



# Rockland County

Ed Day, Rockland County Executive

## DEPARTMENT OF PLANNING

Dr. Robert L. Yeager Health Center

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**Douglas J. Schuetz**  
*Acting Commissioner*

**Arlene R. Miller**  
*Deputy Commissioner*

October 18, 2019

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

**Tax Data:** 42.19-3-50

**Re: GENERAL MUNICIPAL LAW REVIEW:** Section 239 L and M  
**Map Date:** 5/11/2015

**Date Review Received:** 9/18/2019

**Item:** *MEZRITCH HORIZONS - 26-38 MEZRITCH ROAD (NS-42)*

A variance application to allow the construction of a 17-unit multifamily dwelling on a corner lot with 0.61 acres in the HDR zoning district. Variances are requested for front and side yards.  
The northeastern corner of the intersection of Mezritch Road and Polnoya 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 bulk table and application review form incorrectly identify the minimum lot area for multifamily dwellings in the HDR zoning district. The HDR zoning district requires a minimum of 2,800 square feet per unit, which results in a minimum lot area of 47,600 square feet for the proposed 17 dwelling units. 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 parcel provides only 56% of the minimum lot area for the proposed number of units. The front and side yards are both deficient by 10%. 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 application must be disapproved and the property developed in manner that is consistent with the Village's bulk requirements.

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2 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 property is a conforming lot that can be fully developed within the limits of current zoning regulations, which includes multifamily structures as a permitted use. The County has concerns about not just the overdevelopment of this specific property, but for the precedent set by this development. Should neighboring property owners seek similar relief, it will negatively impact the community character and result in a higher residential density prescribed by the zoning regulations. The variances must be disapproved.

3 No dedicated parking area is provided. All nine of the provided parking spaces do not include a turnaround area, forcing vehicles to back out into the roadway. The parking layout requires multiple curb cuts across sidewalks, which creates potential hazards for pedestrians. A structure with fewer residential units and required parking spaces safely located will reduce the potential hazards and traffic conflicts generated by this proposal. The application must be disapproved.

The following comments address our additional concerns about this proposal.

4 The Town of Ramapo is the reason this proposal was referred to this department for review. The municipal boundary is approximately 90 feet north 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 The applicant must comply with all comments made by the Rockland County Department of Health in their letter of September 26, 2019.

6 The applicant must comply with all comments made by the Rockland County Sewer District No. 1 in their letter of September 23, 2019.

7 As previously mentioned, the bulk table and application review form list the incorrect minimum lot size for the proposal. In addition, the bulk table indicates the parcel is located within the LDR zoning district, not the HDR zoning district. All materials must be consistent. The bulk table and application review form must be corrected. The public hearing notice must be reviewed and, if it contains inaccurate information, re-issued.

8 Map note 12 indicates that water is supplied by United Water. The map note must be corrected to SUEZ.

9 Storage areas are a common accessory use within residential structures. Use of the proposed storage areas must be reserved for residents of the structure. The storage areas must not be rented separately to non-residents or used for commercial purposes. To do so would create an additional, unpermitted principal use.

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10 Note 15 on the site plan indicates that each unit will have two garbage cans that will be placed at the end of the driveway for pick up. With 17 proposed units, this would result in 34 garbage cans being placed along curbs and sidewalks, blocking vehicle and pedestrian access. The proposed number of units requires a centralized and coordinated means of garbage disposal. A garbage enclosure must be provided that meets all yard requirements, does not impede the maneuvering of vehicles, and is accessible for pickup with all parking spaces occupied.

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 Access to the upper level units is provided by staircases at the rear of the structure. Pedestrian walkways must be provided to all access points and indicated on the site plan.

13 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.

14 A site inspection conducted on October 11, 2019 showed that the proposed structure has already been largely completed. The County would like to take this opportunity to remind the applicant and the Village of the importance of obtaining all required approvals, including meeting the requirements of Sections 239-l and 239-m of the New York State General Municipal Law, prior to commencing construction.

15 The bulk table indicates that variances were previously granted on April 29, 2015. This department has no record of any previous variance applications for this property, as is required under General Municipal Law. The village must confirm that all previous approvals for this project have been processed in compliance with the requirements of General Municipal Law.

16 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.

17 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.

  
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Douglas J. Schuetz  
Acting Commissioner of Planning

cc: Mayor Israel Spitzer, New Square  
Rockland County Department of Health  
Rockland County Sewer District #1  
  
Brooker Engineering, PLLC  
Town of Ramapo

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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.*