

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

September 21, 2016

Wesley Hills Zoning Board of Appeals
432 Route 306
Wesley Hills, NY 10952

Tax Data: 42.13-1-21

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

Map Date: 2/11/2016

Date Review Received: 8/21/2016

Item: *C&R GROUP/15 MCNAMARA ROAD (Whi-141)*

Variances for lot area, lot frontage, lot width, effective square, front yard, side yard, total side yard, rear yard, building coverage, impervious surface ratio, front yard impervious ratio, garage rear yard and garage side yard to permit the construction, maintenance and use of a single-family dwelling on .1749 acres in an R-35 zoning district.

South side of McNamara Road, approximately 320 feet northwest of Union Road

Reason for Referral:

McNamara Road (CR 67), 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 Since a permitted use is proposed on a pre-existing, non-conforming parcel, the Village must be satisfied that the dimensional non-conformity of the single-family dwelling will not increase over present conditions, as required in Section 4.3.3 of the Zoning Law.
- 2 A review must be completed by the County of Rockland Department of Highways and all required permits obtained.
- 3 The applicant must comply with the conditions of the Rockland County Sewer District #1's letter of September 1, 2016.
- 4 The site plan shall contain map notes that list all appropriate information, including the district details.
- 5 A north arrow must be provided on the vicinity map.

C&R GROUP/15 MCNAMARA ROAD (Whi-141)

6 The Village of New Hempstead is one of the reasons this proposal was referred to this department for review. The municipal boundary is along McNamara Road and the northern 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 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



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Mayor Marshall Katz, Wesley Hills
Rockland County Department of Highways
Rockland County Sewer District #1

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

C&R Group of Rockland LLC

**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.