

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 R. Miller
Deputy Commissioner

August 30, 2019

Airmont Zoning Board of Appeals
251 Cherry Lane
P.O. Box 578
Tallman, NY 10982

Tax Data: 55.07-2-2

55.07-2-1

55.10-3-10

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 4/4/2019

Date Review Received: 8/8/2019

Item: 130 ROUTE 59 (A-24C)

A variance application to allow the construction of a four-building warehouse/office complex with 83 parking spaces on 3.59 acres in the LO zoning district. Variances are requested for lot width, front setback, front yard, side setback, total side setback, side yard, buffer to a residential zone, and parking in the side yard.

The northern side of NYS Route 59, approximately 200 feet west of Stage Street, and the western side of Stage Street, approximately 640 feet north of NYS Route 59

Reason for Referral:

NYS Route 59, Town of Ramapo, Village of Montebello, federal wetlands

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 lot width is 66% of the required minimum for warehouse use. The front setback is deficient by 91%. The side and total side setbacks are deficient by 90% and 58%, respectively. The ability of the existing infrastructure to accommodate increased activity on non-conforming 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.

130 ROUTE 59 (A-24C)

- 2 Building A, which has a front setback of only seven feet, is described in the narrative as an existing non-conforming condition. The site plan notes that the existing structure is a two and one-half frame dwelling. The structure also appears to be, or was originally constructed as, a single-family dwelling. A site visit conducted on June 26, 2019 revealed the existing structure to be extremely dilapidated. It is highly unlikely, in the County's opinion, that the existing structure will be retained in any substantial manner, and will be demolished and replaced in total. Given the more restrictive bulk requirements that come with office and warehousing uses, and the likelihood that the existing non-conforming structure will be removed, the Board must not grant any allowance for any existing non-conformity. Building A must be viewed as a new structure and, as such, its location must be amended to provide an appropriate front yard and setback.
- 3 The two structures that house warehouses B, C, D, E, F, and G are proposed to have side setbacks of only five feet. Given the nature of the proposed activity and the proposed height of 30 feet, this distance is not adequate to provide the appropriate buffering from neighboring properties. The structures must be reduced in size or relocated to provide adequate side yards and setbacks.
- 4 The site plan must delineate fire lanes and fire department connections. In addition, a Fire Truck turn-analysis, stamped by an engineer, must be provided.
- 5 The Town of Ramapo and the Village of Montebello are two of the reasons this proposal was referred to this department for review. The Ramapo boundary is adjacent to the southern property line along Route 59. The Montebello boundary is adjacent to the side and rear property lines to the north and west. 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.

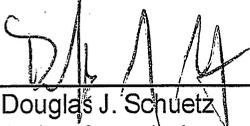
The Town of Ramapo and the Village of Montebello must be given the opportunity to review the proposal and its impact on community character, traffic, water quantity and quality, drainage, stormwater runoff and sanitary sewer service. The areas of countywide concern noted above that directly impact these municipalities must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.
- 6 The applicant must comply with all comments made by the Rockland County Department of Health in their letter of June 25, 2019.
- 7 The applicant must comply with all comments made by the Rockland County Sewer District No. 1 in their letter of June 14, 2019.
- 8 A review must be completed by the Rockland County Office of Fire and Emergency Services, the Village of Airmont Fire Inspector, or the Tallman Fire Department to ensure that there is sufficient maneuverability on site for fire trucks, in the event an emergency arises.
- 9 A review shall be completed by the New York State Department of Transportation and all required permits obtained.
- 10 Since a portion of the site is located within state wetlands, a review shall be completed by the New York State Department of Environmental Conservation and all required permits obtained.

130 ROUTE 59 (A-24C)

11 The landscaping plan shall be supplemented to include low evergreen shrubs or a berm on the southern side of the employee parking area to block headlights from parked vehicles from shining into neighboring properties. Additional landscaping must be provided to enhance the buffer between the residential uses to the east and west of the parcel. A retaining wall is proposed in front of the parking area opposite warehouses B through F. However, the top-of-wall elevation of 434 feet is likely not adequate to block the headlights of vehicles parking in these spaces. The wall must be of sufficient height, or supplemented by evergreen landscaping, to shield neighboring properties from vehicle headlights.

12 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.

13 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 Nathan Bubel, Airmont
New York State Department of Environmental Conservation
New York State Department of Transportation
Rockland County Department of Health
Rockland County Office of Fire and Emergency Services
Rockland County Sewer District #1
Tallman Fire District

Civil Tec
Town of Ramapo Planning Board
Village of Montebello 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.

