



**COUNTY OF ROCKLAND**  
**DEPARTMENT OF PLANNING**

Building T  
Pomona, NY 10970  
(845) 364-3434  
Fax. (845) 364-3435

**EDWIN J. DAY**  
County Executive

**DOUGLAS J. SCHUETZ**  
Acting Commissioner

July 17, 2014

**ARLENE R. MILLER**  
Deputy Commissioner

Suffern Zoning Board of Appeals  
61 Washington Avenue  
Suffern, NY 10901

**Tax Data:** 54.27-1-21

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

**Map Date:** 10/7/1963

**Date Review Received:** 6/18/2014

**Item:** **JOSEPH CALANDRA (SU-339)**

Use variance to permit the change of a non-conforming use to another non-conforming use (office use to an apartment on the second floor) for an existing building located on .085 acres in the 2R-5 zoning district.

Southeast corner of Wayne Avenue and Cross Street

**Reason for Referral:**

Wayne Avenue (US Route 202); NYS Thruway, Harriman State Park

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. 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 the use of two apartments in the 2R-5 zoning district can set a precedent, and change the character of the neighborhood if other property owners also requested a similar use variance. The more intensified use can also have a negative impact on the State highway if additional curb cuts

**JOSEPH CALANDRA (SU-339)**

are required, and the number of vehicles entering/exiting the site increase. One additional apartment will not have an impact on the surrounding neighborhood, traffic, etc., but if other nearby owners also request a similar exemption, thereby setting a precedent, the intent of the zoning district can be undermined, and the increase in usage may affect the State highway. The applicant must demonstrate that all of the four criteria above have been met.

2 The site plan submitted with the application is dated October 7, 1963. Since then, the site has changed significantly. The masonry garage and two-story frame dwelling no longer exist. An updated site plan must be submitted with the application that accurately illustrates what is currently on the site.

3 The zoning ordinance stipulates that two spaces per dwelling unit are required in the 2R-5 zoning district. In addition, parking would be required for the use on the first floor. The site plan must show a bulk table, including parking requirements, and demonstrate that all required parking can be provided on the site. This is especially important as the site is located on a heavily-traveled State highway.

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

  
\_\_\_\_\_  
Douglas J. Schuetz  
Acting Commissioner of Planning

cc: Mayor Patricia Abato, Suffern  
New York State Department of Transportation  
New York State Thruway Authority  
Palisades Interstate Park Commission

Joseph Calandra

*\*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.*