



Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING

Dr. Robert L. Yeager Health Center
50 Sanatorium Road, Building T
Pomona, New York 10970

Phone: (845) 364-3434 Fax: (845) 364-3435

Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

August 21, 2019

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

Tax Data: 58.18-1-24

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

Map Date: 7/16/2019

Date Review Received: 8/6/2019

Item: *STARBUCKS COFFEE HOUSE (C-3641A)*

Variations to permit the construction of a 2,400 SF Starbucks Coffee House and drive-thru located on 0.53 acres in the LIO zoning district. Variations for lot area, front yard, side yard, rear yard buffer, parking in front yard, and dumpster in front yard are required. Sign variations for monument sign setback, sign area for wall signs, and vertical height of logo signs are also needed. A variance for the number of monument signs may also be required. A use variance is also requested.

Northwest corner of West Nyack Road and NYS Route 304

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 We are disapproving the variations for monument sign setback, total sign area, and vertical height of logo signs. The Town's zoning standards are reasonable and should be followed. The granting of these variations can set a precedent and encourage other commercial uses along NYS Route 304 to request similar exemptions. The proposed sign area exceeds the Town's allowance by over 232%; and the vertical height of the logo signs is nearly double what is permitted. In addition, the proposed monument sign is right at the property line when a 25 foot setback is required. Allowing signs of this magnitude, and without proper setback, can result in the proliferation of oversized signs that can have an adverse effect on the safe and efficient flow of traffic along the State highways, cause a distraction, and be unsightly. If your Board finds there is a pattern of requests for sign variations, and that some rationale exists for lessening the Town's standards, we suggest a recommendation be made to the Town Board to revise the sign standards on parcels that front high-volume traffic corridors.

STARBUCKS COFFEE HOUSE (C-3641A)

2 It must be clarified if a variance for the number of monument signs is required. The bulk table lists that a variance is required since none are permitted and one is proposed. The memorandum dated July 26, 2019 from Erik Asheim, Building Inspector, does not indicate this variance. This must be clarified. If a variance is required, then an updated application must be issued and the public hearing notice rewritten to indicate such.

The additional variances being sought are approved under the following conditions:

3 A review must be completed by the New York State Department of Transportation, and all required permits obtained.

4 The applicant must comply with the comments made by the Rockland County Department of Health, in reference to decommissioning the well on the parcel, in their letter of August 21, 2019.

5 A review must be completed by the County of Rockland Sewer District #1 and all required permits obtained.

6 The deeds for both parcels must be updated with the parking easement so as to assure future use of lot 58.18-26 for the parking needs of lot 58.18-1-24. The map must clearly delineate and note the area to be included in the easement. Currently, it appears the thick blue line on the site plan represents this. If that is the case, a note must be placed on the site plan, indicating such.

7 Areas designated for snow removal must be clearly delineated on the site plan so that the plow drivers will know where to place the snow piles. In addition, providing specific locations on the site for the snow piles will reduce the loss of available parking spaces meant to be used by customers.

8 A map showing the existing conditions of the parcel must be included with the site plan. This will allow us to fully determine the extent of the changes proposed. The site plan is incomplete without its inclusion.

9 A lighting plan shall be provided that shows fields of illumination. This plan must demonstrate that the intensity of the candle lumens is less than 0.1 at the property line.

10 The site plan must contain a vicinity map that includes a north arrow and scale.

11 The site plan shall include map notes that list all appropriate information, including the district details.



Douglas J. Schuetz
Acting Commissioner of Planning

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

Bart M. Rodi - Engineer
Hilton Displays

KD Equities, LLC

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.*

STARBUCKS COFFEE HOUSE (C-3641A)

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.

