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

Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

May 23, 2018

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

Tax Data: 50.07-3-74

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 4/11/2018 **Date Review Received:** 4/24/2018

Item: ***22 EISENHOWER AVENUE (NS-26)***

A variance application to allow a two-lot subdivision and the construction of a total of eight dwelling units on 0.30 acres in the R-2 zoning district. A four-unit, attached residential structure is proposed for each lot. Variances are requested for lot area, lot width, rear yard, rear yard clear, side yard, side yard clear, and floor area ratio for each lot.

The southern side of Eisenhower Avenue, approximately 280 feet west of North Garfield 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**

1 The application and site plan indicate this parcel is located within the R-1 zoning district. However, maps maintained by Rockland County indicate this parcel is located within the R-2 zoning district. As a result, the requested variances are insufficient to allow this proposal. For a three-story structure, the required side and rear yards are 20 feet and 40 feet, respectively. The parking requirement for multifamily residences in the R-2 zoning district is 1.5 spaces per unit, which results in a parking requirement of six spaces for each lot. In addition, the R-2 zoning district has different bulk requirements for lot area, lot width, and front yard than what is indicated in the application and bulk tables. The bulk requirements do not have separate "clear yard" categories. Article 3.3.9 states a paved terrace is exempt from yard requirements, but open or enclosed porches are not. The rear yard measurements must be taken from the proposed utility room. The correct requirements must be provided in the tables so that the board can make an informed determination. This application must be disapproved and a revised application submitted with correct requirements and measurements. If the village asserts that the parcel is indeed located within the R-1 zoning district, we request that an updated zoning map, and a copy of the resolution approving this change, be forwarded to the Rockland County Planning Department.

22 EISENHOWER AVENUE (NS-26)

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. The proposed lot areas are 83% of the required minimum of the R-2 zoning district. The lot widths are 73% of the minimum. The required side yard is 20 feet and the proposed side yards are zero feet and ten feet. The required rear yard is 40 feet and the proposed utility room is approximately five feet from the property line, a deficiency of 88%. A total of seven parking spaces are proposed, which is only 58% of the 12 spaces required. 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. The number and extent of the required variances suggest a general overutilization of the site. This application must be denied.

The following comments address our additional concerns about this proposal.

3 The application form indicates that this subdivision has been requested for the purpose of dividing ownership of the property. There are legal methods of dividing ownership of real property other than a subdivision, such as the creation of a condominium or co-operative association. The use of the subdivision process in this situation is unnecessary and inappropriate. It requires substantial bulk variances and negates the general intent of land use regulations. Moreover, the granting of this subdivision will set a precedent that may result in nearby property owners seeking the same relief. This would result in a proliferation of non-conforming lots and structures, along with a significant increase in residential density that would negatively impact the community character in this neighborhood. The village must consider the consequences of unnecessarily creating non-conforming lots and structures for the purpose of dividing ownership.

4 The Town of Ramapo is the reason this proposal was referred to this department for review. The municipal boundary is approximately 360 feet south of the parcel. New York State General Municipal Law states that the purposes of Sections 239-l, 239-m and 239-n shall be to bring pertinent inter-community and countywide planning, zoning, site plan and subdivision considerations to the attention of neighboring municipalities and agencies having jurisdiction. Such review may include inter-community and county-wide considerations in respect to the compatibility of various land uses with one another; traffic generating characteristics of various land uses in relation to the effect of such traffic on other land uses and to the adequacy of existing and proposed thoroughfare facilities; and the protection of community character as regards predominant land uses, population density, and the relation between residential and nonresidential areas. In addition, Section 239-nn was enacted to encourage the coordination of land use development and regulation among adjacent municipalities, and as a result development occurs in a manner that is supportive of the goals and objectives of the general area.

The Town of Ramapo must be given the opportunity to review the proposal and its impact on community character, traffic, water quantity and quality, drainage, stormwater runoff and sanitary sewer service. The areas of countywide concern noted above that directly impact the Town of Ramapo must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

5 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.

6 The applicant must comply with all comments made by the Rockland County Sewer District #1 in their letter of April 25, 2018.

22 EISENHOWER AVENUE (NS-26)

7 The applicant must comply with all comments made by the Rockland County Health Department in their letter of May 4, 2018. Specifically, the existing well, which was only permitted to be used for a single-family dwelling, must be decommissioned. The applicant must take all necessary steps to secure a source of water that is appropriate for the project.

8 The parking areas for this multifamily development force vehicles to back out into the street and do not provide any handicapped accessible parking spaces. The parking areas must be reconfigured to prevent vehicles from backing out into the street and provide handicapped accessible spaces.

9 The use of tandem parking spaces on Lot 1 prevents egress for vehicles blocked by other vehicles and creates an inconvenient situation for residents. This layout will encourage residents to park vehicles off-site instead of in their designated spaces and negates the purpose of on-site parking requirements. The tandem parking spaces must be reconfigured to allow independent access for all parking spaces.

10 The application form indicates the property receives water service from United Water. The form must be corrected to Suez.

11 The proposed residential building must comply with all requirements of the New York State Uniform Fire Prevention and Building Code. All sidewalks, stairs, entries, and window wells 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 may require a variance from the New York State Uniform Fire Prevention and Building Code since the proposed utility rooms and decks are located closer than ten feet to the property line. In addition, the height to the eaves of the building must be provided in order to determine whether or not an aerial apparatus road is required.

12 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.

13 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

Rockland County Planning Board Members

22 EISENHOWER AVENUE (NS-26)

**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.