



COUNTY OF ROCKLAND
DEPARTMENT OF PLANNING

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EDWIN J. DAY
County Executive

DOUGLAS J. SCHUETZ
Acting Commissioner

ARLENE R. MILLER
Deputy Commissioner

March 11, 2015

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

Tax Data: 54.35-1-26

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

Map Date: 2/3/2015

Date Review Received: 2/11/2015

Item: *KIRIT PATEL (SU-341)*

Use variance to allow the second floor of an existing office building to be converted to five studio apartments. The .0762-acre site is located in a CB zoning district. Northwest corner of Lafayette Avenue and Suffern Place

Reason for Referral:

NYS Route 59 (Lafayette Avenue)

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 An applicant must prove that 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.
 - 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. The use variance shall not be granted unless satisfactory financial evidence is presented to the Village.

KIRIT PATEL (SU-341)

2 This department is not generally in favor of granting use variances because of the land use precedent that can be set. It is our understanding that there are commercial buildings on Lafayette Ave with second floor residential units. While we are not opposed to mixed-use development in the downtown area, we do not believe that the granting of use variances is the appropriate land use tool to accomplish this goal, as bulk standards/requirements are not applicable. If the Village is in favor of permitting residential units above ground floor retail space, they must amend their zoning code to allow this mixed use in the CB zoning district.

3 The site plan must include a bulk table indicating the CB zoning district bulk requirements for the commercial use.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Mayor Patricia Abato, Suffern
New York State Department of Transportation
Brooker Engineering, PLLC
Eric Knute Osborn, Architect

Kirit Patel

**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.