

DEPARTMENT OF PLANNING

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August 30, 2016

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

Tax Data: 42.19-1-3 42.19-1-2 42.20-1-1.2 42.20-1-1.1 50.07-2-10.1

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

Map Date: 7/29/2016

Date Review Received: 8/2/2016

Item: *REAGAN ROAD SUBDIVISION (NS-15A)*

Variations to permit a 50-lot subdivision of 33.77 acres in an LDR zoning district. Forty-three lots will contain residential structures; two lots will be dedicated to the Village for stormwater detention and water quality purposes; two lots are the sites of existing schools; one lot will contain parking spaces and the 50th lot will serve as a 250-foot vegetated buffer. Lot area variations are required for Lots 5, 6, 19, 35, 36, 37, 38, 39, 40, 41, 42, 43 and 45; lot width variations are needed for Lots 2, 18 and 19; and Lot 20 requires a side yard variance.

Eastern terminus of Reagan Road, east side of Allik Way, northern terminus of Ostereh Bculevard

Reason for Referral:

Towns of Clarkstown and Ramapo, Palisades Interstate Parkway, Federal Wetlands

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 Ideally, a subdivision proposal will result in the creation of lots that conform to the relevant bulk standards. This proposal requires bulk variations for 16 of the 46 residential lots. The minimum lot area is not achieved for thirteen lots; variations ranging from 10 percent to 29 percent are required. Lot width variations are necessary for three lots. One lot is deficient in meeting the side yard standard. We believe that the minimum lot area is achievable for Lots 35, 36, 37, 38, 39, 40, 41, 42, 43 and 45. A 50-foot deep strip of land runs along the northern boundary of each of these ten lots. Beyond this land area is the proposed 250-foot vegetated buffer. The land area between the northern boundary of these lots and the buffer area must be added to the aforementioned lots to create conforming parcels. Alternatively, lots must be eliminated so the minimum lot area of 8,400 SF is achieved for fewer parcels on the north side of Reagan Road. Land area from oversized Lot 4 must be added to Lots 5 and 6 to achieve the minimum lot area requirement. Lot 19 must be eliminated, as it is awkwardly configured and deficient in meeting both the lot area and lot width requirements.

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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 Towns of Clarkstown and Ramapo are two of the reasons this proposal was referred to this department for review. The Clarkstown municipal boundary is along the eastern property line of the site; the Ramapo municipal border is immediately north 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.

In a letter dated August 4, 2016, the Town of Clarkstown Planning Board expressed concerns about this proposal. They considered it to be an overutilization of the property that could affect the health, safety and welfare of the residents. The issues of traffic congestion, insufficient parking, strained water supply and fire safety issues were also raised. The Village must address these concerns.

The Town of Ramapo must be also 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 Towns of Clarkstown and Ramapo must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

4 A review must be completed by the Palisades Interstate Park Commission and their comments or concerns addressed.

5 If there is any encroachment into the Federal wetlands, a review must be completed by the United States Army Corps of Engineers and all required permits obtained.

6 The applicant must comply with the conditions of the Rockland County Health Department's letter of August 3, 2016.

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

8 The layout plan shows residential structures on 43 of the 50 lots. Section D.1.f. of the Full Environmental Assessment Form (FEAF) indicates that there are 46 residential buildings proposed. All application materials must be consistent. The total number of residential lots and structures must be clarified.

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9 The FEAF must list the Rockland County Drainage Agency and Sewer District #1 as involved agencies in Section B.e.

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

11 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 District to ensure that there is sufficient maneuverability on site for fire trucks, in the event an emergency arises.

12 The bulk table does not specify the zoning district or use group for which the standards are listed. This information must be provided, as well as an explanation for the asterisks shown on the table.

13 Educational facilities are located on Lots 2 and 20. Both lots are included on the same bulk table as the residential properties. A separate bulk table must be provided for these two lots indicating the LDR bulk requirements for schools, as well as any variances that are required.

14 Nine parking spaces are shown straddling the property line between proposed Lots 1 and 2. An additional 14 parking spaces are illustrated on Lot 1 with access from Roosevelt Avenue. It is unclear which use will be served by these parking spaces. If Lot 1 is serving the parking needs of the school on Lot 2, the lots must be combined. If this parcel is not part of the school site, a parking easement must be provided over Lot 1. In addition, parking is generally an accessory use. It is not clear if it is permitted as the primary or sole use on a parcel. Clarification must be provided.

15 The layout plan does not include sidewalks, building entrances, stairways, decks, window wells or other building features making it difficult to determine if the proposed development will comply with all requirements of the New York State Uniform Fire Prevention and Building Code.



Douglas V. Schuetz
Acting Commissioner of Planning

cc: Mayor Israel Spitzer, New Square
Palisades Interstate Park Commission
United States Army Corps of Engineers
Rockland County Department of Health
Rockland County Drainage Agency
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

Brooker Engineering, PLLC
Towns of Clarkstown and Ramapo

ZD Square Realty Corp.

**NYS General Municipal Law Section 239 requires a vote of a 'majority plus one' of your agency to act contrary to the above findings.*

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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.