

**DEPARTMENT OF PLANNING**

Dr. Robert L. Yeager Health Center

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**Douglas J. Schuetz**  
*Acting Commissioner*

**Arlene R. Miller**  
*Deputy Commissioner*

November 21, 2019

Clarkstown Town Board  
10 Maple Avenue  
New City, NY 10956

**Tax Data:**

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

**Map Date:**

**Date Review Received:** 10/31/2019

**Item:** *TOWN OF CLARKSTOWN - AUTOMOTIVE SERVICE BUSINESSES (C-3647)*

Local Law to raise the permitted expansion for floor area ratio from 80% to 100% for pre-existing, non-conforming automotive service businesses located within the H1, H2, H3, and H4 zoning districts that were legally existing when the New City Hamlet Center zoning was adopted. The law also removes the requirement that businesses receive a Special Permit from the Zoning Board of Appeals for such expansion.

H1, H2, H3, and H4 zoning districts

**Reason for Referral:**

State and County roads, parks, streams, and facilities

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 The proposed Local Law intends to remove the requirement that a special permit must be obtained from the Zoning Board of Appeals in order to allow for an expansion in floor area. As the law is currently written, in order for the Board to grant a special permit, it must find that the proposed expansion includes substantial enhancements to the existing site and building that meet the design guidelines of the district. This was included in order to ensure the expansion adds to, and complements, the character of the New City Hamlet Center. The Local Law must retain the language that provides these criteria for a permitted expansion so that the goals of the zoning district are retained. The Town must ensure that any expansion shall not be permitted if it does not comply with the zoning regulations that are in place and that no variances be granted.

**TOWN OF CLARKSTOWN - AUTOMOTIVE SERVICE BUSINESSES (C-3647)**

2 The Town must revise Section 290-7.5F, Table F-1, to remove the Board of Appeals approval for the H4 Hamlet Center district and instead note that this use is permitted in all of the New City Hamlet zones.

  
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Douglas J. Schuetz  
Acting Commissioner of Planning

cc: Supervisor George Hoehmann, Clarkstown  
Rockland County Department of Highways  
New York State Department of Transportation  
Rockland County Drainage Agency  
Rockland County Division of Environmental Resources

Attention Kathleen Houlahan, Town Attorney's Office  
Justin Sweet, Town Clerk  
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.*