# Rockland County

Ed Day, Rockland County Executive

**DEPARTMENT OF PLANNING**
Dr. Robert L. Yeager Health Center
50 Sanatorium Road, Building T
Pomona, New York 10970
Phone: (845) 364-3434 Fax: (845) 364-3435

**Douglas J. Schuetz**
*Acting Commissioner*

**Arlene R. Miller**
*Deputy Commissioner*

July 2, 2019

Stony Point Planning Board
74 East Main Street
Stony Point, NY 10980

**Tax Data:** 15.19-2-56

**Re: GENERAL MUNICIPAL LAW REVIEW:** Section 239 L and M
**Map Date:** 4/30/2019 **Date Review Received:** 6/4/2019

**Item:** ***A & F TIRE AND BATTERY - 53 NORTH LIBERTY DRIVE (SP-87C)***

A site plan and conditional use application to convert a tire and battery shop into a gasoline service station/automotive repair shop with accessory retail use on 0.36 acres in the BU zoning district. Variances are requested for front setback, side setback, and total side setback.

The western side of North Liberty Drive, approximately 105 feet south of Bayview Drive.

**Reason for Referral:**

North Liberty Drive (US Routes 202 & 9W), Tomkins Avenue (CR 110)

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 applicant must comply with all comments made by the Rockland County Highway Department in their letter of June 14, 2019.

2 As per the June 10, 2019 letter from the Rockland County Department of Health, an application must be made to them for compliance with the County Mosquito Code, should the board require a stormwater management system.

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

4 The applicant must provide as-built drawings and other documentation to New York State Department of Environmental Conservation, Region 3, that illustrate the design and installation of the petroleum bulk storage tanks for the proposed gasoline pumps, as per code. These tanks must also be registered with them.

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

6 The application does not explicitly cite the required variances for this proposal. The only indication of required variances are boxes placed around the proposed dimensions in the bulk table for front setback, side setback, and total side setback. However, this proposal appears to require several other variances as well. The proposed change in use requires that variances be obtained for lot size, lot width, and street frontage, since the parcel is non-conforming for these requirements. Variances are also required for front, side, and rear yards, and for the location of the pumps within required setbacks and yards. The coverage requirement of 75% refers to development coverage, not building coverage, and applies to buildings, parking and loading area, outdoor storage areas, and accessory structures. Since a majority of the site consists of either buildings or parking area, the proposed development coverage of 18% likely is inaccurate. This figure must be confirmed. The Town must verify what variances are required. The bulk table and application review form must be amended to clearly list all required variances. The public hearing notice must be reviewed and, if it contains inaccurate or incomplete information, re-issued.

7 The bulk table heading states the proposal falls into use group M. The bulk table must be corrected to use group F.

8 The parking calculation on the site plan indicates that 12 spaces are required and 16 are provided. The two service bays and four dispensing nozzles each require one parking space. The accessory retail space requires six parking spaces for a total of eight required parking spaces. In addition, the area around the gasoline pump must not be counting toward meeting the required parking. Only the twelve parking spaces behind the principal building can be counted. The parking calculation must be corrected.

9 Two parking spaces are labeled as parking space 11. The label must be corrected.

10 The application form indicates the water district and school district is "Stony Point." The form must be corrected to Suez and North Rockland School District.

11 The map notes shall contain district information. In addition, the site plan cover sheet lists the incorrect parcel identification number. The parcel identification number must be corrected.

12 The proposal requires a substantial increase in the amount of paved area. There shall be no net increase in the peak rate of discharge from the site at all design points.

13 Prior to the start of construction or grading, a soil and erosion control plan shall be developed and in place for the entire site that meets the latest edition of the New York State Standards for Urban Erosion and Sediment Control.

14 The Town shall be satisfied that the proposal complies with the general requirements for Conditional Uses outlined in Section 215-79, as well as the specific standards for Gasoline Service Stations/Auto Repair outlined in Section 215-83. In particular, the screening requirements found in Section 215-83.D must be adhered to, since the property is bounded to the north and west by the R-1 (Low Density Residential) zoning district.

15 A landscaping plan must be submitted for our review. Any areas that do not require a paved surface must be replaced with pervious surfaces.

16 A lighting plan shall be provided that shows fields of illumination. This plan must demonstrate that the intensity of the candle lumens is less than 0.1 at the property line.

17 All proposed signage shall be indicated on the site plan and shall conform to the Town's sign standards.

**A & F TIRE AND BATTERY - 53 NORTH LIBERTY DRIVE (SP-87C)**

18 Areas designated for snow removal must be clearly delineated on the site plan so that the plow drivers will know where to place the snow piles. Providing specific locations on the site for the snow piles will reduce the loss of available parking spaces meant to be used by customers.

19 The property consists of a single parcel, but the site plan has labels for Parcel 1 and Parcel 2. This must be clarified.

20 We request the opportunity to review any variances that may be needed to implement the proposed site plan, as required by New York State General Municipal Law, Section 239-m (3)(a)(v).

21 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.

22 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
Rockland County Department of Health
Rockland County Department of Highways
Rockland County Office of Fire and Emergency Services
New York State Department of Transportation
New York State Department of Environmental Conservation
Stony Point Fire District

Jonathan Villani & Associates

**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.*