

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

October 13, 2017

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

Tax Data: 54.43-2-46

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 6/25/1985

Date Review Received: 9/20/2017

Item: SCARR FUNERAL HOME (SU-220B)

A use variance application to allow a second-floor apartment in an existing structure, which is used for funeral-related services in connection with an existing, adjacent funeral home business. The parcel is located on 0.24 acres in the 2R-5 zoning district.

The southern side of East Maltbie Avenue, approximately 150 feet east of Orange Avenue (US Route 202).

Reason for Referral:

Orange Avenue (US Route 202)

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:

****Disapprove***

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 that applicable zoning regulations and restrictions have caused unnecessary hardship in order for a use variance to be granted. 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.

The following comment addresses our additional concern.

SCARR FUNERAL HOME (SU-220B)

2 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 Edward Markunas, Suffern
New York State Department of Transportation

Leonard A. Scarr, II

Rockland County Planning Board Members

**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.