

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

July 25, 2016

Orangetown Planning Board
21 Greenbush Road
Orangeburg, NY 10962

Tax Data: 70.14-4-19

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 3/21/2016

Date Review Received: 6/23/2016

Item: *K & P PAVING CORP. OVERNIGHT STORAGE (O-2003T)*

Site plan to permit overnight parking of vehicles and equipment storage in an existing screened fenced parking area on a parcel located in the LO zoning district on 1.36 acres. A use variance is required to permit this use.

West side of NYS Route 303, 300 feet north of Walnut Street

Reason for Referral:

NYS Route 303, Spruce Street (CR 26)

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 We first reviewed the site for a use variance in August 2011 to permit outdoor storage of equipment and overnight parking of trucks for a landscaping business. An interpretation of the building department's decision, or in the alternative, a use variance, was requested in April 2012. In November 2015 a site plan application was reviewed to permit the overnight parking of vehicles and equipment storage. In May 2016, another use variance application was submitted for the allowance of overnight parking and outdoor equipment storage for a paving company. To date, it does not appear that the use variance has been granted. The required use variance must be obtained prior to granting final approval of the site plan and proposed use. 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.

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- 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 appear before the Orangetown Zoning Board of Appeals and demonstrate that an unnecessary hardship exists.

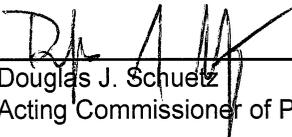
2 The following recommendations address our additional concerns about the requested land use and site plan.

2.1 All proposed lighting shall be shown on the site plan, as well as the fields of illumination. No lighting shall shine outside of the property or into the State right-of-way.

2.2 The requirements of Section 13.10B., (1) through (14) of the Town of Orangetown Zoning Ordinance for the Route 303 Overlay Zone must be met.

2.3 A previous submission had a map note for the southwestern portion of the site which stated: "Title Company please check this out. Instrument #2001-2740 tax lot 70.14-4-21 claims this 60 x 75 piece." Has this lot line discrepancy been resolved? This must be clarified and either the lot line redrawn, or this map note removed, based upon the final outcome.

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



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor Andrew Stewart, Orangetown
New York State Department of Transportation
Rockland County Department of Highways
Rockland County Department of Health
RA Associates

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.