



Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

November 22, 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 - PRE-EXISTING DRIVE-THROUGHS (C-3646)*

Local Law to permit drive-through windows at businesses within the H1, H2, H3, & H4 zoning districts if that business structure had a drive-through window in existence at the time of adoption of the New City Hamlet Zoning regardless of whether a year has elapsed since the business was last in operation.

H1, H2, H3, & 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 Town must ensure that the businesses that are permitted to have a drive-through window have sufficient room to allow for stacking of vehicles so that site circulation and access is not impacted by the operation of said drive-through window. Vehicles accessing the drive-through window must not block any County or State right-of-way or disrupt the traffic flow on nearby roadways.

Douglas J. Schuetz
Acting Commissioner of Planning

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

TOWN OF CLARKSTOWN - PRE-EXISTING DRIVE-THROUGHS (C-3646)

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.