



Rockland County

Ed Day, Rockland County Executive

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

June 29, 2016

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

Tax Data: 50.06-4-19

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

Map Date: 2/4/2016

Date Review Received: 6/3/2016

Item: LAVAL, LLC. (R-2565)

Use variance to permit the construction, maintenance and use of a three-story, 15,200 SF commercial building on .9988 acres in an R-15 zoning district. The building will include retail and office space. It is proposed that the bulk requirements for the NS zoning district apply. Bulk variances will also be needed. East side of North Main Street, approximately 670 feet south of Bristol Lane

Reason for Referral:

NYS Route 45, Villages of New Hempstead and New Square

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 This department is not generally in favor of granting use variances because of the land use precedent that can be set. This parcel is located in a R-15 zoning district and the predominant land use in the surrounding neighborhoods is residential characterized by one-family dwellings. While this section of Route 45 also contains other land uses including the auto-related facility located on the subject site, it is not an appropriate location for a three-story office building.

As noted in the project narrative, though the parcel is zoned R-15, it currently contains a commercial use. The counsel for the applicant also lists a variety of other non-residential uses along the Route 45 corridor as part of his argument for meeting the criteria to grant a use variance, and states that the essential character of the neighborhood relevant to the analysis of the Zoning Board of Appeals is multi-family. We disagree with this statement, as the predominate land use surrounding the parcel is single-family residences. Except for the Pine Valley Skilled Nursing Facility, which is residential in nature, and set back significantly from Route 45, the remaining non-residential land uses referenced in his March 9, 2016 letter are almost all located within the nearby Village of New Square, which has different zoning laws and districts, and are significantly north of the subject site (close to 1,000 feet away). The "relevant neighborhood" that must be evaluated to

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determine whether the hardship is unique or will not alter the essential character of the neighborhood are those properties that abut or are in close proximity to the subject site, and not those in an adjacent municipality, close to a ¼ mile away.

If the Town of Ramapo Zoning Board of Appeals finds that there have been similar requests for use variances within this area of the R-15 zoning district, they must request that the Town Board undertake a comprehensive study of the neighborhood to determine if it is appropriate to rezone some of the parcels along the NYS Route 45 corridor to a zoning designation which permits retail/office uses. Rezoning is a more suitable planning technique to achieve the desired land uses, as bulk regulations for the zoning district provide standards that can be used to determine compliance.

Lastly, 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.

The Town must be satisfied that the applicant has demonstrated that an unnecessary hardship exists before granting a use variance. As noted above, a comprehensive land use analysis must be undertaken to determine if an office building is appropriate in this area.

2 The proposed office building will require variances from the bulk requirements of the NS zoning district. These include front yard, maximum height and maximum development coverage. Given the parcel's location within an R-15 zoning district and its proximity to low-density residential neighborhoods, we believe that any development proposed as a result of a use variance must conform to the applicable bulk standards. The building footprint shall be reduced so that yard variances are not required, and adequate vegetative buffers can be provided around the perimeter of the site. Maximum building height and development coverage standards must not be exceeded.

3 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 facilities of this size 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.

The comments below address our additional concerns about this ZBA application.

4 A review shall be completed by the New York State Department of Transportation and all required permits obtained.

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5 The Villages of New Hempstead and New Square are two of the reasons this proposal was referred to this department for review. The New Hempstead municipal boundary is approximately 365 feet north of the subject property; the New Square municipal boundary is approximately 445 feet northeast of the site. As required under Section 239nn of the State General Municipal Law, the Villages of New Hempstead and New Square must be given the opportunity to review the proposed use variance and provide any concerns related to the project to the Town of Ramapo.

6 The proposed office building must comply with all requirements of the New York State Uniform Fire Prevention and Building Code.

7 The Town of Ramapo Building, Planning & Zoning Department's February 23, 2016 denial letter contains comments from the Fire Inspector which must be addressed. These include: 1) sprinklers must comply with NFPA 13R; 2) the applicant must show that there is sufficient water to meet fire flow requirements as per NYS Fire Code 508.3; 3) buildings in excess of 30 feet and equipped with an automatic sprinkler system require a Class I standpipe as per NYS Fire Code 905.3.1; 4) egress components must comply with Chapter 10 of the NYS Fire Code; 5) a complete automatic fire alarm detection system is required; 6) the building must conform to all ADA requirements pertaining to accessibility; 7) 5-inch Stortz fire department connections must be mounted on the street side of the building; 8) portable fire extinguishers are required to comply with NYS Fire Code D105; 9) a fire apparatus road is required to comply with NYS Fire Code D105; and 10) "No Parking/Fire Lane" signs must comply with NYS Fire Code D103.6.

8 A review must be completed by the County of Rockland Office of Fire and Emergency Services or the local fire district to ensure that there is sufficient maneuverability on site for emergency vehicles.

9 The ZBA plan is lacking several features that must be provided. These include a north arrow and scale for the Vicinity Map, and map notes that list all appropriate information, including the district details. These features must be included on the site plan.

10 The site plan application required for this proposal are subject to a review by this department as mandated by the New York State General Municipal Law.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor Christopher St. Lawrence, Ramapo
New York State Department of Transportation
Rockland County Department of Health
Rockland County Drainage Agency
Rockland County Sewer District #1
New York State Department of State,
Division of Code Enforcement & Administration
Rockland County Office of Fire and Emergency Services

Civil Tec Engineering & Surveying PC
Villages of New Hempstead and New Square

Laval, LLC

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.*

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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.