Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

May 21, 2019

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

Tax Data: 20.15-1-19

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

Date Review Received: 4/25/2019

Item: ***163 LIBERTY, INC. - 157 SOUTH LIBERTY DRIVE (SP-837)***

An appeal of the building inspector's decision to issue a building permit for a gasoline service station on 0.27 acres in the BU zoning district. The property was previously used as a gasoline service station. The central issue of the appeal is whether or not the station has been abandoned and is subject to Section 215-83 (G) - Discontinuance of Use.

The northwestern corner of the intersection of Major Andre Drive and South Liberty Drive.

Reason for Referral:

South Liberty Drive (US Routes 9W & 202), Filors Lane (CR 98), Helen Hayes Hospital

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 The interpretation and enforcement of a municipality's land use regulations is a matter for local determination, and is subject to the relevant finding of fact. Therefore, the County takes no position with regard to the applicability of Section 215-83(G) of the Town of Stony Point zoning regulations to the subject property.

2 Any proposed changes to the site plan will require the submission of a Conditional Use application, which must be forwarded to this department for review.

3 For the re-establishment of a gasoline service station or the removal of gasoline storage tanks, a review must be completed by the New York State Department of Environmental Conservation and any required permits obtained.

4 Prior to the start of any construction, a review shall be completed by the New York State Department of Transportation and any required permits obtained.

5 Prior to the start of any construction, a review shall be completed by the County of Rockland Department of Highways and any required permits obtained.

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6 We request that all future applications that are forwarded to the County for review include a site plan.

7 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.

8 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
New York State Department of Transportation
Rockland County Department of Highways
New York State Department of Environmental Conservation
Helen Hayes Hospital

**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.