

DEPARTMENT OF PLANNING

Dr. Robert L. Yeager Health Center
50 Sanatorium Road, Building T
Pomona, New York 10970

Phone: (845) 364-3434 Fax: (845) 364-3435

Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

December 22, 2017

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

Tax Data: 42.19-3-65

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 8/30/2017

Date Review Received: 12/11/2017

Item: *SLAVITA REALTY LLC - 22 SLAVITA ROAD (NS-12E)*

A variance application to allow a two-lot subdivision on 0.207 acres in the LDR zoning district. Variances are requested for lot area and lot width.

The eastern side of Slavita Road, approximately 225 feet north of Mezritch Road.

Reason for Referral:

North Main Street (NYS Route 45), Town of Ramapo, 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:

****Disapprove***

With 9,000 sq. ft. of area and 75 feet of frontage, the existing parcel is only slightly larger than the minimum lot area of 8,400 sq. ft. and minimum width of 70 feet in the LDR zoning district. At 4,500 sq. ft. of area and 37.5 feet in width, the proposed lots are 46% smaller and more narrow than the required minimums. In addition, each lot will only have a 17.5' wide building envelope. It is highly probable that any proposed future development will require additional bulk variances. The County has concerns about not just the overdevelopment of this specific property, but for the precedent set by this development. Every lot within the land area bounded by Slavita Road, Polnoya Road, Mezritch Road, and Fastov Avenue is similar in size to the subject lot. Should neighboring property owners seek similar relief, it will negatively impact the community character and result in a higher residential density prescribed by the zoning regulations. In addition, Article V, Section 3 of the New Square zoning regulations empowers the Board of Appeals to "vary or adapt the strict application for any of the requirements of this law in the case of unusual physical conditions... whereby such strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved, but in no other case." This property has no unusual conditions. The owner is not subject to any difficulties or unnecessary hardships and can make reasonable use of the land in its current state. The property is a conforming lot that can be fully developed within the limits of current zoning regulations, which includes four-

SLAVITA REALTY LLC - 22 SLAVITA ROAD (NS-12E)

unit multifamily structures as a permitted use. The variance must be disapproved.

The following comments address our additional concerns about this project:

- 1 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 proposed lots are 46% smaller and more narrow than the required minimums of lot area and width. 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.
- 2 Because of the limited size of the building envelopes of the new lots, the applicant must include proposed buildings and uses on the site plan in order to determine the extent of future variances and evaluate the potential impacts of the proposal.
- 3 Note 1 on the site plan has the incorrect lot number. In addition, the Section, Block, and Lot number of the Application Review form has been filled out incorrectly. The note and application information must be corrected. The public hearing notice must be reviewed and, if necessary, re-issued.
- 4 The site plan shall contain map notes that include all district information, and a vicinity map with a scale and north arrow. In addition, the site plan bulk table has incorrect requirements for front, side, and rear yards and required parking. The bulk table must be corrected.
- 5 Proximity to the Town of Ramapo and the Village of New Hempstead is one of the reasons this proposal was referred to this department for review. The Ramapo town boundary is approximately 360 feet to the east, and the New Hempstead village boundary is approximately 470 feet to the west. As required under Section 239nn of the State General Municipal Law, the Town of Ramapo and 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.
- 6 A review shall be completed by the New York State Department of Transportation and any required permits obtained.
- 7 A review must be completed by the County of Rockland Sewer District #1 and all required permits obtained from them.
- 8 A review must be completed by the Rockland County Department of Health to ensure compliance with Article XIX (Mosquito Control) of the Rockland County Sanitary Code.
- 9 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.

SLAVITA REALTY LLC - 22 SLAVITA ROAD (NS-12E)

10 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 Drainage Agency
Rockland County Sewer District #1
Rockland County Department of Health

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

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.

