Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

August 22, 2017

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

Tax Data: 50.07-3-76

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 7/9/2010 **Date Review Received:** 7/19/2017

Item: ***YOSSI GRINBLAT - VARIANCE FOR 4 LOT SUBDIVISION (NS-18A)***

A variance application for lot size and lot width to allow a 4 lot subdivision on 0.35 acres in the R-2 zoning district.
Southern side of Eisenhower Avenue, approximately 100 feet west of North Garfield Road.

Reason for Referral:

The 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**

1 Applications to the Planning Board and Zoning Board of Appeals for subdivision and area variances dated February 8, 2016 were received by the Rockland County Planning Department on July 19, 2017. A handwritten note, initialed by the Building Inspector on the four-lot subdivision states, "Denied subdivision for four lots, approved for three lots." The bulk table provided for the subdivision plat is incomplete. Lacking in the bulk table is the lot area, lot width, building height, and required number of parking spaces. In addition, the required measurements listed are incorrect for several of the bulk requirements, and without the height variance, it is impossible to determine if the side yard and rear yard measurements as listed are correct.

Also received on July 19, 2017, was a variance application to construct a six-family dwelling on Lot #3 of the "approved" subdivision. The accompanying site plan for the proposed multi-family dwelling showed the property as having been subdivided into three lots, with the proposed dwelling located on a lot comprised of the rear half of the property. The bulk table provided on this site plan also lists incorrect bulk measurements for the multi-family dwelling.

Upon contacting the Village of New Square to obtain additional information regarding the subdivision and variance applications, this department was told that the Village Zoning Board of

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Appeals had denied the area variances required to allow the four-lot subdivision on May 23, 2017, and no other applications are currently under consideration. We also questioned whether the bulk table from Zoning Ordinance adopted on August 16, 1967 was still valid, or whether a newer version had been adopted by the Village Board. It was indicated that the bulk table we have in our office is the current version.

It is not clear why the Rockland County Department of Planning did not receive the request for a General Municipal Law (GML) review in a timely fashion for the original subdivision, the modified subdivision, or the variance applications. The materials received included applications which are dated January and February 2017, and the plans received are dated March 2017 and July 2010. It is also not clear as to why the subdivision application (for four lots) and the multi-family dwelling variance application were sent to this department after the denial decision was made for the four-lot subdivision and apparently approval already granted for the three-lot subdivision. As a reminder, under the New York State GML, all applications are required to be sent to the Rockland County Department of Planning if the parcel is located within our purview. This parcel is located within 500 feet of the Town of Ramapo border, so is therefore within our jurisdiction.

Given the number of discrepancies with these applications, and having maps submitted that do not coincide with the proposal, the variance application is disapproved. A GML review must be sent to the Rockland County Department of Planning for the three-lot subdivision before the variance application can be reviewed to ensure that the application presented for our review is current and accurate.

2 The application and bulk tables on the proposed subdivision plan do not show the correct requirements for multi-family use in the R-2 zoning district. To confirm that the property is in the R-2 zoning district, we referred to the Zoning Map dated February 9, 2007 (revised date), which illustrates that this parcel is located in the R-2 zoning district. The front, side and rear yard setbacks are incorrect. In addition, as stated above, bulk standards for lot area, lot width, building height, and number of parking spaces have not been provided. The bulk table must be corrected.

3 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 minimum lot size for a multifamily residence in the R2 zoning district is 8,000 square feet. At 15,225 square feet, this lot is not large enough to create two conforming lots. The largest of four proposed lots is 3,881.25 square feet, which is only 48% of the required minimum. The widest proposed lot is 49.75 feet, which only 83% of the required 60 foot minimum. The applicant has stated his intention is to use these lots to create two 3-story building with a total of 12 units. For such a building and use, the required front, side and rear setbacks would be 20', 25', and 40', respectively. These proposed buildings would require substantial additional variances in order to be constructed on lots that are as undersized as what is proposed. 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.

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4 The variance application does not offer any explanations as to the need or impacts of the requested variances. The applicant is obligated to describe the practical difficulty or economic injury that would arise without this variance, show how the creation of 4 undersized lots is not substantial in relation to the zoning code and will not create a substantial change in the character of the neighborhood, and demonstrate that there is no method other than a variance to overcome the stated practical difficulty or economic injury. These questions must be answered to the Zoning Board's satisfaction.

5 The Town of Ramapo is the reason this proposal was referred to this department for review. The municipal boundary is approximately 260 feet to the southeast of the property. As required under Section 239nn of the State General Municipal Law, the Town of Ramapo must be given the opportunity to review the proposed subdivision and provide any concerns related to the project to the Village of New Square.

Douglas J. Schuetz
Acting Commissioner of Planning

cc: Mayor Israel Spitzer, New Square
Rockland County Sewer District #1
Rockland County Department of Health
Moleston Fire District
Rockland County Drainage Agency
Rockland County Office of Fire and Emergency Services

Anthony R. Celentano P.L.S.
Town of Ramapo Planning Board

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.