Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

March 1, 2018

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

Tax Data: 42.19-3-38

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 N
Map Date: 10/11/2016 **Date Review Received:** 1/31/2018

Item: ***25 MEZRITCH ROAD LLC (NS-25A)***

A subdivision application to create two lots on 0.21 acres in the LDR zoning district. Variances are required for lot area and lot width.
The southern side of Mezritch Road, approximately 235 feet west of 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 This subdivision requires extensive variances. The existing lot has 9,000 square feet and is 75 feet wide, which is only 7% larger than the minimum lot size and width required by the LDR zoning district. The proposed two lots will provide only 54% of these requirements. The County has concerns about not just the overdevelopment of this specific property, but for the precedent set by this development. The surrounding neighborhood is characterized by similarly-sized parcels. Granting these bulk variances will set a precedent that may result in nearby property owners seeking the same relief. A doubling of the residential density in this neighborhood will negatively impact its community character. Additional residents will generate more traffic on the local streets, leading to congestion and traffic conflicts. In addition, any future development will likely require additional bulk variances to accommodate such undersized parcels.

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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. The proposed lot area and width are 54% of the required minimums. 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.

3 Page 10 of 12 of the application review form indicates that a side yard variance is requested along with the variances for lot area and lot width. The bulk table does not include the side yard variance, nor does the project description. In addition, the bulk table indicates the property is in the C2 zoning district, not the LDR zoning district, and the minimum lot size is 8,000 square feet, not 8,400 square feet. The bulk table must be corrected and all materials must be consistent. More importantly, the site plan does not show any proposed development on either property. Without knowing the proposed use, the location and size of the proposed structure, the location of parking spaces and driveways, and other relevant details, it is impossible to evaluate the potential impacts of this project or determine what, if any, hardships exist that would warrant the granting of a variance. A complete site plan and narrative of the proposed structure must be provided. Without this information, the application is incomplete and cannot be approved.

4 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 existing 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 variance must be disapproved, along with the subdivision.

The following comments address our additional concerns about this proposal.

5 The Town of Ramapo is the reason this proposal was referred to this department for review. The municipal boundary is approximately 310 feet to the northwest of the parcel, and is zoned R-35 with medium to low density single family homes. 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.

6 The applicant must comply with all comments made by the Rockland County Department of Health in their letter February 6, 2018.

7 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.

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

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9 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.

10 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.

11 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.

12 The site plan map notes must be expanded to include district information, note #3 must be corrected to indicate the property is in the LDR zoning district, a vicinity map with a north arrow and scale must be provided, and the site plan must be stamped by the engineer.

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

14 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.

15 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

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

Rockland County Planning Board Members

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**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.