

**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*

December 2, 2019

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

**Tax Data:** 64.06-1-10

64.06-1-9

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

**Map Date:** 10/15/2019

**Date Review Received:** 11/7/2019

**Item:** *WALD REALTY CO. #2, LLC (C-1263Q)*

Variances for floor area ratio and rear yard to allow 25 Smith Street, which houses an existing office building on 2.02 acres in the RS zoning district, to separate from 28 Smith Street, a neighboring parcel located on 1.52 acres in the RS zoning district. The 28 Smith Street parcel is included when calculating the floor area ratio for 25 Smith Street. Once separated, 25 Smith Street will therefore require a floor area ratio variance. A variance for a reduction in the parking requirements for 25 Smith Street has been granted, and was previously believed to be the only deficiency needed to achieve the lot separation.

25 Smith Street: western side of Smith Street, approximately 440 feet south of West Nyack Road.

28 Smith Street: eastern side of Smith Street, western side of NYS Route 304, approximately 495 feet south of West Nyack Road.

**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:

***\*Recommend the following modifications***

1 A review must be completed by the New York State Department of Transportation, any comments or concerns addressed, and all required permits obtained.

2 Between 2000 and 2004, an elevator shaft and stairwell was constructed on the western side of the parcel, occupying two valuable parking spaces. In addition, the parcel now requires a rear yard variance due to the elevator shaft. A site plan was never submitted to our department for review of this addition, nor was a variance application. As required by New York State General Municipal Law, the site plan and variance application must be reviewed by our department.

**WALD REALTY CO. #2, LLC (C-1263Q)**

- 3 The project narrative states that 28 Smith Street is being used for vehicle storage for a car dealership. This use is in violation of previous site plan approvals. Additionally, vehicle storage does not appear to be an allowed principal use in the RS zoning district. 28 Smith Street must either remove this unpermitted use, or obtain all necessary approvals, including a use variance, if necessary, and GML review, prior to the approval of the variances for 25 Smith Street.
- 4 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  
New York State Department of Transportation

Sparaco & Youngblood, PLLC  
Ira M. Emanuel

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.*