side of Osterh Boulevard, south side of Roosevelt Avenue

**Reason for Referral:**

Towns of Clarkstown and 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 In our February 7, 2012 General Municipal Law review of this proposal, we noted that insufficient information was provided to evaluate the site plan. The current application includes a March 16, 2012 letter from the project engineer to the Village Clerk. The letter addresses municipal and agency comments received in response to the December 12, 2011 set of drawings. This letter states, "The applicant is subdividing this property with the intent to sell lots only, so the unit count for each individual lot is unknown at this time." It further states that "the driveways and buildings shown are conceptual" and "it is unknown at this time what height the future buildings will be."

The Layout Plan (Drawing Number 2) shows proposed multi-family dwellings on 15 of the 16 lots. Each residential building extends beyond the allowable building envelope. The bulk table for these conceptual residences indicates that lot area variances are required for six lots, and front yard, side yard, rear yard and parking variances are required for all of the residential buildings.

Additional information must be provided about the proposed multi-family residences and the variances required in order for this department to assess the impact of this proposal on the

## **TRUMAN AVENUE PHASE 2 (NS-6L)**

adjacent Towns of Clarkstown and Ramapo.

2 The Towns of Clarkstown and Ramapo are the reasons this proposal was referred to this department for review. The municipal boundary for the Town of Clarkstown is immediately adjacent to the eastern property line of the site. The municipal boundary for the Town of Ramapo is 175 feet south of the parcel. 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 countywide 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 recently enacted to encourage the coordination of land use development and regulation among adjacent municipalities, and as a result development occurs in a manner that is supportive of the goals and objectives of the general area.

The applicant must address the issues raised in the Town of Clarkstown's letter dated April 6, 2012. In addition, the Towns of Clarkstown and Ramapo must be provided with all of the information necessary to do a thorough evaluation of the proposal, and be given the opportunity to review the proposed subdivision and future site plans for their 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 Towns of Clarkstown and Ramapo must be considered and satisfactorily addressed, as well as any additional concerns about the variances required for this proposal.

3 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 ability of the existing infrastructure to accommodate this increased residential density 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 Village must consider the cumulative and regional impacts of permitting such development.

4 Lot area variances are required for six of the 16 proposed lots. The conceptual multi-family dwellings depicted on 15 of the lots will each require variances for front yard, side yard, rear yard and parking. The future multi-family dwellings must be scaled back to more closely conform to the C-2 bulk standards.

5 The future multi-family residential buildings must comply with all requirements of the New York State Uniform Fire Prevention and Building Code.

6 A review must be completed by the County of Rockland Office of Fire and Emergency Services, the fire inspector and the Moleston Fire District to ensure that there is sufficient maneuverability on-site and at each multi-family residence for emergency vehicles.

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7 The site plan indicates in several locations that the separation distance between multi-family buildings is 20 feet. The 2010 Fire Code of the State of New York requires a fire apparatus access road in the immediate vicinity of any portion of a building more than 30 feet in height. Said road shall have a minimum unobstructed width of 26 feet and shall be within 15 to 30 feet from the building. The site plan does not meet these requirements. The Department cannot and will not support waivers or variations from any New York State health and safety codes. The site plan shall be modified to comply with the current edition of the Fire Code of New York State.

8 The bulk table incorrectly indicates that a lot area variance is required for Lot 8. The proposed lot area of 15,523 SF exceeds the minimum lot area requirement of 8,000 SF. The bulk table must be corrected.

9 We reserve the right to review the future site plans for the individual lots, as well as any required variances.



Thomas B. Vanderbeek, P.E.  
Commissioner of Planning

cc: Mayor Mates Friesel, New Square  
Rockland County Department of Health  
Rockland County Drainage Agency  
Rockland County Sewer District #1  
Rockland County Office of Fire and Emergency Services  
Rockland County Planning Board  
Brooker Engineering, PLLC  
Towns of Clarkstown and Ramapo  
Moleston Fire District  
New York State Department of State,  
Division of Code Enforcement and Administration  
45 Bypass Corporation

*\*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.*