

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

January 17, 2018

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

Tax Data: 51.07-1-35

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

Map Date: 8/23/2017

Date Review Received: 1/2/2018

Item: *NEW CITY REST 2125, LLC (C-3607)*

Variances to permit various signs for a fast food restaurant located in the H4 zoning district on 1.1 acres. Two signs exceed the permitted number of signs on a building, and the proposed monument sign does not comply with the set back requirement due to the location of the building.

East side of S. Main Street, approximately 68 feet south of Third Street

Reason for Referral:

NYS Route 304

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 Town recently undertook a study of the New City Hamlet area, and revised its code to reflect the goals and objectives of the study. Included in this revision was the creation of the New City Hamlet Overlay Zone which specifies standards for signs. Monument and freestanding signs are allowed only if the single business is set back 80 feet or more from the public road. The applicant is proposing a freestanding sign for a building that is set back less than the required 80 feet from the public roadway. In addition, the Town's sign standards only permit one wall sign; three are proposed, one of which is higher than permitted. The town's zoning standards are reasonable and should be followed. The granting of these variances for the number of signs, size height and setback can set a precedent and encourage nearby commercial uses to request similar exemptions. The resulting proliferation of oversized signs will have an adverse effect on the safe and efficient flow of traffic along the roadway, and undermine the intent of the hamlet center zoning standards.

NEW CITY REST 2125, LLC (C-3607)



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor George Hoehmann, Clarkstown
New York State Department of Transportation
Rockland County Department of Health

New City Rest 2125, LLC
M. Justin Rider, Esq. - Weiner & Frankel P.C.

Clarkstown Planning Board, Attention Joe Simoes
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.