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

June 29, 2018

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

Tax Data: 42.19-3-34

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 5/25/2018 **Date Review Received:** 6/1/2018

Item: ***49 MEZRITCH ROAD (NS-28)***

A variance application to allow the construction of a three-story, five-family dwelling on 0.22 acres in the LDR zoning district. Variances are requested for side yard, rear yard, and floor area ratio.
The southern side of Mezritch Road, approximately 250 feet east of Reagan Road.

Reason for Referral:

North Main Street (NYS Route 45), 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:

Recommend the following modifications

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 floor area ratio exceeds the already generous standard of 100% by 15%. The side and rear yards are deficient by 20% and 5%, respectively. 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.

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2 The Village of New Hempstead is one of the reasons this proposal was referred to this department for review. The municipal boundary is approximately 430 feet to the west 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 Village of New Hempstead 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 Village of New Hempstead must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

3 A review shall be completed by the New York State Department of Transportation and any required permits obtained.

4 The applicant must comply with all comments made by the Rockland County Department of Health in their letter of June 4, 2018.

5 The applicant must comply with all comments made by the Rockland County Sewer District No. 1 in their letter of June 12, 2018.

6 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

7 The proposed parking areas have several design issues. No curb cuts for driveways are shown on the site plan. Parking space 1 is located within a sidewalk maintenance easement. Parking space 4 blocks access into and out of parking space 5 within the garage. Vehicles backing out of spaces 1, 2, and 3 are at risk of backing into telephone and electrical boxes. The parking area must be reconfigured to address these concerns.

8 The location of the trash dumpster/refuse container must be illustrated on the site plan. Access to the dumpster must be unimpeded, and it must be demonstrated that its location will not impact yard requirements and parking maneuverability for the site.

9 Map Note 8 incorrectly refers to Section 239n of the General Municipal Law and describes the site plan as a plat. The note must be changed to refer to Sections 239l and m and remove the description of the site plan as a plat.

10 The bulk requirements for the LDR zoning district have no separate side yard clear category. The application and bulk table must be corrected to indicate a request for a variance of the side yard requirement. The public hearing notice must be reviewed and, if necessary, reissued.

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11 As shown, the proposed residential building may require a variance from the New York State Uniform Fire Prevention and Building Code since the proposed overhangs are located closer than ten feet to the property line. In addition, since no specific building height has been provided, it cannot be determined if the building is greater than 30 feet to the eaves. This information must be provided so that it can be determined if 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 Sewer District #1
New York State Department of Transportation

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

**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.