# Rockland County

Ed Day, Rockland County Executive

**DEPARTMENT OF PLANNING**
Dr. Robert L. Yeager Health Center
50 Sanatorium Road, Building T
Pomona, New York 10970
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**Douglas J. Schuetz**
*Acting Commissioner*

**Arlene R. Miller**
*Deputy Commissioner*

January 5, 2018

New Square Village Board
37 Reagan Road
New Square, NY 10977

**Tax Data:** 42.19-3-58

**Re: GENERAL MUNICIPAL LAW REVIEW:** Section 239 N
**Map Date:** 8/4/2016 **Date Review Received:** 12/11/2007

**Item:** ***19 POLNOYA RD LLC (NS-21A)***

A three-lot subdivision and the construction of three attached, single-family residences on 0.18 acres in the LDR zoning district. Variances are required for lot area, lot width, front yard, front yard clear, side yard, side yard clear, rear yard, and rear yard clear.

The western side of Polnoya Road, approximately 225 feet north of Mezritch Road.

**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**

The existing parcel exactly meets the minimum lot area of 8,400 sq. ft. and minimum width of 70 feet in the LDR zoning district. As proposed, Lot 1 will be 50.3% smaller than the required minimum, and Lots 2 and 3 will each be 74.9% smaller and half as wide as the required minimum. 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, and create a stress on the infrastructure designed for the current zoning. 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-unit multifamily structures as a permitted use. The subdivision must be disapproved.

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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 50.3 and 74.9% smaller than the required minimum. Proposed lot widths for lots 2 and 3 are 50% smaller than required. In order to create attached units, front, side and rear yards have been reduced to zero. 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 Water is a scarce resource in Rockland County; thus proper planning and phasing of this project are critical to supplying the current and future residents of the Villages, Towns, and County with an adequate supply of water. A letter from the public water supplier, stamped and signed by a NYS licensed professional engineer, shall be issued to the municipality, certifying that there will be a sufficient water supply during peak demand periods and in a drought situation.

3 If any public water supply improvements are required, engineering plans and specifications for these improvements shall be reviewed by the Rockland County Department of Health prior to construction. In order to complete an application for approval of plans for public water supply improvements, the water supplier must supply an engineer's report pursuant to the "Recommended Standards for Water Works, 2003 Edition," that certifies their ability to serve the proposed project while meeting the criteria contained within the Recommended Standards for Water Works. These standards are adopted in their entirety in 10 NYCRR, Subpart 5-1, the New York State regulations governing public water systems. Further, both the application and supporting engineer's report must be signed and stamped by a NYS licensed professional engineer and shall be accompanied by a completed NYS Department of Health Form 348, which must be signed by the public water supplier.

4 Public sewer mains requiring extensions within a right-of-way or an easement shall be reviewed and approved by the Rockland County Department of Health prior to construction.

5 The Town of Ramapo is the reason this proposal was referred to this department for review. The Ramapo town boundary is approximately 250 feet to the east. As required under Section 239nn of the State General Municipal Law, the Town of Ramapo 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 The site plan provided has been reduced in size and is not to scale, is not stamped by the surveyor, and is difficult to read. A full-sized, to-scale survey must be provided.

7 The site plan shall contain map notes, including district information, and a vicinity map with a north arrow and scale.

8 The application form lists United Water as the water district. It must be corrected to Suez.

9 The bulk table on the site plan lists the zoning district as C2, not LDR. The required minimum lot area is shown as 8,000 square feet in the bulk table and in the application review form, not the required 8,400 square feet. The lot areas given in the bulk table and application add up to a total of 8,508 square feet. Based on the given lengths and widths of the lot, Lots 2 and 3 are 2,111.55 square feet, not 2166 square feet. In addition, the proposed side yard variances for Lots 2 and 3 should be listed as zero feet. Lastly, the cantilevered walls of the structure are part of the primary structure and not entitled to any yard allowance. All measurements must be made to the cantilevered walls. A revised and corrected site plan and application must be provided, and the public hearing notice must be reissued.

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10 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 to the property line. A review must be done by the NYS Department of State, Division of Code Enforcement and Administration for the required variances.

11 The building height given in the bulk table is 35 feet. If the proposed building height is greater than 30 feet to the eaves, an aerial apparatus road is required to comply with NYS Fire Code. The height of the building to the eaves must be provided and, if necessary, an aerial apparatus road must be provided and shown on the site plan.

12 The proposed parking spaces will require vehicles to back out onto the road over a sidewalk easement. This presents an unacceptable hazard to vehicles and pedestrians. The parking spaces must be reconfigured.

13 A review must be completed by the County of Rockland Sewer District #1 and all required permits obtained from them.

14 As per the December 13, 2017 letter from the Rockland County Department of Health, a formal application is to be made to them and a full EAF is to be submitted.

15 As required by the Rockland County Stream Control Act, the subdivision plan must be reviewed and signed by the Chairman of the Rockland County Drainage Agency before the County Clerk can accept the plan to be filed.

16 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.

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

18 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.

19 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 Drainage Agency
Rockland County Sewer District #1
New York State Department of State

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

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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.*