

**DEPARTMENT OF PLANNING**

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

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

October 1, 2019

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

**Tax Data:** 56.15-2-10

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

**Map Date:** 6/21/2019

**Date Review Received:** 8/23/2019

**Item:** *14-16 MAIN STREET/RELIABLE AUTO REPAIR OF MONSEY (R-1906E)*

Lot area, front setback, front yard, development coverage and parking variances to permit the construction of a three-story, 12,340 SF mixed-use building on .3227 acres in an MU-1 zoning district. Variances are also required for residential uses exceeding 40 percent, no loading berth and a structure less than 25 feet from the pavement edge of an interior roadway. The first floor will contain retail space; a total of ten two-bedroom apartments will be located on the second and third floors.

East side of Main Street, opposite Second Street

**Reason for Referral:**

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

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 MU-1 zoning district was created as a result of recommendations promulgated in the Town's 2004 Comprehensive Plan. In addition to use and bulk standards, supplementary regulations were established for mixed use developments. The MU-1 supplementary regulations are listed in Section 376-66.A. The proposed development fails to meet the 60/40 ratio required for commercial and residential uses. Additionally, the building is closer than 25 feet from the pavement edge on interior roadways. These regulations are reasonable, and were adopted to ensure the construction of well-designed mixed use developments. The proposal must be modified to comply with all of the criteria in Section 376-66.A.

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2 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 subject parcel is 30 percent deficient in meeting the minimum lot area requirement. The maximum permitted development coverage is exceeded by 27 percent. The ability of the existing infrastructure to accommodate a non-compliant mixed use development, and increased residential density, on an undersized parcel 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 building footprint and the number of residential units shall be reduced to more closely comply with the MU-1 bulk standards, as well as the applicable supplementary regulations.

3 The parking calculation indicates that a 34 percent variance is needed from the minimum on-site parking requirement. However, only 56 percent of the provided parking spaces are located on the subject parcel. Eleven spaces are located beyond the eastern property line and within a 20-foot easement over the adjacent property. In effect, the actual parking variance is more than 63 percent. The inability to provide even 37 percent of the required on-site parking within the property lines of this parcel is another indication that this proposal will result in an overutilization of the site. It is also not possible to provide the required loading berth. The building footprint must be scaled back and fewer residential units permitted so that the required on-site parking can be provided on the parcel.

The following comments address our additional concerns about this proposal.

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

5 Town officials have previously expressed concern to this department about the increasing traffic congestion along the Route 59 and Route 306 corridors. The issue of pedestrian safety has been raised repeatedly. In direct contradiction to these concerns, the Town's Zoning Board of Appeals overrides our GML recommendations by granting variances to allow oversized commercial structures and increased residential density on undersized lots such as the subject site. Land use and traffic generation are not mutually exclusive concepts. If more intense uses are permitted, additional traffic will be generated causing increased congestion on the roadway network, and putting the walking population at greater risk. The Town must consider pedestrian safety when evaluating the impact of the requested variances.

6 The applicant must provide the Rockland County Highway Department with a copy of the parking analysis for this development, as requested in their letter of May 20, 2019.

7 The applicant must comply with the conditions of the Rockland County Health Department's letter of June 10, 2019.

8 The applicant must comply with the conditions of the Rockland County Sewer District #1's letter of June 10, 2019.

9 The proposed mixed use building must comply with all requirements of the New York State Uniform Fire Prevention and Building Code. It appears that a NYS variance is required because the aerial apparatus access way is located on an adjacent parcel.

10 A review must be completed by the Rockland County Office of Fire and Emergency Services, the Town of Ramapo Fire Inspector, or the Monsey Fire Department to ensure that there is sufficient maneuverability on site for fire trucks, in the event an emergency arises.

11 The site plan does not depict the correct parcel boundary, but rather includes a portion of Lot 56.15-2-11 as part of the site. An accurate parcel boundary must be provided on the site plan.

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12 The easement areas must be deducted from the gross lot area. The magnitude of certain variances may increase as a result of the reduced net lot area.

13 The development coverage calculation must be provided on the site plan so its accuracy can be verified.

14 The applicant must consider using pervious pavers where appropriate to reduce the extent of the development coverage variance.

15 Additional information must be provided about the proposed cantilever deck that extends over the driveway and beyond the parking area on the south side of the building. Given the proposed retail use, and that the driveway includes a ten-foot easement to provide access to the commercial lot to the south, truck traffic is likely. Therefore, we consider this to be an unsafe location for a deck. The immediate proximity of the southwestern parking space to the building support column is also of concern. As noted above, the building footprint and number of residential units must be reduced. This will allow for a safer parking lot configuration and traffic flow.

16 Areas designated for snow removal must be clearly delineated on the site plan so that the plow drivers will know where to place the snow piles. Providing specific locations on the site for the snow piles will reduce the loss of available parking spaces meant to be used by customers, staff and residents. This is especially critical for this site since the minimum parking requirement is not achieved. In addition, it will help to protect the proposed landscaping from damage due to the weight of the snow and salt intrusion.

17 General Note 8 must be corrected to specify Section 239 L & M of the General Municipal Law, as this is an application for variances not a subdivision.

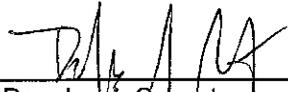
18 The spelling of the Fire District must be corrected in General Note 12.

19 The vicinity map must include a scale and a north arrow. The subject parcel must be highlighted.

20 Drawing No. 5 of 5 is entitled "Site Plan" but it is the detail sheet. The title must be corrected.

21 Pursuant to General Municipal Law (GML) Section 239-m and 239-n, if any of the conditions of this GML review are overridden by the board, then the local land use board must file a report with the County Commissioner of Planning of the final action taken. If the final action is contrary to the recommendation of the Commissioner, the local land use board must state the reasons for such action.

22 In addition, pursuant to Executive Order 01-2017 signed by County Executive Day on May 22, 2017, County departments are prohibited from issuing a County permit, license, or approval until the report is filed with the County Commissioner of Planning. The applicant must provide to any County agency which has jurisdiction of the project: 1) a copy of the Commissioner report approving the proposed action; or 2) a copy of the Commissioner of Planning recommendations to modify or disapprove the proposed action, and a certified copy of the land use board statement overriding the recommendations to modify or disapprove, and the stated reasons for the land use board's override.

  
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Douglas J. Schuetz  
Acting Commissioner of Planning

cc: Supervisor Michael B. Specht, Ramapo  
New York State Department of State  
Rockland County Office of Fire and Emergency Services  
Monsey Fire District  
New York State Department of Transportation  
Rockland County Department of Highways  
Rockland County Department of Health

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Rockland County Sewer District #1

Civil Tec Engineering & Surveying PC

Reliable Auto Care of Monsey, Inc.

Mona Montal, Chief of Staff

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.*