

**DEPARTMENT OF PLANNING**

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

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

October 27, 2016

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

**Tax Data:** 50.07-2-15.604

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

**Map Date:** 9/22/2016

**Date Review Received:** 10/6/2016

**Item:** *ISRAEL HOME (NS-6T)*

Variances for lot area, front yard (deck), side yard, side yard clear, rear yard and rear yard (deck) to allow the construction, maintenance and use of a two-family residence on .16 acres in a C-2 zoning district.

West side of Ostilla Avenue, approximately 345 feet south of Roosevelt Avenue.

**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 300 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 Town of Clarkstown must be given the opportunity to review the proposal and its impact on community character, traffic, water quantity and quality, drainage, stormwater runoff and sanitary

**ISRAEL HOME (NS-6T)**

sewer service. The areas of countywide concern noted above that directly impact the Town of Clarkstown must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

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 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 Village must consider the cumulative and regional impacts of permitting such development.

3 The proposed residential building must comply with all requirements of the New York State Uniform Fire Prevention and Building Code. As shown, the proposed residential building will require a variance from the New York State Uniform Fire Prevention and Building Code since it is within ten feet of the property line. In addition, since no specific building height has been provided, it cannot be determined if the building is greater than 30 feet to the eaves, which would require an aerial apparatus road. This information must be provided

4 A review must be completed by the Rockland County Office of Fire and Emergency Services, the Village of New Square Fire Inspector, or the Moleston Fire Department to ensure that there is sufficient maneuverability on site for fire trucks, in the event an emergency arises.

5 A parking calculation must be provided. It appears that a garage is proposed but it is unclear how many on-site parking spaces are required or provided. The bulk table specifies that one space is required, as well as provided. Our reading of the Table of Bulk Regulations indicates that at least three on-site parking spaces are required. This must be clarified. The public hearing notice will have to be reissued if a parking variance is required.

6 All proposed walkways, entrances and deck stairs must be delineated on the site plan demonstrating that they will not impact yard requirements, pedestrian movement or parking maneuverability on the site.

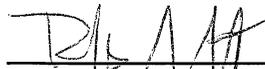
7 The site plan shall contain map notes that list all appropriate information, including the district details.

8 A vicinity map with a scale and north arrow must be provided.

9 The bulk table specifies an R-2 zoning designation; the application form indicates that the site is in a C-2 zoning district. All application materials must be consistent. The applicable zoning designation must be clarified.

10 The format of the bulk table is irregular. Ideally, it should follow the format of the Table of Bulk Regulations contained in the Zoning Law.

11 The map must include an engineer's stamp or seal.

  
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Douglas J. Schuetz  
Acting Commissioner of Planning

cc: Mayor Israel Spitzer, New Square  
Rockland County Department of Health  
Rockland County Sewer District #1

## **ISRAEL HOME (NS-6T)**

Rockland County Drainage Agency  
New York State Department of State  
Rockland County Office of Fire and Emergency Services  
Moleston Fire District

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

Yehuda Y. Israel

*\*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.*

