# Rockland County

Ed Day, Rockland County Executive

**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*

February 18, 2020

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

**Tax Data:** 55.10-3-8

**Re: GENERAL MUNICIPAL LAW REVIEW:** Section 239 L and M
**Map Date:** 1/9/2020 **Date Review Received:** 1/19/2020

**Item:** ***STAGE STREET ASSOCIATES, LLC - 124 ROUTE 59 (A-114D)***

A variance application to allow the construction of a 5,616 square foot warehouse space with three loading bays and seven parking spaces on 0.53 acres in the LO zoning district. Variances are requested for lot area, lot width, front setback, side setback, side yard, rear setback, street frontage, and buffer to residential zones.

The northern side of NYS Route 59, approximately 400 feet west of Stage Street

**Reason for Referral:**

NYS Route 59, Town of Ramapo, Village of Montebello

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 proposed structures require multiple, significant variances, which indicate a general overdevelopment of an undersized parcel. Despite the provisions of section 210-132.D(2), which allows for significantly reduced bulk requirements for existing, non-conforming lots, the proposal requires a side setback of zero feet. The reduced size of the loading berths, with only a 24' backup space, is impractical for truck deliveries. A loading berth with the standard length of 40 feet, combined with a 24-foot backup area, and a minimal side setback of 10 feet would occupy almost the entirety of the parcel's width. This proposal is an excessive overdevelopment of a parcel that is not suited for warehouse use. This application must be disapproved, and the property developed in a manner that is consistent with the Village's requirements.

2 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 proposed lot area and lot width are 38% and 40% of the required minimums, respectively. The street frontage is deficient by 20%. The proposed side yard and side setback are zero feet. The front setback is deficient by 54%. The rear setback and required buffer to a residential zoning district are both deficient by 50%. The ability of the existing infrastructure to accommodate increased 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. As indicated above, the application must be disapproved to maintain the integrity of the zoning ordinance.

The following comments address our additional concerns about this proposal.

3 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 rear property line to the north. 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.

4 The applicant must comply with all comments made by the Rockland County Department of Health in their letter of August 30, 2019.

5 The applicant must comply with all comments made by the Rockland County Sewer District No. 1 in their letter of September 4, 2019.

6 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.

7 A review shall be completed by the New York State Department of Transportation and all required permits obtained.

8 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.

9 Truck and Fire Truck turning plans must be provided. They must be stamped by an engineer, and the Fire Truck turning plan must delineate fire lanes and fire department connections.

10 It is likely that vehicles will use the paved area between warehouses A and B for parking. The Village must monitor this turnaround area to ensure it is not used for parking.

**STAGE STREET ASSOCIATES, LLC - 124 ROUTE 59 (A-114D)**

11 A landscaping plan must be provided. It must include a landscaped buffer to shield the residential property to the north and low evergreen shrubs or berm along the eastern property line and between warehouses A and B along the western property line to shield neighboring properties from vehicle headlights.

12 All proposed signage shall be indicated on the site plan and shall conform to the Village's sign standards.

13 All water, natural gas, and electric utility lines and easements must indicated and labelled on the site plan.

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.

Douglas J. Schuetz
Acting Commissioner of Planning

cc: Mayor Nathan Bubel, Airmont
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
Orange and Rockland Utilities

Civil Tec
Town of Ramapo Planning Board
Village of Montebello Planning Board

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.*