

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

June 17, 2016

New Square Zoning Board of Appeals
37 Reagan Road
New Square, NY 10977

Tax Data: 50.07-2-15.60¹

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

Map Date: 5/5/2016

Date Review Received: 5/23/2016

Item: *GORDEN BROTHERS (NS-6Q)*

Variations for front yard (Ostilla Avenue, Osterh Boulevard and Roosevelt Avenue), front yard deck (Ostilla Avenue, Osterh Boulevard and Roosevelt Avenue) and side yard to permit the construction, maintenance and use of a three-story, seven-family multiple dwelling on .259 acres in an R-2 zoning district.

West side of Ostilla Avenue, south side of Roosevelt Avenue and east side of Osterh Boulevard

Reason for Referral:

Town of Clarkstown

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 Town of Clarkstown is the reason this proposal was referred to this department for review. The municipal boundary is approximately 425 feet east 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 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 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 satisfactorily address the concerns raised in the Town of Clarkstown Planning

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Board's letter of May 26, 2016 as they relate to infrastructure capacity, traffic congestion, water supply and fire safety.

2 Several of the bulk requirements indicated on the bulk table differ from the Table of Bulk Requirements contained in the Zoning Code. The standards for lot area, lot width, front yard, side yard, rear yard, number of stories and parking must be clarified.

3 The proposed parking spaces are eight feet wide and 19 feet long. Article I of the Zoning Code specifies that parking spaces must be 22 feet long. Therefore, an additional variance is required. The on-site parking requirement, as indicated in the Table of Bulk Requirements contained in the Zoning Code, is 1.5 spaces per unit. By our calculation, 11 spaces are required for this proposal so a parking variance is also needed. The public hearing notice will have to be reissued if it did not contain all required variances.

4 Vehicles parked in the proposed eight spaces will have to exit directly onto Ostilla Avenue and Osterh Boulevard because they are within a few feet or directly on the lot line. This is not ideal and another indication that this proposal will result in an overutilization of the site. The building footprint and number of units must be reduced so that the required on-site parking can be safely configured.

5 While the Village of New Square does not include a bulk standard for maximum development coverage in its Zoning Code, it is evident that this proposal will result in most of the lot area being covered with impervious material. The building footprint is more than 6,000 SF. The parking spaces account for more than 1,200 SF. Walkways are not depicted on the site plan so it is not possible to evaluate their affect on the total impervious surface area. As noted above, we believe that the footprint of the proposed residential building and the number of units must be reduced to more closely conform to the R-2 bulk standards. This will also allow for on-site amenities such as landscaping, recreational space and seating areas.

6 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 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.

7 The applicant must comply with the conditions of the Rockland County Sewer District No. 1's letter of May 23, 2016.

8 The applicant must comply with the conditions of the Rockland County Health Department's letter of May 20, 2016.

9 The proposed residential building must comply with all requirements of the New York State Uniform Fire Prevention and Building Code.

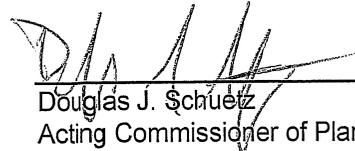
10 A review must be completed by the County of Rockland Office of Fire and Emergency Services, the Village fire inspector, or the Moleston Fire District to ensure that there is sufficient maneuverability on site for emergency vehicles.

11 It will be difficult for sanitation workers to access the refuse enclosure if a vehicle is parked in space 1. The refuse enclosure must be moved to a more accessible location.

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12 Any additional variances required for this proposal are subject to a review by this Department, as mandated by the New York State General Municipal Law.

13 The site plan submitted with this application is deficient in that it does not include an engineer's stamp or seal, map notes or a vicinity map. A complete site plan must accompany the ZBA application materials.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Mayor Israel Spitzer, New Square
Rockland County Department of Health
Rockland County Sewer District #1
New York State Department of State,
Division of Code Enforcement & Administration
Rockland County Office of Fire and Emergency Services
Moleston Fire District

Anthony R. Celentano P.L.S.
Town of Clarkstown

Yossi Berger

**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.

