

DEPARTMENT OF PLANNING

Dr. Robert L. Yeager Health Center
50 Sanatorium Road, Building T
Pomona, New York 10970

Phone: (845) 364-3434 Fax: (845) 364-3435

Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

October 9, 2020

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

Tax Data: 77.15-1-41	77.15-1-37	77.15-1-36
77.15-1-35	77.15-1-34	77.15-1-33

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

Map Date: 8/4/2020

Date Review Received: 9/22/2020

Item: *LIDL SUPERMARKET (O-724T)*

Variations to permit the construction of a 25,656 SF supermarket located on a site that is comprised of six lots and total 11.19 acres in the CS and LIO zoning districts, and the Route 303 Overlay Zoning District. The supermarket is located on a 1.89-acre parcel wholly located in the CS zoning district, based on a proposed subdivision. The variations required include building height, number of parking spaces, greater than 35% of parking spaces located within the front yard, no vegetative buffer to Route 303, and no vegetative buffer to the adjacent residential use. Additional sign variations will be required for sign area and sign projection. Permission from the Planning Board is also required to allow an outdoor loading berth.

Northeast corner of NYS Route 303 and the New York - New Jersey border

Reason for Referral:

NYS Route 303, Sparkill Creek, federal wetlands

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 Regarding the variance for less than the required number of parking spaces, the Town of Orangetown must monitor the site to ensure that adequate parking is maintained. Parking agreements and/or easements must be provided between the lots to ensure that any overflow parking can be located elsewhere. Under no circumstances can vehicles park within the State highway right-of-way.

LIDL SUPERMARKET (O-724T)

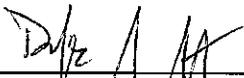
2 With regard to the variances for greater than 35% of the parking spaces within the front yard and no vegetated buffer to Route 303, the applicant must provide, at a minimum, low evergreen landscaping in front of all of the parking spaces that face NYS Route 303 to help shield the headlights from shining into the State right-of-way. This area is notated to be a "landscaped area", but no details have been provided. Enhancing the landscaping will also help to control litter from blowing into the roadway, reduce the visual impact of the parking lot, and make the site more aesthetically pleasing.

3 Regarding the variance for no vegetated buffer adjacent to the residential uses, evergreen landscaping and/or fencing must be installed to reduce both the visual and audible impacts from the proposed supermarket to these residential uses. Currently no landscaping has been proposed along this section of the site. This is especially critical since the loading berth is proposed to be located on the portion of the site closest to the residential uses.

4 The loading berth is proposed to be located along the eastern side of the building, directly adjacent to the nearby residential use. It is also within proximity to the residential uses to the north. Noises, hours of deliveries, and the visual impact of the commercial use can negatively affect the adjacent properties. As discussed above, evergreen landscaping and/or fencing should be provided to help alleviate some of these negative impacts. The applicant should also consider enclosing the loading berth or install noise dampening barriers to help reduce these potential side effects. Enclosing the loading berth would also eliminate the need to obtain Planning Board permission to allow the outdoor loading area.

The following comments address our additional concerns regarding the above variances, as well as the additional variances being sought:

- 5 A review must be completed by the New York State Department of Transportation, any comments or concerns addressed, and all required permits obtained.
- 6 A review must be completed by the County of Rockland Drainage Agency, and any required permits obtained.
- 7 A review must be completed by the County of Rockland Department of Health, any comment or concerns addressed, and any required permits obtained.
- 8 The bulk table indicates a variance is required to permit the outdoor loading berth. It further indicates that permission is required from the Planning Board or Zoning Board of Appeals to allow the outdoor loading berth. The bulk table must be updated to indicate that no variance is required, but approval from the Planning Board is needed.
- 9 There are symbols along the northern property line that are not labeled and do not appear in the legend. These symbols must be explained and added to the legend.
- 10 We request the opportunity to review any additional sign variances that may be needed, as required by New York State General Municipal Law, Section 239-m (3)(a)(v).



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor Teresa Kenny, Orangetown
New York State Department of Transportation
Rockland County Department of Health
Rockland County Drainage Agency
Bohler Engineering

Donald Brenner

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**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.