Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

July 19, 2019

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

Tax Data: 42.19-3-37

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 6/13/2019 **Date Review Received:** 6/27/2019

Item: ***31 MEZRITCH ROAD (NS-38A)***

A variance application to allow the construction of a five-unit multifamily dwelling on 0.19 acres in the LDR zoning district. Variances are requested for side yard clear, rear yard, rear yard clear, and floor area ratio.

The southern side of Mezritch Road, approximately 310 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:

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 side yard clear is deficient by 20%. The rear yard and rear yard clear are deficient by 21% and 3%, respectively. The floor area ratio exceeds the maximum standard by 16%. 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 proposal must be reduced in size to more closely conform to the Village's requirements and to the property's capacity to be developed.

2 Page 10 of the application review form indicates that the rear yard and rear yard clear are proposed to be 15' and 5', respectively. This is not consistent with the site plan or bulk table. All materials must be consistent. The application review form must be corrected. The public hearing notice must be reviewed and, if it contains inaccurate information, re-issued.

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3 The Town of Ramapo is the reason this proposal was referred to this department for review. The municipal boundary is approximately 360 feet northeast 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.

4 The applicant must comply with all comments made by the Rockland County Sewer District No. 1 in their letter of July 2, 2019.

5 As per the July 5, 2019 letter from the Rockland County Department of Health, an application must be made to them for compliance with Rockland County Mosquito Code, should the Village require a stormwater management system.

6 A review must be completed by the Rockland County Office of Fire and Emergency Services, the Village of New Square Fire Inspector, or the Moleston/Hillcrest Fire Department to ensure that there is sufficient maneuverability on site for fire trucks, in the event an emergency arises.

7 A turnaround area must be provided for parking space 3 to prevent vehicles from backing into the street. In addition, one of the front decks encroaches upon parking space 3. All parking spaces must be free of all obstructions. The Village must confirm that the proposed deck is elevated above the parking space and no support columns are encroaching upon the space.

8 The two dumpster enclosures are blocked by parking spaces. The enclosures must be relocated so that they comply with all yard requirements, do not block, or are blocked by, parking spaces, and are accessible for pick up by garbage trucks.

9 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.

10 As shown, the proposed residential building may require a variance from the New York State Uniform Fire Prevention and Building Code since the proposed decks and room 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 to determine if an aerial apparatus road is required.

11 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.

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12 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
Moleston/Hillcrest Fire District
Rockland County Department of Health
Rockland County Office of Fire and Emergency Services
Rockland County Sewer District #1

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

**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.