Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

December 15, 2017

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

Tax Data: 50.07-1-83

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 12/23/2016 **Date Review Received:** 11/29/2017

Item: ***SCHWARTZ - 3 CLEVELAND LLC (NS-20)***

A variance application to allow the construction of a three-story, multi-family addition to an existing two-family residence on 0.25 acres in the R-2 zoning district. Variances are requested for rear yard and side yard.
The northern side of Cleveland Avenue, approximately 190 feet west of Jackson Avenue.

Reason for Referral:

North Main Street (NYS Route 45), Village of New Hempstead

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 project is described in the application as "... a new 3 story Two family addition to an existing 2 story 2 family." However, the architectural plans dated 11/2/17 show that the proposed addition contains four units - two on the first floor, a third on the second and part of the third floors, and a fourth in the remainder of the third floor. The interior of each unit is physically separated from the others and has its own entry, full bath, and kitchen. With the existing structure described as a two-family residence, this project is a six-unit, multi-family development. Consequently, the bulk table and subsequent variance requests do not match the requirements for a multi-family use in the R-2 zoning district. In particular, a six-unit, three-story structure would require side yards of 20 feet, a rear yard of 40 feet, and 9 parking spaces. The applicant must clarify his intentions, provide accurate and consistent plans and application materials, and reissue public notices.

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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. Based on the six-unit, three-story multifamily building shown in the provided plans, the side yard is 50% smaller than the required 20 feet. The rear yard is 62.5% smaller than the required 40 feet. The parking is deficient by four spaces, which is 44% less than the required nine parking spaces. 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. Due to the number and magnitude of the variances, the project shall be scaled back and units eliminated. This will bring the use of the property more in line with its capacity to be developed.

3 The Village of New Hempstead is one of the reasons this proposal was referred to this department for review. The municipal boundary is approximately 410 feet west of the subject property line, along North Main Street. As required under Section 239nn of the State General Municipal Law, the Village of New Hempstead must be given the opportunity to review the proposed variance and provide any concerns related to the project to the Village of New Square.

4 A review shall be completed by the New York State Department of Transportation and any required permits obtained.

5 In addition to being less than the required number, the five proposed parking spaces have simply been drawn over the existing front yard. No curb cuts or accessway has been shown, nor has any information about surface materials been given. The proposed configuration would also require vehicles exiting the property to back out onto the street, while going over the sidewalk in front of the property. This situation is of particular concern considering the proximity to the rear entrance of the Refuah Health Center, a generator of foot and vehicular traffic. This is an unacceptable hazard to pedestrians and motorists. The parking must be reconfigured.

6 The specific height of the proposed building must be provided in the bulk table so that it can be determined if an aerial apparatus road is required.

7 The proposed residential building must comply with all requirements of the New York State Uniform Fire Prevention and Building Code. All sidewalks, stairs, decks, must be shown on the map to ensure that there is sufficient access to the building for firefighting purposes. As shown, the proposed residential building will require a variance from the New York State Uniform Fire Prevention and Building Code since the proposed deck is located closer than ten feet of the property line.

8 A dumpster/refuse containment area must be shown on the site plan.

9 The site plan shall contain map notes, including district information, a vicinity map with a scale and north arrow, and must be stamped by the engineer.

10 Pursuant to the Rockland County Sanitary Code, Article XIII, Section 13.8.1, all multiple dwellings with three or more rental units must register and obtain a Multiple Dwelling Rental Certificate (MDRC). If this proposed multi-family dwelling meets the requirements of the Multiple Dwelling Rental Registry requirement, then the owner must register and obtain the MDRC. Failure to comply is a violation of Article XIII, which may result in penalties of $2,000 per day.

11 A review must be done by the Rockland County Department of Health to ensure compliance with Article XIX (Mosquito Control) of the Rockland County Sanitary Code.

12 There shall be no net increase in the peak rate of discharge from the site at all design points.

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13 Prior to the start of construction or grading, a soil and erosion control plan shall be developed and in place for the entire site that meets the latest edition of the New York State Guidelines for Urban Erosion and Sediment Control.

14 A review must be completed by the County of Rockland Sewer District #1 and any concerns addressed and required permits obtained.

15 Pursuant to General Municipal Law (GML) Section 239-m and 239-n, if any of the conditions of this GML review are overridden by the board, then the local land use board must file a report with the County Commissioner of Planning of the final action taken. If the final action is contrary to the recommendation of the Commissioner, the local land use board must state the reasons for such action.

16 In addition, pursuant to Executive Order 01-2017 signed by County Executive Day on May 22, 2017, County departments are prohibited from issuing a County permit, license, or approval until the report is filed with the County Commissioner of Planning. The applicant must provide to any County agency which has jurisdiction of the project: 1) a copy of the Commissioner report approving the proposed action; or 2) a copy of the Commissioner of Planning recommendations to modify or disapprove the proposed action, and a certified copy of the land use board statement overriding the recommendations to modify or disapprove, and the stated reasons for the land use board's override.

Douglas J. Schuetz
Acting Commissioner of Planning

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

Anthony R. Celentano P.L.S.
Village of New Hempstead

**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.