

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

June 21, 2016

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

Tax Data: 57.05-2-15.604

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

Map Date: 4/6/2016

Date Review Received: 5/27/2016

Item: *THIRTY OSTILLA LLC & OSTILLA SQUARE LLC (NS-6S)*

Variances for lot area, lot width and side yard to allow a two-lot subdivision of .1745 acres in an R-2 zoning district with a semi-attached, two-family dwelling on each parcel.

East side of Ostilla Avenue, 470 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:

****Disapprove***

At 7,601 SF, the subject site does not meet the R-2 zoning district's minimum lot area requirement of 8,000 SF. The applicant is proposing to subdivide the parcel creating two significantly undersized lots. A 53 percent lot area variance will be required for Lot 1; a 52 percent variance will be necessary for Lot 2. The lot width for both lots is deficient by 37.5 percent. As a result of these non-conformities, several yard variances will be required for the proposed two-family dwellings. A parking calculation is not indicated on the bulk table. However, the Table of Bulk Requirements contained in the Zoning Code indicates that more than two parking spaces are required on each parcel.

The municipal boundary for the Town of Clarkstown is 110 feet east of the site. In a letter dated June 13, 2016, the Town's Planning Board indicated that they considered this proposal to be an overutilization of the property that could affect the health, safety and welfare of the residents. Their concerns included traffic congestion on surrounding area roads, strain on the water supply and fire safety concerns.

The two-lot subdivision of this undersized parcel and the variances required for this proposal must

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not be permitted. The applicant shall submit a development proposal for the existing parcel that more closely conforms to the R-2 bulk requirements.

The following comments address additional concerns about the variances required proposed subdivision and residential development.

1 As noted above, the Town of Clarkstown is the reason this proposal was referred to this department for review. The municipal boundary is 110 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 Board's June 13, 2016 letter.

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 significantly undersized and 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 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.

5 It will difficult for a vehicle parked in space #1 or #4 to maneuver out of the space without a turnaround area. No sidewalks, entry stairs or exits have been shown on the site plan, making it difficult to assess the parking area in relation to the pedestrian movement on site, and whether there will be safety issues for the residents. A turnaround area must be provided so that vehicles do not have to back out into the roadway, and the stairs, walkways, and exits must be illustrated on the site plan so that safety issues can be properly evaluated.

6 It will be difficult for sanitation workers to access the refuse enclosure if vehicles are parked in spaces 1 and 2. The refuse enclosure must be moved to a more accessible location. It must also be clarified whether this dumpster will serve both residential buildings.

7 The map is deficient in that it does not include an engineer's stamp or seal, a vicinity map or map notes. The bulk table and the site plan contain handwritten edits. This is not acceptable. A complete site plan must accompany the Zoning Board of Appeals application.

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Acting Commissioner of Planning

cc: Mayor Israel Spitzer, New Square
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

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

Judith Breur

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.

