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County Reply – Mandatory Review of Local Planning Action as per NYS General Municipal Law §239-l, m, & n

Local Referring Board: Town of Newburgh ZBA

Applicant: WCC Tank Technology, Inc.

Project Name: 2102 Partners LLC

Proposed Action: Use Variance for expansion of existing nonconforming use to allow storage of vehicles on property

Reason for County Review: Within 500 feet of NYS Route 300

Date of Full Statement: April 6, 2018; additional materials submitted April 26, April 30 and May 7, 2018

Comments:

The Planning Department has reviewed the submitted materials regarding the appeal for a use variance and has found no evidence that intermunicipal or countywide impacts would result from its approval. County Planning recommends that the Board act on this variance request only if the applicant satisfies the unnecessary hardship standard, as defined by New York State law.

The courts of New York hold that the unnecessary hardship standard is satisfied by competent proof of each of the following:

1. the land in question cannot yield a reasonable return, in dollars and cents, if used for any use permitted in the zone,
2. the use to be authorized by the variance will not alter the essential character of the locality,
3. the hardship is unique to the parcel and not general throughout the zoning district, and
4. the hardship is not self-created.

While the proposed expansion of the existing nonconforming use does not appear to meet this standard, it also does not appear that the continuation and expansion of the use will cause significant negative impacts. We have reviewed that additional materials submitted and stand by our original recommendation; we have no advisory comments regarding this application.

County Recommendation:

Local Determination

Date: May 8, 2018

Prepared by: Megan Tennermann, AICP, Planner


David Church, AICP
Commissioner of Planning

As per NYS General Municipal Law 239-m & n, within 30 days of municipal final action on the above referred project, the referring board must file a report of the final action taken with the County Planning Department. For such filing, please use the final action report form attached to this review or available online at www.orangecountygov.com/planning.