Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

August 2, 2018

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

Tax Data: 74.15-1-8

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 6/6/2018 **Date Review Received:** 7/3/2018

Item: ***BLESS ENTERPRISE (O-1838D)***

Variances to permit the construction of a proposed 593 sq. ft. addition to an existing 1,190 sq. ft. automobile repair business located on .47 acres in the LI zoning district. Variances needed to implement the site plan include less than the required front yard, rear yard, number of parking spaces, vegetated buffer within the Route 303 Overlay Zone; permitting an auto repair shop that is not ancillary to an existing new car dealership or in which the service/repair work takes place within a completely enclosed building; and permitting an expansion of a non-conforming use.
East side of NYS Route 303, opposite Stevens Way

Reason for Referral:

NYS Route 303, Rockland County Sewer District #1 facility

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 The proposed addition, as well as the existing conditions, appear to be an overutilization of the property. A recent site visit confirmed that the site is still operating over capacity, with more than 30 vehicles being parked on the site. In addition, vehicles that were both without license plates and possibly in non-working condition, were still being parked on site. This indicates that the property is being used for long-term storage, not the shorter-term parking traditionally associated with auto repair work. Vehicles were still observed to be parked bumper-to-bumper, in every vacant space on site. Repair work could also be seen happening outside of the garage bays.

Based on the site visit, and review of aerial photography flown in 2010, 2013, and 2016, it appears that over 25 vehicles are being habitually parked or stored on the site, and at times over 40 vehicles stored. The vehicles are stacked in depths of up to three tiers at times, making maneuvering of the vehicles on site difficult. The site plan is only proposing a total of 19 parking spaces, less than the number currently required prior to the addition. A fenced-in area to the north, and rear of the building is also being used for vehicular parking. The proposed addition will remove this parking and displace these vehicles, which will create more parking demand for the

remainder of the site.

The site currently cannot adequately provide sufficient space for all of its needs, and a future expansion will only exacerbate this situation. In light of the existing and proposed site conditions, we recommend that the variances be disapproved.

2 The site plan, Drawing S.02, seems to indicate that 20 parking spaces are being provided. However, parking space #6 is missing, so therefore, only 19 parking spaces are being provided. In addition, the area east of the sidewalk (existing concrete island), is proposed to now include a 10-foot planting area, occupying more of the space currently being used for parking. Inadequate parking on a State highway can impede the safe and efficient flow of traffic if vehicles are not able to pull into the site, or to have to exit, then re-enter the site to search for parking spaces. It is imperative that sufficient parking be provided for the proposed site improvements, particularly since one of the main objectives of the Route 303 Sustainable Development Study is to improve safety along this heavily used transportation corridor. This review, as well as the previous reviews, show a reduction in the number of parking spaces to be provided. Multiple site visits and aerial photography over the years have shown that the current use continues to need parking of closer to 30 spaces to accommodate the customary volume of vehicles that are either temporarily parked by the patrons or are used for longer term storage of vehicles. Until the applicant can demonstrate that the current site can accommodate all of the parking needs for the existing building size, the parking variance must not be granted.

3 As indicated above, the bulk table lists that 20 parking spaces are being proposed, but in fact only 19 are provided. The bulk table must be corrected, and the public hearing notice re-issued to reflect that the site plan is more deficient than shown.

4 It is not clear how 21 parking spaces are required for the existing use, and 21 are required for the addition. A parking calculation must be provided demonstrating how the parking requirements are determined.

5 The Town of Orangetown and the New York State Department of Transportation undertook an extensive study of the Route 303 corridor to develop improvements that would address safety and traffic issues, while also provide land use recommendations to improve the quality of life issues along the corridor. This study was a two-year process that resulted in the creation of the Route 303 Overlay Zoning District. The identified goals were adopted to provide ways to improve both safety and quality of life issues by requiring either new development or modifications to existing developments, to adhere to the requirements of the Route 303 Overlay Zone. To meet the intent of the goals derived from the study, every effort must be made to better comply. Permitting an automotive repair shop in which the repairs are not done within a completely enclosed building will undermine the intent of the overlay zone. The variance to permit this must not be approved.

The following recommendations address our additional concerns about the proposed site plan.

6 An updated review must be obtained from the New York State Department of Transportation, and any raised concerns addressed and all required permits obtained.

7 Given the current state of the site, we are particularly concerned with the impacts created by construction activity. The storage and use of construction vehicles and materials will only exacerbate the existing parking deficiency. The Town of Orangetown must monitor the site during construction to ensure that no parking or unloading of materials occurs within the State right-of-way. It must also ensure that no accessways are blocked, thereby impeding the safe and efficient flow of traffic on the State highway.

8 Information shall be provided about any provisions that have been made for stormwater management under the existing and proposed conditions.

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9 It is our understanding that the automobile repair shop use is a permitted use in the Town's Light Industrial (LI) zones, and that when this use occurs in a LI zone, additional use regulations apply. The regulations pertain to screening of open storage, limits on the number of parked vehicles per service bay and prohibition of parking in required yards except with permission. The Town must determine if these requirements have been met.

10 Since the site is within 500 feet of the Rockland County Sewer District No. 1 treatment facility, a review must be completed by them, and any comments or concerns addressed.

Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor Chris Day, Orangetown
New York State Department of Transportation
Rockland County Sewer District #1
Rockland County Department of Health

William A. Truss Engineering, P.C.

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.