

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

April 5, 2017

Haverstraw Zoning Board of Appeals
One Rosman Road
Garnerville, NY 10923

Tax Data: 25.16-3-40

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

Date Review Received: 3/3/2017

Item: *WILLOW TREE LLC - RAMAPO FIRE & EQUIPMENT (H-251A)*

Appeal of an Administrative Decision of the Building Inspector in which it was determined that the maintenance and use of fire arms and equipment retail sales store for Police, Fire and first Responders, as part of the existing product line for the trades is an unpermitted use (use variance). The site is located in the C zoning district on 1.0 acres.

Northwest corner of US Route 202 and Balsam Road

Reason for Referral:

US Route 202 (Ramapo Road)

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 This department is not generally in favor of granting use variances because of the land use precedent that can be set. An applicant must prove that applicable zoning regulations and restrictions have caused unnecessary hardship in order for a use variance to be granted. In order to prove such unnecessary hardship, the applicant shall demonstrate to the board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:

- A. The applicant cannot realize a reasonable return, provided the lack of return is substantial as shown by competent financial evidence.
- B. The alleged hardship is unique and does not apply to a substantial portion of the district or neighborhood.
- C. The requested variance will not alter the essential character of the neighborhood.
- D. The alleged hardship is not self-created.

The applicant must demonstrate that all of the criteria above have been met, and that an

WILLOW TREE LLC - RAMAPO FIRE & EQUIPMENT (H-251A)

unnecessary hardship exists.

2 A review shall be completed by the New York State Department of Transportation, any concerns addressed, and any required permits obtained.

3 No site plan was submitted with the application. A site plan that contains a bulk table, map notes, and a vicinity map must be provided. These features are required to ensure that the new use complies with the town requirements. In addition, the parking area must have the spaces delineated so that the number of parking spaces available can be determined. The location of the dumpster or garbage enclosure must be shown on the site plan to ensure that there is adequate parking provided, with access to all spaces, and that maneuverability on site is sufficient. Lastly, the site plan must show the location of all signage to ensure that they comply with the sign regulations.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor Howard Phillips, Haverstraw
New York State Department of Transportation

Joseph S. Scarmato, Esq.

**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.