

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 Miller
Deputy Commissioner

April 22, 2020

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

Tax Data: 50.07-3-50.2

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

Map Date: 3/17/2020

Date Review Received: 3/24/2020

Item: NSCPDC, LP SUBDIVISION & RESIDENTIAL DEVELOPMENT (NS-44A)

Variations to permit a three-lot subdivision of 4.67 acres in the R zoning district. One of the existing seven buildings and two play areas will be demolished, and five multi-family buildings will be constructed in their place. Two parking lots are also proposed. Variations for rear yard, and parking will be required for all Lots. Variations for lot area, front yard, and side yard will be required for Lots 1 and 2.

West side of North Garfield Road, north and south sides of Waldron Avenue, approximately 312 feet south of Eisenhower Avenue

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 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 multi-family structures as a permitted use. The variations must be disapproved.

2 The number of units must be provided for both the five new buildings, as well as the existing buildings. As per the bulk requirements for the R-2 zoning district, the parking requirements are dependent on the number of units in multi-family buildings.

NSCPDC, LP SUBDIVISION & RESIDENTIAL DEVELOPMENT (NS-44A)

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 front yard is deficient by 48% for Lot 1 and by 55% for Lot 2. The rear yard is deficient by 66% for Lot 1, 67% for Lot 2, and 25% for Lot 3. 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 Town must consider the cumulative and regional impacts of permitting such development. The variances must not be permitted.

4 The Village is currently in the process of adopting a new comprehensive plan, with new zoning regulations. The goal of the new plan is to create a vision for the development of the Village, taking into account the current trends of development. The new use and bulk tables were designed to permit a wider range of development to fit the current needs of the Village, without the necessity to seek variances to achieve development. As proposed, the new buildings will still require variances from the bulk standards for the new R zoning district. While this new zone has not been established yet, the proposed development goes against the intent of the goals recently established by the Village. The new regulations were created in order to allow a wider range of development, not to act as a new starting point in which to seek variances. As previously stated, the variances must be denied, and the buildings must be reduced in size and/or redesigned so as to not require any variances at all.

The following comments address our additional concerns about the proposal:

5 The Town of Ramapo is the reason this proposal was referred to this department for review. The municipal boundary is along the southern property line of the site. 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 county-wide 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 which 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.

6 A review must be completed by the County of Rockland Department of Health, any comment or concerns addressed, and any required permits obtained.

7 A review must be completed by the County of Rockland Sewer District No. 1, any comments or concerns addressed, and all required permits obtained.

8 The proposed residential buildings must comply with all requirements of the New York State Uniform Fire Prevention and Building Code.

9 A review must be completed by the County of Rockland Office of Fire and Emergency Services, the Town Fire Inspector, or the Moleston Fire District to ensure that there is sufficient maneuverability on site for emergency vehicles.

NSCPDC, LP SUBDIVISION & RESIDENTIAL DEVELOPMENT (NS-44A)

10 The bulk table on the site plan indicates a lot area of 195,712 SF is required for multi-family residences in the R-2 zoning district. This is the size of the parcel, not the required lot area. This must be corrected to indicate that the bulk standard is 8,000 SF. Lot area variances may not be necessary for any lot when using this bulk requirement standard.

11 Multi-family residences in the R-2 zoning district require a ten foot side yard, plus five additional feet for each additional story. As the bulk table indicates that the proposed buildings are to be two stories, a fifteen foot side yard is required. Therefore, a variance may not be needed for side yard for Lot 1.

In addition, the measurement of 72 feet for the side yard for Lot 3 must be illustrated on the map. As it appears, the side yard may be closer to 5 feet to the border of Lot 2 in the northwest. An additional variance may be required for this measurement.

12 The bulk table on the site plan indicates 1.36 parking spaces are provided on each lot. However, the parking calculation indicates only 1.08 spaces are provided. This discrepancy must be clarified, and the appropriate number indicated. As stated above, the number of units must be provided for each lot to confirm how many spaces are required. As it appears, the same number of units are proposed for Lots 1 and 2. However, only 15 spaces are provided on Lot 2, whereas 23 spaces are provided on Lot 1. No spaces are shown for the new building on Lot 3, or any of the existing building on this Lot. All existing parking must be shown on the site plan. In addition, all required parking for each Lot must be provided on said Lot. Handicap parking must be provided on each lot, with access to the buildings.

13 Two play areas have been proposed to be removed from the site in order to construct the new buildings. It must be clarified if the one remaining play area is sufficient for the number of units on the site, or if more play areas must be included.

14 Sheet C-100 of the site plan references a subdivision of this parcel that occurred in 2007. However, our department never reviewed this subdivision. As the southern boundary of this parcel is also a municipal boundary, we would like to take this moment to remind the Village that Section 239n of the New York State General Municipal Law requires any subdivisions of this parcel be submitted to our department for review.

15 The Application Review Form indicates two parcels are part of this application: tax parcels 50.07-3-3 and 50.07-3-79. The site plan references tax parcels 50.07-3-50.2 and 50.07-3-50.7. The correct parcel for this site is 50.07-3-50.2. The application materials must be corrected so that all materials remain consistent. If the public hearing notice was issued with the incorrect tax parcel information, it must be corrected and reissued.

16 The site plan shall include map notes that list all appropriate information, including the district details.

17 A vicinity map that contains a north arrow and scale must be provided.

18 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.

19 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.

NSCPDC, LP SUBDIVISION & RESIDENTIAL DEVELOPMENT (NS-44A)

20 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 Fire District
New York State Department of State
Rockland County Department of Health
Rockland County Office of Fire and Emergency Services
Rockland County Sewer District #1

McGoey, Hauser & Edsall
Town of Ramapo

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.