



Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

January 23, 2017

Clarkstown Zoning Board of Appeals
10 Maple Avenue
New City, NY 10956

Tax Data: 51.13-4-42

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

Map Date:

Date Review Received: 12/23/2016

Item: *KCK PALISADES REALTY, LLC (C-164B)*

Variance for the interpretation of the building inspector's decision with regard to a home occupation use (dental office) located on .53 acres in the R-22 zoning district. A previous ZBA decision in 1973 permitted four employees, in addition to the dentist and an associate dentist. The applicant argues that his multiple specialty dentists' combined hours do not exceed the equivalent of a second full-time general dentist.

West side of S. Little Tor Road, south side of Quaker Road

Reason for Referral:

S. Little Tor Road (CR 33)

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:

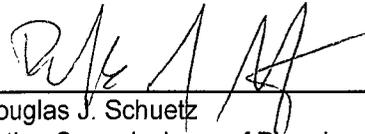
****Recommend the following modifications***

1 No site plan was submitted with this application; only a hand-drawn floor plan. Since the applicant is indicating that they are a home occupation use, as required in Sections 290-20 J.(2)(c) and (d), a site plan is needed to illustrate where the off-street parking is located, and that two parking spaces, in addition to those which are required for the residence, are being provided. This is especially critical since one of the accesses is located directly off of S. Little Tor Road, a County highway. A site plan must accompany the application so that it is possible to verify that all other home occupation requirements are being met.

2 A review must be completed by the County of Rockland Department of Highways and all required permits obtained.

KCK PALISADES REALTY, LLC (C-164B)

3 If the home occupation use has expanded, the Town shall consider whether additional on-site parking must be provided. As per Section 290, Attachment 21, the parking requirement for professional offices of a doctor, psychologist, dentist, chiropractor, lawyer or accountant, engineer, or surveyor is one space per 150 square feet of gross floor area. This standard may be appropriate for the subject dental practice.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor George Hoehmann, Clarkstown
Rockland County Department of Highways

Montalbano, Condon & Frank, P.C.

Clarkstown Planning Board, Attention Joe Simoes

**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.