

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

August 3, 2018

Clarkstown Planning Board
10 Maple Avenue
New City, NY 10956

Tax Data: 57.20-1-47

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

Map Date: 5/23/2018

Date Review Received: 7/6/2018

Item: *WHITE CASTLE RESTAURANT (C-475C)*

Site plan to permit the demolition of an existing White Castle restaurant, and construction of a new, one-story, 2,788 sq. ft. restaurant with 38 parking spaces on a site that is located within the RS zoning district on 1.19 acres. The proposed new restaurant will be 32 sq. ft. larger than the existing restaurant.

Northeast side of NYS Route 59 and Dykes Park Road

Reason for Referral:

NYS Route 59, Nauraushaun Brook

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 A review must be completed by the New York State Department of Transportation, and all required permits obtained.
- 2 Low evergreen landscaping should be supplemented along the southwestern portion of the site to help shield the headlights of vehicles, as they round the curve in the exit driveway, from shining into the State right-of-way.
- 3 Areas dedicated for snow removal must be clearly delineated on the site plan so that the plow drivers will know where to place the snow piles. This will help to protect the landscaping, located in the islands, from being broken from the weight of the snow and from causing salt intrusion to the plants. In addition, designating specific locations on the site for the snow piles, especially since only the minimum number of parking spaces are being provided, will eliminate the loss of parking spaces meant for the patrons and employees of the fast food restaurant.
- 4 All proposed signage shall conform to the town's sign standards.

WHITE CASTLE RESTAURANT (C-475C)

- 5 The lighting plan must demonstrate that the intensity of the candle lumens is less than 0.1 at the property line.
- 6 A review must be completed by the County of Rockland Office of Fire and Emergency Services, the Town Fire Inspector, or the Nanuet Fire District to ensure that there is sufficient maneuverability on site for emergency vehicles.
- 7 There is a map note for a section along the eastern property line which indicates that there is an "excepted parcel easement" in order to satisfy the side yard setback requirement. This is an unusual type of easement. Is this easement permanent, recorded in the deed, or in writing elsewhere? The Town Planning Board must ensure that the property owner of tax parcel 57.20-1-48 is still willing to permit this easement and that some type of documentation is in place to preserve the use of this land area. In addition, the tax parcel boundary for tax lot 57.20-1-47 must be corrected to reflect the actual boundary; not one in which the boundary includes this easement.
- 8 Prior to the start of construction or grading, all soil and erosion control measures must be in place for the site. These measures must meet the latest edition (November 2016) of the New York State Guidelines for Urban Erosion and Sediment Control.
- 9 There shall be no net increase in the peak rate of discharge from the site at all design points.
- 10 We request the opportunity to review the front yard setback variance that is needed to implement the proposed site plan, as required by New York State General Municipal Law, Section 239-m (3)(a)(v).



Douglas J. Schuetz
Acting Commissioner of Planning

- cc: Supervisor George Hoehmann, Clarkstown
New York State Department of Transportation
Rockland County Drainage Agency
Rockland County Department of Health
Rockland County Sewer District #1

Dynamic Engineering

**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.