



COUNTY OF ROCKLAND
DEPARTMENT OF PLANNING

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September 11, 2015

Orangetown Zoning Board of Appeals
21 Greenbush Road
Orangeburg, NY 10962

Tax Data: 70.06-1-50.4

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

Map Date: 4/9/2015

Date Review Received: 8/14/2015

Item: *BRADLEY CORPORATE PARK - SECTION IV - PRESTIGE AUTOMOTIVE (O-1168GGGG)*

Use variance to permit a parking lot to be used as outdoor storage for vehicles, located on 10.55 acres in the LO zoning district.

North side of Leber Road, west side of the railroad right-of-way, opposite Redbud Lane

Reason for Referral:

Leber Road (CR 36)

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 has not demonstrated that an unnecessary hardship exists. The applicant must provide that the four criteria listed above have all been met before the use variance can be granted.

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- 2 The proposed parking area does not coincide with the existing lot line boundaries. A lease line is shown along the northern property line between this parcel and tax parcel 70.06-1-1.12. Since more permanent structures are proposed (the retaining wall) on tax parcel 70.06-1-50.4 and currently exist (parking area and driveways) on tax parcel 70.06-1-1.12 that straddle the property boundary, it would make more sense to redraw the tax parcel boundaries so that they contain the features for each parcel. A subdivision to redraw these tax parcels must be done to rectify the features being located off-site.
- 3 It must be clarified if this site is located completely in the LO zoning district. The Town's Zoning Map illustrates that a portion of the site (more than 50%) is actually located in the R-40 zoning district.
- 4 Since the main access to the site is proposed to be over tax parcel 70.06-1-1.12, details must be provided to show how the driveway will tie into it. Cross easements will have to be provided over that parcel for this site as well.
- 5 A review must be completed by the County of Rockland Department of Highways and all required permits obtained.
- 6 Details for the proposed landscaping planned for the berm must be provided. Is this a sufficient width to sustain six to eight foot evergreen landscaping? This must be clarified.
- 7 The proposed berm is planned to be only approximately three feet wide. In order to better shield the parking area from the existing residential area to the south, a wider berm should be provided with enhanced landscaping.
- 8 Is any lighting proposed for the site? This must be clarified. If so, a lighting plan must be provided that shows that the glare from onsite lighting shall not shine into the properties of the adjacent residential area to the south.
- 9 A grading plan must be provided that demonstrates that no drainage will towards the properties to the south and into the County highway.
- 10 Top and bottom wall elevations must be provided so that the overall height of the wall can be determined.
- 11 The application indicates that a fenced area will be provided for the vehicle storage. However, no fencing has been shown on the plans. If fencing is proposed, then it must be illustrated on the plans, and details provided, including height, materials, etc.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor Andrew Stewart, Orangetown
Rockland County Department of Highways
Robert R. Rahnefeld

**NYS General Municipal Law Section 239 requires a vote of a 'majority plus one' of your agency to act contrary to the above findings.*

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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.

