



COUNTY OF ROCKLAND
DEPARTMENT OF PLANNING

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EDWIN J. DAY
County Executive

THOMAS B. VANDERBEEK, P.E.
Commissioner

March 19, 2014

ARLENE R. MILLER
Deputy Commissioner

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

Tax Data: 54.35-2-40

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

Map Date: 7/1/1971

Date Review Received: 2/20/2014

Item: *PATRICIA SANFORD (SU-336)*

Use variance to allow a dog grooming business in the MR-15 zoning district on .33 acres.
North side of E. Park Place, approximately 120 feet east of US Route 202

Reason for Referral:

US Route 202, NYS Route 59

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. The Otto test requires the demonstration of the following:

- 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.

The applicant must demonstrate that all of the four criteria above have been met.

In addition, allowing a dog grooming business in the MR-15 zoning district can set a precedent for other businesses to also request similar exemptions, and change the character of the neighborhood. We caution the Village, with regard to the request for the use variance, to consider the cumulative impact of permitting such development and the land use precedent that will be set. If the Village of Suffern is in favor of granting this type of use in this neighborhood,

PATRICIA SANFORD (SU-336)

then the Zoning Board should suggest to the Village Board that a comprehensive study be undertaken of the neighborhood to determine if it would be more appropriate to rezone some of the parcels within the MR-15 zoning district in this vicinity to a zoning district which permits this type of use, or amend the MR-15 zoning district to include additional permitted uses. Rezoning and zoning code amendments are more appropriate zoning tools to achieve the desired land uses, as bulk regulations for the zoning district provide standards that can be used to determine compliance. However, if the Zoning Board of Appeals does grant this use variance, then specific bulk standards must be provided for this proposed use, especially in relation to parking requirements, landscaping, signage, etc.



Thomas B. Vanderbeek, P.E.
Commissioner of Planning

cc: Mayor Patricia Abato, Suffern
New York State Department of Transportation
Patricia Sanford

**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.