

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

December 5, 2018

Stony Point Zoning Board of Appeals
74 East Main Street
Stony Point, NY 10980

Tax Data: 20.04-11-7

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 7/14/2016

Date Review Received: 11/5/2018

Item: *VESTCO, LLC - 11 HOLT DRIVE (SP-550D)*

An area variance application to allow a professional office use in an existing 27,720 square foot structure approved for retail, mini-storage, and contractor storage on 1.99 acres in the LI-2 zoning district. A variance of the rear setback is requested due to the change in bulk requirements of the professional office use.

The southern side of Holt Drive, approximately 815 feet east of US Routes 9W/202.

Reason for Referral:

Town of Haverstraw, Village of West Haverstraw

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 site plan provided is from a proposal for an addition to an existing building, dated July 14, 2016, not a current, as-built survey of the property. The Zoning Board's determination, as well as the information provided in the public hearing notice, must be based on accurate information. Without a survey of actual conditions, the variance application must be denied.

2 The application indicates that a variance of the rear setback is required because only 35 feet are provided, as measured from a 30-foot rear buffer. The site plan indicates a distance of 65 feet from the southwestern corner building to the rear property line. The site plan provided has been reduced in size and is not to scale. However, it appears that the southeastern corner of the building is closer to the rear property line than the southwestern corner. This compounds the above mentioned concerns regarding the accuracy of the site plan and the application. A full-sized, to-scale survey of actual conditions must be provided.

VESTCO, LLC - 11 HOLT DRIVE (SP-550D)

3 Professional office use must comply with the bulk requirements of Use Group I. Based on the site plan provided, additional variances are required. Use Group I requires a front setback of 75 feet, a side setback of 50 feet, and a total side setback of 100 feet. According to the bulk table, the structure has a front setback of 49.0 feet, a side setback of 24.3 feet, and a total side setback of 89.2 feet. An amended application must be submitted and a corrected public hearing notice must be issued prior to granting these variances.

The following comments address our additional concerns about this proposal.

4 The Town of Haverstraw and the Village of West Haverstraw are the reasons this proposal was referred to this department for review. The municipal boundary with the Town of Haverstraw is adjacent to the southern property line of the parcel, and the boundary of the Village of West Haverstraw is approximately 355 feet east of the parcel. 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 Haverstraw and the Village of West Haverstraw 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 these municipalities must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

5 The site plan must include an updated parking calculation. Adequate parking must be provided.

6 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.

7 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 Jim Monaghan, Stony Point

Atzl, Nasher & Zigler P.C.
Town of Haverstraw Planning Board
Village of Haverstraw Planning Board

VESTCO, LLC - 11 HOLT DRIVE (SP-550D)

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.

