

**DEPARTMENT OF PLANNING**

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**Douglas J. Schuetz**  
*Acting Commissioner*

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

July 3, 2019

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

**Tax Data:** 68.15-1-13

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

**Map Date:** 4/9/2019

**Date Review Received:** 6/5/2019

**Item:** *PRESTIGE AUTO (O-345B)*

Use variance to permit a body repair shop, with no paint booth, on a 2.4-acre site located in the CC zoning district.

South side of W. Washington Avenue, north side of W. Central Avenue, 50 feet west of N. Main Street

**Reason for Referral:**

W. Central Avenue (CR 30), Muddy River, NYS Route 304, W. Washington Avenue (CR 30)

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 Rockland County Department of Planning 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. 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.

Body repair shops are permitted uses in the LI zoning district, and as such are not a unique use that cannot be located elsewhere. In addition, the applicant has not provided any financial evidence to show that a reasonable return cannot be provided if a permitted use were to be located on the parcel instead, nor has the applicant demonstrated that an unnecessary hardship exists. The use variance shall not be granted.

**PRESTIGE AUTO (O-345B)**

2 No site plan map was provided with the application packet, resulting in an incomplete application. The only map submitted with the application is a Location Map, with no details regarding the site itself, other than a general area indicated to be the "work area". Cross sections, washroom and door clearance details, and a floor plan are provided, but these do not provide the information necessary to determine how the use will inter-relate with the other existing uses on the site.

Since the body shop would be just one of the uses on the site, a site plan for the entire parcel must be provided. This site plan must clearly delineate which building, and the area of that building, is to be used for the body shop. In addition, parking related to the proposed use, along with a detailed parking plan for all of the uses, must be provided to ensure that adequate parking is available for the entire site.

3 A bulk table listing each use, the parking requirement for each use, setbacks, floor area ratio, and other required measurements must be provided. This information is critical in assessing the proposed use to the existing uses currently on the parcel. Without this information, it is impossible to evaluate the body shop needs with the other uses on site.

4 A narrative must be provided with the application. This narrative should indicate, at a minimum, operating hours, how the vehicles will arrive to the site, the number of vehicles expected to be on the site at any given time, traffic circulation, the process involved since no painting booth is proposed, and the expected number of employees. This information is essential in determining the impact of the use to the rest of the site, and until it is provided, a thorough evaluation cannot be determined.



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Douglas J. Schuetz  
Acting Commissioner of Planning

cc: Supervisor Chris Day, Orangetown  
Rockland County Department of Highways  
Rockland County Drainage Agency  
New York State Department of Transportation  
  
Eric Knute Osborn, Architect  
Donald Brenner

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.*