

**DEPARTMENT OF PLANNING**

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

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

November 1, 2016

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

**Tax Data:** 42.19-3-57 42.19-2-7

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

**Map Date:** 9/29/2016

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

**Item:** *POLNOYA SUBDIVISION (NS-12B)*

Variations to allow an 18-lot subdivision of 1.3364 acres in the LDR zoning district, and the construction, maintenance and use of an attached two-family residence on each lot. A lot area and side yard variance is required for every parcel. Lots 1 through 17 require lot width variances. Floor area ratio variances are needed for Lots 2 through 17.

West side of Polnoya Road, approximately 300 feet north of Mezritch Road

**Reason for Referral:**

Town of 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:

***\*Disapprove***

The combined lot area of the subject parcels is 58,211.95 SF. The minimum lot area requirement for single-family, two-family and multi-family residences in the LDR zoning district is 8,400 SF. Therefore, this assemblage can yield six conforming lots. The applicant is proposing an 18-lot subdivision - a threefold, or 200 percent increase over the maximum permitted lot count. Lot area variances ranging from 29.9 percent to 64.5 percent are required for each of the 18 parcels. Seventeen of the 18 lots are non-conforming in lot width. An attached two-family residence is proposed on each parcel. The maximum permitted floor area ratio is exceeded by over 17 percent in 16 of the 18 residential buildings. No side yards are provided as each structure is attached. The proposal resembles a townhouse development rather than individual two-family residences. The number of lots must be reduced so that the minimum lot area of 8,400 SF is achieved. The proposed residential structures must comply with the LDR bulk requirements. A maximum of six two-family residences shall be permitted.

We offer the following additional comments on the required variances.

**POLNOYA SUBDIVISION (NS-12B)**

1 The Town of Ramapo is the reason this proposal was referred to this department for review. The municipal boundary is approximately 140 feet east and 170 feet west of the site. This area of Ramapo is zoned R-35, a low-density residential district characterized by single-family dwellings. The applicant is proposing a residential density of 48 units per acre or almost a sixty-fold increase over the maximum permitted density in Ramapo's R-35 zoning district. 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 Ramapo 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 sewer service. The areas of countywide concern noted above that directly impact the Town of Ramapo must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

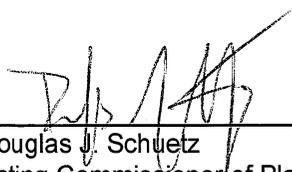
2 Permitting development that does not comply with the applicable bulk standards can set an undesirable land use precedent and result in the overutilization of individual sites. The ability of the existing infrastructure to accommodate increased residential density on undersized, non-conforming parcels 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 buildings must comply with all requirements of the New York State Uniform Fire Prevention and Building Code.

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 The rear yards of each lot are bisected by a retaining wall that runs from the southern boundary line to the north side of the property thereby limiting the use of this area. No recreational space is provided. This is another indication that this proposal will result in an overutilization of the site and must be scaled back considerably.

6 The applicant must comply with the conditions of the Rockland County Health Department's letter of October 17, 2016.

  
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Douglas J. Schuetz  
Acting Commissioner of Planning

cc: Mayor Israel Spitzer, New Square  
Rockland County Department of Health  
Rockland County Drainage Agency

**POLNOYA SUBDIVISION (NS-12B)**

Rockland County Sewer District #1  
New York State Department of State  
Rockland County Office of Fire and Emergency Services  
Moleston Fire District

Brooker Engineering, PLLC  
Town of Ramapo

Polnoya Homes LLC

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.*

*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.*

