



COUNTY OF ROCKLAND
DEPARTMENT OF PLANNING

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DOUGLAS J. SCHUETZ
Acting Commissioner

June 19, 2014

ARLENE R. MILLER
Deputy Commissioner

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

Tax Data: 54.27-1-43

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

Map Date: 3/27/2014

Date Review Received: 5/20/2014

Item: *WILLIAM SMITH (SU-338)*

Use variance to allow the continued maintenance and use of a basement apartment in an existing rooming house with one apartment on .1029 acres in the GB zoning district. Residential uses are not allowed as of right or by special permit in the GB zoning district as per Section 266-14B.(4), which states "no non-conforming shall be changed to another non-conforming use."

West side of Chestnut Street, 150 feet south of Wayne Avenue

Reason for Referral:

Wayne Avenue (NYS Route 202), NYS Thruway, Lafayette Avenue (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. In this case, the surrounding neighborhood is characterized by a variety of uses including residential. There are single-family residences in the GB zone on Chestnut Street, Hallet Place and Wayne Avenue. The zone also includes two- and three-family residences, as well as multi-family dwellings on Wayne Avenue. While an additional residential unit will not impact our areas of jurisdiction, an applicant must prove that the applicable zoning regulations and restrictions have caused 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.

WILLIAM SMITH (SU-338)

- C. The requested variance will not alter the essential character of the neighborhood.
- D. The alleged hardship is not self-created.

The applicant has not demonstrated that an unnecessary hardship exists in the application materials submitted. The use variance shall not be granted unless the applicant presents supporting financial evidence that demonstrates unnecessary hardship.

2 The application materials do not indicate how many tenants live in the boarding house. The March 27, 2014 survey shows a macadam driveway along the south side of the property, and macadam and gravel areas behind the residential building. No on-site parking spaces are illustrated. The survey does not include a bulk table or parking calculation so it is not possible to determine if bulk variances are also required. This information must be provided.

3 The basement apartment and the rooming house must comply with all requirements of the New York State Uniform Fire Prevention and Building Code.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Mayor Patricia Abato, Suffern
New York State Department of Transportation
New York State Thruway Authority
Jay A. Greenwell, PLS, LLC
New York State Department of State,
Division of Code Enforcement and Administration
William Smith

**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.