

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

October 26, 2017

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

Tax Data: 42.19-3-40.2

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 7/26/2017

Date Review Received: 10/2/2017

Item: *HIRSCH UNGAR - 7 MEZRITCH ROAD (NS-19A)*

A variance application of the minimum front yard requirement to allow a three-story residential building on 0.15 acres in the LDR zoning district. The number of proposed units is not specified.

The southwestern corner of the intersection of Mezritch Road and Bush Lane.

Reason for Referral:

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 The existing lot is only 6,667 sq. ft., which is 21% less than the required minimum lot size of 8,400 sq. ft.. The site plan states that a variance was granted for lot size on 8-21-14. This department has no record of having a subdivision or variance application sent for our review, as is required under General Municipal Law. The County must have the opportunity to review and make recommendations on projects that may impact inter-community and county-wide interests. This property must not be developed until all proper steps have been taken to establish its legality.

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2 The materials submitted with this application are incomplete and inconsistent, making an evaluation of this project impossible. It is not clear how many units are being proposed. According to the New Square Clerk, this application is for a single-family residence. The site plan does not give a specific number of units. It does give a parking calculation which states that 2 parking spaces are required. With a parking requirement of 1/2 space per unit, this implies that four units are proposed. The October 4, 2017 letter from the Rockland County Sewer District #1 comment 2b describes the project as a 4-unit multifamily dwelling. The project description on page 1 of the New Square application review form states the applicant is asking for a front yard variance and does not mention the number of units proposed. However, on page 10 the project is described as "2 new lot's of Approxx. 4200' Sq. Ft. w/a 3 story semi attached, total 4 family dwelling." This description is not consistent with any of the other submitted materials. There is no other mention of creating new lots, the 4,200 sq. ft description does not match anything else shown, and the description of the structure as semi-attached is not consistent with the other application materials. All materials must be consistent and the nature of the proposal must be clear and unambiguous. This application fails to meet this standard and must not proceed.

The following comments address our other concerns about this proposal:

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 applicant is requesting reductions of 20% for the front yard on Bush Lane, 35% for the clear front yard requirement, 50% for the clear side yard requirement, and 17.5% for the side yard. Additionally, this application is being made on a lot which is undersized by 21%. Should four units be developed on this property, the residential density would be over 26 units per acre. 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.

4 The Town of Ramapo is the reason this proposal was referred to this department for review. The municipal boundary is approximately 240 feet north of the site. As required under Section 239nn of the State General Municipal Law, the Town of Ramapo must be given the opportunity to review the proposed variances and provide any concerns related to the project to the Village of New Square.

5 The site plan shall contain map notes, including district information, and a vicinity map.

6 The driveway for the adjacent property to the south encroaches upon the subject property. Section A.2 of the application review form states that there is an easement in the back yard. No easement is shown on the site plan. The existence and location of any easements must be clarified. In addition, the presence of an easement must be considered a self-created hardship and cannot be taken into consideration as a reason for granting a variance.

7 Village of New Square regulations state that a parking space shall be 8' wide and 22' long. The proposed driveway is only 20' long and the garage shown on architectural floor plans is 20'4" long. Therefore, there are no legal parking spaces provided on this property. The applicant must meet the Village parking requirements or a variance must be obtained.

8 The applicant must comply with all comments made by the Rockland County Sewer District #1 in their letter of October 4, 2017.

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.

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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
Rockland County Department of Health
Rockland County Sewer District #1
Rockland County Office of Fire and Emergency Services

Atzl, Nasher & Zigler P.C.
Town of Ramapo

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.

