



**COUNTY OF ROCKLAND**  
**DEPARTMENT OF PLANNING**

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EDWIN J. DAY  
County Executive

DOUGLAS J. SCHUETZ  
Acting Commissioner

August 11, 2014

ARLENE R. MILLER  
Deputy Commissioner

Ramapo Zoning Board of Appeals  
237 Route 59  
Suffern, NY 10901

**Tax Data:** 56.15-2-25

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

**Map Date:** 12/3/2013

**Date Review Received:** 7/11/2014

**Item:** *GRANITE EQUITY HOLDINGS CORPORATION (R-1902C)*

Variations for lot area, lot width, side setback, rear yard, rear setback, street frontage and distance between buildings to allow the expansion of a commercial kitchen on .2583 acres in the MU-1 zoning district. Commercial kitchens are not permitted in this zone. A use variance was granted to allow the existing garage to be used as a commercial kitchen. An existing single-family residence is also located on the site. A variance is needed from the requirement that the property be greater than 60 percent commercial and less than 40 percent residential.

West side of N. Saddle River Road, 100 feet south of 2nd Street

**Reason for Referral:**

NYS Route 59, NYS Route 306 (Main Street), Saddle River Road (CR 73), Monsey Glen Park

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 Since a commercial kitchen is not a permitted use in the MU-1 zoning district, we believe that another use variance is required to permit the proposed expansion. The 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.
- B. The alleged hardship is unique and does not apply to a substantial portion of the district or neighborhood.

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- C. The requested variance will not alter the essential character of the neighborhood.
- D. The alleged hardship is not self-created.

If the zoning board of appeals or the building department deems that a use variance is not required, then an additional variance may be required to allow the expansion of a non-conforming use. Either of these actions are also subject to a review by this department under the New York State General Municipal Law.

- We offer the following recommendations on the required bulk variances.

- 2 It is unclear how the on-site parking requirement for the commercial kitchen was derived. If this facility is expanding, more employees will be required. Typically, parking requirements for commercial uses are a function of the total square footage or the number of employees or patrons. One space for an expanded commercial kitchen seems insufficient. Clarification must be provided.
- 3 The narrative provided with the application materials that were submitted with the 2008 application for the initial commercial kitchen use variance states, "There should be no more than five or six vehicles picking up the food..." This narrative further states, "There will be no more than three to five employees in the kitchen at any one time." As indicated above, it is not clear how the parking calculation was derived. Currently only five parking spaces are provided, yet an expansion is proposed, that will most likely result in an increase in the number of employees. In addition, patrons will be arriving to pick up the food, so it seems that five parking spaces are inadequate to provide parking for both the employees and patrons on site. The applicant must provide a plan on how they will provide additional off-site parking so that all of the required parking is provided.
- 4 The proposed expanded commercial kitchen and the existing residential buildings must comply with all requirements of the New York State Uniform Fire Prevention and Building Code.
- 5 The expanded commercial building is 23.6 feet from the single-family dwelling but only 12 feet from the exterior staircase and nine feet from the wood deck. This proximity raises firematic safety concerns since the staircase and the deck will not be sprinklered. The Town Fire Inspector and the Monsey Fire District must review and approve this layout.
- 6 Permitting development that does not comply with the applicable bulk standards can set an undesirable land use precedent and result in the overutilization of individual sites. The ability of the existing infrastructure to accommodate non-conforming mixed-use developments on undersized lots is a countywide concern and must be evaluated. This evaluation must consider whether local roads will become more congested and the sewer system, stormwater management systems and the public water supply will be overburdened. The Town must consider the cumulative and regional impacts of permitting such development.
- 7 The applicant must comply with the conditions of the Rockland County Health Department's letter of March 12, 2014.
- 8 Since this is a commercial establishment, is signage proposed or provided on the site? The location of the sign must be shown on the plan, if applicable, and the sign must conform to all applicable Town sign standards.

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9 The existing location of the dumpster enclosure cannot be accessed if vehicles are parking in spaces #4 or #5. As the site already seems deficient in parking, another location must be provided so that the sanitation workers can easily access the dumpster location. The applicant must prove that the dumpster and sufficient parking spaces can be provided on the site.

  
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Douglas J. Schuetz  
Acting Commissioner of Planning

cc: Supervisor Christopher St. Lawrence, Ramapo  
New York State Department of Transportation  
Rockland County Department of Highways  
Rockland County Division of Environmental Resources  
Rockland County Department of Health  
Anthony R. Celentano P.L.S.  
New York State Department of State,  
Division of Code Enforcement and Administration  
Granite Equity Holding Corp

*\*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.*

