

**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*

**Richard M. Schiafo**  
*Deputy Commissioner*

July 31, 2024

New Hempstead Planning Board  
108 Old Schoolhouse Road  
New City, NY 10956

**Tax Data:** 842.18-2-24, 42.18-2-24

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

**Map Date:** 04/12/2024

**Date Review Received:** 07/02/2024

**Item:** *775 North Main Street - Hamaspik Choice (GML-24-0095)*

Site plan for the construction of a two-story, 18,554 SF addition to an existing office building located 2.9 net acres (3.11 gross acres) in the NCD zoning district. A total of 102 parking spaces will be provided, with an additional 37 spaces to be landbanked in accordance with Section 290-66 of the Village Code. Variances for floor area ratio and number of parking spaces will be needed. Side yard and total side yard variances may be needed depending upon the determination of the Building Inspector. West side of NYS Route 45, approximately 240 feet south of Rovitz Place

**Reason for Referral:**

State Route 45 - N Main St, New Square

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 A review must be completed by the New York State Department of Transportation, any comments or concerns addressed, and all required permits obtained.
- 2 A review must be done by the Rockland County Department of Health to ensure compliance with the Rockland County Sanitary Code, Article XIX, Mosquito Control.
- 3 A review must be completed by the County of Rockland Sewer District No. 1, any comments or concerns addressed, and all required permits obtained.
- 4 The Village of New Square is one of the reasons this proposal was referred to this department for review. The municipal boundary is approximately 60 feet east of the site, opposite New York State (NYS) Route

**775 North Main Street - Hamaspik Choice (GML-24-0095)**

45. NYS 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 with 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 to 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 Square 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 Square must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

- 5 A review of the Fire Truck Radius Plan must be completed by the Rockland County Office of Fire and Emergency Services, Village of New Hempstead fire inspector, or the Moleston/Hillcrest Fire Department to ensure that the site is designed in a safe manner and there is sufficient maneuverability on site for emergency vehicles.
- 6 Prior to the start of construction or grading, all soil and erosion control measures must be in place for the site. These measures must meet the latest edition (November 2016) of the New York State Standards for Erosion and Sediment Control.
- 7 There shall be no net increase in the peak rate of discharge from the site at all design points.
- 8 A portion of the on-site wetlands are proposed to be filled, and a number of parking spaces will be constructed within the 100-foot wetland buffer. This development will result in the degradation of said wetlands, which will lead to a reduction in the quality of local waterways and exacerbate localized flooding. With the effects of climate change and recent severe storms in the County, it is becoming increasingly important to preserve these resources. A new layout should be proposed that reduces the development within the 100-foot wetland buffer to the greatest extent possible.
- 9 The site plan indicates that the wetlands were delineated in the field on April 29, 2019. This department recommends that field delineation of on-site wetlands be reconducted to avoid potential negative impacts to the wetlands or any wetland buffers, as the previous delineation occurred over five years ago.
- 10 Areas designated for snow removal must be clearly delineated on the site plan and in the field so that the plow drivers will know where to place the snow piles. Providing specific locations on the site for the snow piles will reduce the loss of available parking spaces meant to be used by employees. In addition, this will help to protect the proposed landscaping from damage due to the weight of the snow and salt intrusion.
- 11 If any new signage is proposed, it must be shown on the site plan and conform to the Village requirements found in Chapter 290, Article X of the Village Code. If any variances are required for the signage, we request the opportunity to review them, as required by New York State General Municipal Law, Section 239-m (3)(a)(v).
- 12 This department recommends that the applicant use plants that are native to New York for the proposed landscaping to help preserve and promote biodiversity. Native plants are better adapted to the local climate and soils, making them easier to care for, and result in the need for less fertilizer, pesticides, and use of water. They also have deeper root systems that help prevent erosion and increased runoff into local waterbodies. A pdf titled "Native Plants for Gardening and Landscaping Fact Sheets" that lists native species and the environments in which they can grow can be found on the New York State Department of Environmental Conservation's website:

**775 North Main Street - Hamaspik Choice (GML-24-0095)**

<https://www.dec.ny.gov/get-involved/living-green/sustainable-landscaping>.

- 13 We request the opportunity to review any variances that may be needed to implement the proposed site plan, as required by New York State General Municipal Law, Section 239-m (3)(a)(v).
- 14 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.
- 15 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.
- 16 The following additional comments are offered strictly as observations and are not part of our General Municipal Law (GML) review. The board may have already addressed these points or may disregard them without any formal vote under the GML process:
  - 16.1 The project narrative includes a request for parking deferment, as per Section 290-66. However, it does not clearly note that a parking variance is required, as well. According to the parking calculation provided on the site plan, a total of 182 parking spaces will be required for the proposed development. 102 spaces are to be provided with 37 spaces to be held in reserve for a total of 139 spaces. A variance of 43 spaces is required. The narrative should be amended to note this required variance and the Planning Board must take this into consideration in its determination whether to defer the construction of the requested 37 spaces.
  - 16.2 The bulk table on the site plan shall be amended to denote that a variance for floor area ratio is required.

---

Douglas J. Schuetz  
Acting Commissioner of Planning

cc: Mayor Abe Sicker, New Hempstead  
NYS Department of Transportation  
Rockland County Department of Health  
Rockland County OFES  
Rockland County Planning Board  
Rockland County Sewer District No. 1  
Moleston/Hillcrest Fire District  
Village of New Square Planning Board  
Atzl, Nasher & Zigler P.C.

**775 North Main Street - Hamaspik Choice (GML-24-0095)**

\*New York State General Municipal Law § 239(5) requires a vote of a 'majority plus one' of your agency to act contrary to the above findings.

The review undertaken by the County of Rockland Department of Planning 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 determines whether the proposed action reviewed implicates the Religious Land Use and Institutionalized Persons Act. The County of Rockland Department of Planning defers to the municipality referring the proposed action to render such opinions and make such determinations as 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.

Pursuant to New York State General Municipal Law §§ 239-m and 239-n, the referring body shall file a report of its final action with the County of Rockland Department of Planning within thirty (30) days after the final action. A referring body that 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.