COUNTY OF ROCKLAND

DEPARTMENT OF PLANNING

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DOUGLAS J. SCHUETZ
Acting Commissioner

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July 28, 2014

Spring Valley Zoning Board of Appeals
200 N. Main Street
Spring Valley, NY 10977

Tax Data: 57.65-1-3

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

Map Date: 6/24/2014

Date Review Received: 6/30/2014

Item: ***81 EAST ROUTE 59 (SV-809)***

Use variance to allow an existing commercial building on .178 acres in the HB zoning district to be used as an equipment repair shop.
Southwest side of Route 59, 525 feet northwest of South Pascack Road

Reason for Referral:

NYS Route 59, Town of Clarkstown, Pascack Brook, South Pascack Road (CR 35)

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 This department is not generally in favor of granting use variances because of the land use precedent that can be set. While the surrounding uses may be similar to what the applicant is proposing, that is not sufficient reason to grant a use variance. An 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.
C. The requested variance will not alter the essential character of the neighborhood.
D. The alleged hardship is not self-created.

The Village must be satisfied that the applicant has demonstrated that an unnecessary hardship exists.

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If the use variance is granted, we offer the following recommendations.

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

3 The Town of Clarkstown is one of the reasons this proposal was referred to this department for review. The municipal boundary is 50 feet south 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 countywide 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 that is supportive of the goals and objectives of the general area.

The Town of Clarkstown 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 Town of Clarkstown must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

4 A review must be completed by the County of Rockland Drainage Agency and all required permits obtained.

5 The bulk table on the site plan submitted with this application does not include a parking standard or a calculation of the on-site parking requirement. The paved parking area is not striped so it is unclear how many parking spaces can be accommodated. The parking requirement and the proposed parking must be clarified. Since the site is located on a heavily traveled state highway, adequate on-site parking must be provided so that the safe and efficient flow of traffic is not impeded, and it must be demonstrated that cars will not have to back out into the roadway.

6 A review must be completed by the County of Rockland Department of Health and all required permits obtained.

Douglas J. Schuetz
Acting Commissioner of Planning

cc: Mayor Demeza Delhomme, Spring Valley
New York State Department of Transportation
Rockland County Drainage Agency
Rockland County Department of Highways
Rockland County Department of Health
Robert E. Sorace, PLS
Town of Clarkstown

Bernard Luciano

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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.