

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

March 28, 2019

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

Tax Data: 50.07-3-72.1

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M

Map Date: 9/29/2018

Date Review Received: 2/26/2019

Item: 16 EISENHOWER AVENUE (NS-34)

A variance application to allow the construction of a two-family dwelling on 0.15 acres in the R-2 zoning district. Variances are requested for lot area, side yard, rear yard, and floor area ratio.

The southern side of Eisenhower Avenue, approximately 460 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 review form indicates that the property is located in the C-2 zoning district and the bulk table of the site plan indicates the property is in the R-1 zoning district. Maps maintained by the Rockland County Planning Department indicate the property is located in the R-2 zoning district. In addition, bulk requirements listed on the application review form and in the bulk table are not the appropriate requirements for a two-family dwelling in the R-2 zoning district. As a result, additional variances are required for this proposal. Specifically, the required side yard is 15 feet, total side yard is 35 feet, rear yard is 30 feet, and the maximum height is two stories. A revised variance application, with the correct zoning district and bulk requirements, must be made and submitted to this department for review.

2 The subject property is only 6,525 square feet, which is 18% less than the minimum lot size of 8,000 square feet. The site plan indicates that this property was created by subdivision in 2004. 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.

16 EISENHOWER AVENUE (NS-34)

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 proposed lot area is 82% of the required minimum. The side and total side yards are deficient by 33% and 43%, respectively. The rear yard has been reduced to zero, and an additional story is proposed. 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. This application must be disapproved and the property developed in a manner that is consistent with the zoning regulations of the Village.

The following comments address our additional concerns.

4 The Town of Ramapo is the reason this proposal was referred to this department for review. The municipal boundary is approximately 425 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 As per the February 28, 2019 letter from the Rockland County Health Department, an application is to be made to them for review of the stormwater system for compliance with the County Mosquito Code.

6 The applicant must comply with all comments made by the Rockland County Sewer District No. 1 in their letter of February 28, 2019.

7 The use of tandem parking spaces 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. In addition, vehicles will be required to back out into the roadway, which creates a hazard for motorists and pedestrians. The parking area must be reconfigured to provide an adequate turnaround area.

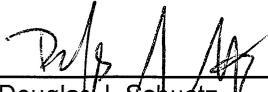
8 The site plan indicates there is a 12-foot wide easement along the western property line, presumably to allow access to the landlocked property to the rear. The site plan must be amended to include an accessway for vehicles.

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

10 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.

16 EISENHOWER AVENUE (NS-34)

11 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

Anthony R. Celentano P.E.
Town of Ramapo Planning Board

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.

