



COUNTY OF ROCKLAND
DEPARTMENT OF PLANNING

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DOUGLAS J. SCHUETZ
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Deputy Commissioner

October 15, 2015

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

Tax Data: 77.07-2-1

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

Map Date: 6/29/2015

Date Review Received: 9/17/2015

Item: LINDA KUPFERSCHMID (115 ROUTE 303) (O-658K)

Use variance to permit an existing building, that was previously used for manufacturing, to be converted to a self-storage facility. The parcel is located in the LO zoning district on 8.5 acres.

Northeast side of NYS Route 303 and Kings Highway

Reason for Referral:

NYS Route 303, Palisades Interstate Parkway, Sparkill Creek

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 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 Town of Orangetown Zoning Board of Appeals must review the materials submitted by the

LINDA KUPFERSCHMID (115 ROUTE 303) (O-658K)

applicant to determine if the four criteria listed above have been met, and that an unnecessary hardship exists.

- 2 The plans prepared by DTMarchitect are deficient in that they do not contain a map date, north arrow, or vicinity map. The site plan must also provide a bulk table, with the applicable bulk standards noted. The latest submission, though different from the previous version, still does not contain the features that we requested previously. In order to ensure that all agencies are reviewing the same set of plans, it is imperative that a map date be added. The plans must be updated with this pertinent information.
- 3 Sheet CV1 notes under the Zoning Information that this lot is located in the LI zoning district. This is incorrect. The parcel is located within the LO zoning district, which does not permit warehouses or storage units. This must be corrected.
- 4 The square footage of the existing building must be provided so that applicable bulk standards, such as floor area ratio and parking needs can be calculated, and determined if the requirements are met.
- 5 A grading plan, which shows both existing and proposed topographic contours must be provided. In addition, the flood plain for the Sparkill Creek must be provided, and all lot deductions calculated.
- 6 A review must be completed by the County of Rockland Drainage Agency and all required permits obtained.
- 7 A review must be completed by the Palisades Interstate Park Commission and any raised comments or concerns addressed.
- 8 A review shall be completed by the New York State Department of Transportation and all required permits obtained.
- 9 A review shall be completed by the United States Army Corps of Engineers and all required permits obtained.
- 10 A review must be completed by the New York State Department of Environmental Conservation and all required permits obtained.
- 11 A lighting plan will have to be provided that shows fields of illumination. Lighting shall not shine beyond the property line or into the State highway.
- 12 All signs shall be shown on the site plan and comply with the town's sign ordinance. Two map notes are provided: one stating "proposed sign - see DTL 2" and the other stating "proposed additional area of signage - location." The sign detail shows signage that is proposed to span the existing drive. Is this type of sign permitted? It is not clear as to what the other sign note refers to, as the arrow is not pointing to anything drawn on the site plan. The proposed signage must be clarified so that it can be determined if any variances are required.
- 13 The Town shall be satisfied that all applicable portions of the Route 303 Overlay Zone have been addressed in the proposed project to ensure that no additional variances will be required.
- 14 If the use variance is granted, then the Zoning Board of Appeals must provide bulk standards for which the applicant must comply. These should include not only yards, but also parking requirements appropriate for the proposed use.

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Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor Andrew Stewart, Orangetown
New York State Department of Transportation
New York State Department of Environmental Conservation
Palisades Interstate Park Commission
Rockland County Drainage Agency
United States Army Corps of Engineers
DTMArchitect

**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.

