

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
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October 13, 2017

Chestnut Ridge Zoning Board of Appeals
277 Old Nyack Turnpike
Chestnut Ridge, NY 10977

Tax Data: 57.17-2-27

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

Map Date: 8/21/2017

Date Review Received: 9/15/2017

Item: COMPLETE AUTO REPAIR (CR-14D)

A simultaneous request for interpretation regarding, and variance application for, the proposed demolition of an existing non-conforming building, and construction of a 5,352 sq. ft. building, for the continued use of a non-conforming automobile repair business, which includes eight bays and an office, on 1.44 acres in the PO zoning district.

Southern side of Old Nyack Turnpike, opposite South Madison Avenue.

Reason for Referral:

Old Nyack Turnpike (CR 52), South Main Street (NYS Route 45), Town of Ramapo, Village of Spring Valley

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 It is the opinion of this department that a use variance is required under Chestnut Ridge Zoning Law to construct the proposed garage. The provisions of Article XIII (3)(A) do not apply in this instance as this section refers to the normal maintenance and repair of a building, not the construction of a new building. The applicable section in this instance is Article XIII(3)(E), which states that a building occupied by a non-conforming use which is destroyed (i.e. demolished) beyond 75% of its value, shall not be repaired or rebuilt except in conformity with the zoning regulations. A use variance must be obtained.

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2 This department is not generally in favor of granting use variances because of the land use precedent that can be set. An applicant must prove that applicable zoning regulations and restrictions have caused unnecessary hardship in order for a use variance to be granted. To prove such unnecessary hardship the applicant shall demonstrate to the board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:

- A. The applicant cannot realize a reasonable return, provided the lack of return is substantial as shown by competent financial evidence.
- B. The alleged hardship is unique and does not apply to a substantial portion of the district or neighborhood.
- C. The requested variance will not alter the essential character of the neighborhood.
- D. The alleged hardship is not self-created.

The applicant has not demonstrated to the ZBA that an unnecessary hardship exists. A use variance shall not be granted.

3 In the April 26, 2017 GML review of the site plan application for the property, this department expressed its concerns regarding the state of the site and the numerous cars, trucks, and storage containers that were being stored. A visit to the site was conducted in April to determine the amount of vehicles being stored/parked on the site. At that time, there were numerous vehicles parked all over the site, in excess of the 29 parking spaces currently proposed. These vehicles included cars, box trucks, car carrier, wrecked vehicles, and storage containers, many of which appear to have been parked on the site for a long period of time. Lastly, review of aerial photography, dating from 2016 back to 2000, continues to show that the number of vehicles (trucks, cars, containers, etc.) being parked on this site far exceeds the 29 parking spaces being proposed for the new building, and at times as many as over 70 vehicles were being parked/stored on the site. A re-inspection in October showed that the situation has not changed substantially, and it is necessary to reiterate our concerns.

The demolition of the existing one-story building, much smaller in size than the proposed building with eight bays and a two-story office, will only exacerbate the parking constraints currently on the site. We are concerned, given the site's past parking needs, coupled with an increase in the size of the building and intensification of use, that the site will not be able to accommodate all parking needs. This is particularly critical since the site is located on a County highway. An off-site parking arrangement may be required to accommodate the larger building, and all of the parking demands currently required.

Until the applicant can demonstrate how the existing vehicles will be able to be stored on the site once the newer, larger building is constructed, this application must be denied.

The following are additional comments that address our concerns:

4 The site plan presents bulk tables for use groups D and J. The Board must determine which use group is appropriate for this proposal. If necessary, additional bulk or parking variances must be obtained.

5 The required parking calculation for use group D appears to be a misreading of the Table of General Use Requirements for Gasoline Service Stations. The required number of parking spaces is 34. The phrase "...but not less than 5" is generally used to establish a minimum number of required spaces. The ZBA must clarify the parking requirement.

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

7 An updated review must be completed by the Rockland County Highway Department and all required permits obtained. In addition, the applicant must meet all conditions required by the Rockland County Highway Department in their March 24, 2017 letter.

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8 An updated review must be completed by the Rockland County Sewer District #1 and all required permits obtained. In addition, the applicant must meet all conditions required by the Rockland County Sewer District #1 in their April 21, 2017 letter.

9 As per the March 27, 2017 letter from the Rockland County Health Department, an application must be made to them for review of the storm water management system for compliance with the County Mosquito Code.

10 The Town of Ramapo and the Village of Spring Valley are two of the reasons this proposal was referred to this department for review. The municipal boundary for the Town of Ramapo is along the centerline of Old Nyack Turnpike; the municipal boundary for the Village of Spring Valley is approximately is 215 feet north 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 and the Village of Spring Valley 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 these municipalities must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

11 The vicinity map must contain a north arrow.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Mayor Rosario Presti, Jr., Chestnut Ridge
New York State Department of Transportation
Rockland County Department of Highways
Rockland County Department of Health
Rockland County Sewer District #1

Civil Tec
Town of Ramapo, Village of Spring Valley

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.

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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.