



Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

February 13, 2018

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

Tax Data: 50.71-1-3

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

Map Date: 3/20/2017

Date Review Received: 1/8/2018

Item: *STONEHEDGE PLAZA - 235 N. MAIN STREET (SV-319C)*

Use variance to permit an 8,305 sq. ft. portion of an existing 27,639 sq. ft. office/medical laboratory building to be used as a private secondary school for approximately 75-100 children. The parcel is located on a total of 2.743 acres in the PO zoning district. If the use variance is granted, then a special permit must be approved by the Village Board and site plan must be approved by the Planning Board. West side of NYS Route 45, south and north sides of Sneden Place West

Reason for Referral:

NYS Route 45

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, and the fact that no standards are applicable for the use in the zoning district. An applicant must prove 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.

Allowing a secondary private school in the PO zoning district can set a precedent, and change the character of the neighborhood. The more intensified use can also have a negative impact on the State highway if the number of vehicles entering/exiting the site increases. In addition, the applicant has not demonstrated that all of the four

STONEHEDGE PLAZA - 235 N. MAIN STREET (SV-319C)

criteria above have been met. The use variance must not be granted.

2 The site plan submitted with the application does not provide details regarding the proposed secondary school use. The site plan must indicate which portion of the building will be used for the secondary school. Will the school be located in just one section of the building? Is a private access available for only the students? Where will buses drop-off and pick-up students? How will the circulation of the buses be done? Is a play area being provided? Has parking for the school staff been designated on the site? More details must be provided regarding the school's occupation of the building and the interaction with the other uses in the building, before the use variance can be granted.

In addition, Below are additional comments and concerns that must be addressed:

3 Two bulk tables are provided on the site plan; one for the PO zoning district, the other for the POR zoning district. It is inferred that the POR zoning district is being provided as a guide for bulk standards for a private secondary school. This is always an issue with granting use variances; not having specific standards for the use in the current zoning district. The Village of Spring Valley must determine the appropriate zoning district standards to use for the proposed use. If the Village does decide to use the standards for the special permit private secondary school in the POR zoning district, then the bulk table must be corrected to reflect the listed standards in Appendix B, Table of General Bulk Requirements, Section B-7B, as they are incorrect as listed.

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

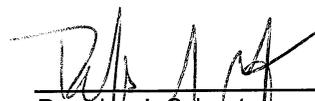
5 The condition in the November 9, 2017 letter from the Rockland County Department of Health must be met.

6 A review must be completed by the County of Rockland Sewer District #1, any comments or concerns addressed, and all required permits obtained.

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

8 The NYS Department of State has determined that the Village is not administering or enforcing the State Uniform Fire Prevention and Building Code in accordance with minimum standards set forth in 19 NYCRR part 1203. Given the concerns about the Village's administration and enforcement of the State Uniform Fire Prevention and Building Code raised in the Executive Deputy Secretary of State's letter of July 15, 2016, the proposed building and the new use, must be held to the requisite minimum standards and comply with all requirements of this code.

9 We request the opportunity to review the proposed special permit for the private secondary school by the Village Board prior to the review and approval of the site plan.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Mayor Alan Simon, Spring Valley
New York State Department of Transportation
Rockland County Sewer District #1
Rockland County Department of Health
Rockland County Office of Fire and Emergency Services
New York State Department of State
Spring Valley Fire District

STONEHEDGE PLAZA - 235 N. MAIN STREET (SV-319C)

Sparaco & Youngblood, PLLC

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.

