

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

February 27, 2017

Chestnut Ridge Zoning Board of Appeals
277 Old Nyack Turnpike
Chestnut Ridge, NY 10977

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|-----------------------------|------------|------------|
| Tax Data: 68.05-1-17 | 68.05-1-16 | 68.05-1-15 |
| 68.05-1-18 | 68.09-1-3 | 68.09-1-2 |
| 68.09-1-1 | | |

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 2/29/2016

Date Review Received: 1/24/2017

Item: *MARGIOTTA PROPERTY/DE SALVO COURT (CR-195A)*

Certification of an existing non-conforming use (equipment storage) on 6.85 acres in an R-25 zoning district. The property consists of seven tax lots. Five lots are undeveloped; single-family residences are located on two lots.

West side of De Salvo Court, approximately 105 feet north of Wilshire Drive

Reason for Referral:

Red Schoolhouse Road (CR 41), Garden State Parkway

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***

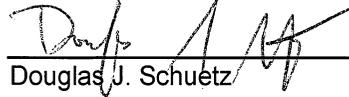
1 A contractor's storage yard is not an as-of-right use in the R-25 zoning district. It is also not permitted as a conditional use or special permit use in this zone. The project narrative indicates that the storage of construction and farm equipment has occurred at this site since the property was purchased by the Margiotta family in 1928. As such, the applicant is seeking to certify this pre-existing, non-conforming use. It is our understanding that the Village has recently issued violations on the property because the owner has attempted to expand the extent of the nonconformity by creating a large parking area. It is alleged that other contractors will rent parking spaces on the site. Our reading of Article XIII indicates that such an expansion is not permitted in the Chestnut Ridge Zoning Law. The Village must clarify whether an enlarged parking area for use by other contractors constitutes an expansion of a non-conforming use.

2 A map must be provided that shows the existing conditions on the site.

MARGIOTTA PROPERTY/DE SALVO COURT (CR-195A)

3 A review must be completed by the Rockland County Highway Department and any required permits obtained.

4 If the non-conforming use is certified and modifications are proposed to the property, a site plan review is warranted. The site plan application is subject to a review by this department as mandated by the New York State General Municipal Law.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Mayor Rosario Presti, Jr., Chestnut Ridge
Rockland County Department of Highways
New York State Thruway Authority

George Margiotta

**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.