



# Rockland County

Ed Day, Rockland County Executive

## DEPARTMENT OF PLANNING

Dr. Robert L. Yeager Health Center  
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**Douglas J. Schuetz**  
*Acting Commissioner*

**Arlene R. Miller**  
*Deputy Commissioner*

February 5, 2020

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

**Tax Data:** 65.35-1-1

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

**Map Date:**

**Date Review Received:** 1/16/2020

**Item:** *MCDONALDS/55 ROUTE 59 (N-11G)*

Variance for more than one sign at a drive-thru for a fast-food restaurant that has more than one drive-thru lane. The site is located on 3.2 acres in the CC zoning district.  
South side of NYS Route 59, West side of Waldron Avenue, opposite Central Avenue to the north

### Reason for Referral:

NYS Route 59, NYS Thruway (NYS Route 87/287), Town of Clarkstown, Long Path Hiking Trail

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 While we recognize that this variance will not directly impact the State highway, the granting of the variance can still set a precedent, and encourage other nearby commercial uses along the State highway to request similar exemptions which could directly impact the safe and efficient flow of the roadway, impede sight distance, and cause a visual distraction. The Village's zoning standards are reasonable as written, and must be followed. However, because the Village permits more than one drive-thru lane at a site, we recommend the Village consider reviewing their sign code section on free-standing signs to determine if any amendments should be made so as to better accommodate the multiple drive-thru lanes that may exist at a given site.

The following comments address our additional concerns about the proposal:

2 The Town of Clarkstown is the reason this proposal was referred to this department for review. The municipal boundary is along the western and northern borders of the site. As required under Section 239nn of the State General Municipal Law, the Town of Clarkstown must be given the opportunity to review the proposed variance and provide any concerns related to the project to the Village of Nyack.

3 Under the "following reasons" section of the Declaration of Appeal, Section 350-4.11(2)e of the Village Code is referenced. This should be corrected to Section 360-4.11E(2)b.

**MCDONALDS/55 ROUTE 59 (N-11G)**

  
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Douglas J. Schuetz  
Acting Commissioner of Planning

cc: Mayor Donald N. Hammond, Nyack  
New York State Department of Transportation  
New York - New Jersey Trail Conference  
Town of Clarkstown

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.*

*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.*