Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

June 18, 2019

Nyack Zoning Board of Appeals
9 North Broadway
Nyack, NY 10960

Tax Data: 65.36-1-29

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 4/9/2019 **Date Review Received:** 5/14/2019

Item: ***5 POLHEMUS STREET - 18 ROUTE 59 (N-90E)***

Variances to permit the installation of pay station kiosks for an existing car wash and gas station located in the CC zoning district on 1.00 acres. Variances for less than the required set back (3') to the lot line for an accessory structure and greater than 5' from the principal building; and permitting a drive-through facility to operate earlier than 9:00 am (hours of operation are to remain to begin at 7:00 am).

Northeast corner of NYS Route 59 and Polhemus Street

Reason for Referral:

NYS Route 59, NYS Thruway

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, and any comments or concerns addressed, and required permits obtained.

2 A review must be completed by the New York State Thruway Authority and any concerns addresses and required permits obtained.

3 The bulk table or footnotes should be amended to indicate the variances required for the location of the kiosks in relation to the property line and the principal building.

4 It must be verified if a variance is not only required for the distance of the kiosks from the property line, but also for the distance to the principal building as per Section 360.3.2E (1)(c) [1] which states: "Such buildings shall be set back three feet from any lot line and, if separated from the principal building, it shall not be located less than five feet from said principal building."

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5 Many features, including the proposed wall, that is perpendicular to Polhemus Street, the proposed landscaping, and the existing light pole and sign are located within the right-of-way for Polhemus Street. The Village of Nyack must authorize use of this area for the car wash facility, and must work out an agreement with the owner of the facility for removal of these features if future road plans dictate use of this area. In addition, if any variances for these features are required, they must be noted.

6 The vacuum stall area along the western portion of the site, opposite the ingress, has many design flaws that will result in safety and maneuverability issues must be addressed and rectified. Variances may also be required for this parking area, as the parking spaces may infringe into the required yards. These design issues are listed below:

6.1 The vacuum parking area is shown to be diagonal. Since the internal driveway is configured to be only one way, how will a vehicle exit these parking spaces without having to go through the car wash? The design as shown will not work without vehicles having to back a significant distance to exit these vacuum stalls. In addition, the space allotted for backing out of the spaces, particularly at the northern end of the vacuum stalls is very tight at about 12'. The minimum space to provide safe maneuvering out of the parking space must be 16-18'. The vacuum areas must be relocated or an alternate design layout provided. It must be verified if a variance is required for the aisle width.

6.2 As designed, if vehicles are queued waiting to get into the car wash facility, access to the vacuum parking spaces will be impossible. As mentioned above, the location of the vacuum parking area must be relocated. Removal or relocation of these parking spaces may result in insufficient parking.

6.3 The length of the parking spaces for the vacuum stalls are not fully drawn on the site plan. The northernmost parking space is about 22' average in length. However, as the spaces progress south, the lengths drawn are reduced, and the southernmost space is shown to be only 13' in length. Parking spaces must be between 18' and 22' in order to meet proper dimensions. Fully compliant parking spaces will occupy the bulk of the paved area, leaving no room to maneuver into or out of the parking space. These parking spaces as designed are not compliant, will create safety issues, and encroach over the property boundary. The spaces must be redesigned and/or relocated on the site and must not encroach over the property boundary. It must be verified if a variance is required for these spaces if relocated or removed. Certainly the parking space size is non-compliant and a variance is required.

7 Pursuant to General Municipal Law (GML) Section 239-m and 239-n, if any of the conditions of this GML review are overridden by the board, then the local land use board must file a report with the County Commissioner of Planning of the final action taken. If the final action is contrary to the recommendation of the Commissioner, the local land use board must state the reasons for such action.

8 In addition, pursuant to Executive Order 01-2017 signed by County Executive Day on May 22, 2017, County departments are prohibited from issuing a County permit, license, or approval until the report is filed with the County Commissioner of Planning. The applicant must provide to any County agency which has jurisdiction of the project: 1) a copy of the Commissioner report approving the proposed action; or 2) a copy of the Commissioner of Planning recommendations to modify or disapprove the proposed action, and a certified copy of the land use board statement overriding the recommendations to modify or disapprove, and the stated reasons for the land use board's override.

Douglas J. Schuetz
Acting Commissioner of Planning

cc: Mayor Donald N. Hammond, Nyack
New York State Department of Transportation
New York State Thruway Authority

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Collazuol Engineering & Surveying Assoc., LLC

**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.