

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene Miller
Deputy Commissioner

April 20, 2020

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

Tax Data: 38.16-1-3

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

Map Date: 1/31/2007

Date Review Received: 3/6/2020

Item: *RUFF CUTS PET GROOMING, INC. (R-819D)*

Use Variance to allow an existing commercial building on 1.142 acres in a PI zoning district to be used as a dog grooming and boarding service.

Northeast side of Route 17, south of Sterling Mine Road

Reason for Referral:

NYS Route 17, Sterling Mine Road (CR 72), Nakoma Brook, Village of Sloatsburg, Rockland County Sewer District Pump Station and Sewer Treatment Facility, NYS Thruway

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. 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 applicant has not demonstrated that an unnecessary hardship exists. No financial evidence has been submitted with the application materials. The use variance shall not be granted.

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2 A grass area to the east of the structure, and owned by the Village of Sloatsburg, is proposed to be fenced and used for the grooming and boarding facility. In addition, there are locations beyond the property line that are being used by the subject property and encroach onto lands owned by others. These are evident on both the survey provided with the application or aerial photography, and include: the land north of the site that contains a gravel area and access to the loading area, and the area southeast of the site where the sidewalk to the building is located on the State Department of Transportation property. These encroachments must be rectified by either obtaining easements from the appropriate agency so that the land owned by others can continue to be used by the subject property, or the encroachments must be removed. In addition, it also appears that access to and from the site has occurred north of the property to Sterling Mine Road. This access cannot be permitted and must be discontinued.

The following comments address our additional concerns about this proposal.

3 The comments in the Rockland County Sewer District No. 1's letter dated April 6, 2020 must be addressed.

4 The Village of Sloatsburg is one the reasons this proposal was referred to this department for review. The municipal boundary is 380 feet north of the site. New York State General Municipal Law states that the purposes of Sections 239-l, 239-m and 239-n shall be to bring pertinent inter-community and county-wide planning, zoning, site plan and subdivision considerations to the attention of neighboring municipalities and agencies having jurisdiction. Such review may include inter-community and county-wide considerations in respect to the compatibility of various land uses with one another; traffic generating characteristics of various land uses in relation to the effect of such traffic on other land uses and to the adequacy of existing and proposed thoroughfare facilities; and the protection of community character as regards predominant land uses, population density, and the relation between residential and nonresidential areas. In addition, Section 239-nn was enacted to encourage the coordination of land use development and regulation among adjacent municipalities, and as a result development occurs in a manner which is supportive of the goals and objectives of the general area.

The Village of Sloatsburg must be given the opportunity to review the proposal and its impact on community character, traffic, water quantity and quality, drainage, stormwater runoff and sanitary sewer service. The areas of countywide concern noted above that directly impact the Village of Sloatsburg must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

5 The commercial building must comply with all requirements of the New York State Uniform Fire Prevention and Building Code.

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

7 The application materials include an 8.5" x 11", outdated survey. A full-size drawing that correctly illustrates the current site conditions must be submitted. The site plan must also include a bulk table with both the PI and CS bulk standards, vicinity map, map notes, and engineer's seal. Lastly, the on-site parking must be clearly delineated on the site plan.

8 As noted in the Town of Ramapo Building, Planning and Zoning Department's February 21, 2020 denial letter, this use is permitted in the CS zoning district. A special permit is required subject to Section 376-123 of the Zoning Law. If the ZBA grants the use variance, a special permit application must be submitted to the Planning Board and referred to this department, as mandated under the NYS General Municipal Law.

9 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.

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10 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.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor Michael B. Specht, Ramapo
New York State Department of Transportation
Rockland County Department of Highways
Rockland County Drainage Agency
Rockland County Sewer District #1
New York State Thruway Authority
New York State Department of State

Anthony A. Sorace, P.L.S.
Village of Sloatsburg

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.