



Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING

Dr. Robert L. Yeager Health Center
50 Sanatorium Road, Building T
Pomona, New York 10970
Phone: (845) 364-3434 Fax: (845) 364-3435

Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

April 3, 2019

Clarkstown Town Board
10 Maple Avenue
New City, NY 10956

Tax Data:

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

Map Date:

Date Review Received: 3/4/2019

Item: *CATHRYN PENQUE (C-3633)*

Road abandonment for a portion of Gillis Avenue that is located west of Schulyer Road, and dead ends at its juncture with Buttermilk Falls Park. Only the southern half of this road segment is being requested to be abandoned. This portion of the road is approximately .11 acres and is located within the R-10 zoning district.

West side of Schulyer Road, opposite the paved portion of Gillis Avenue

Reason for Referral:

Buttermilk Falls Park

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 Based on our measurements, the proposal is to abandon only a portion of this section of Gillis Avenue, leaving a road that is substandard to remain. We are not opposed to the road abandonment, but if it is to be abandoned, then the entire portion of the road must be abandoned, not just half of the roadway. Abandoning only a portion of the road will leave a right-of-way unusable by the Town. The entire width of this section of Gillis Avenue must be abandoned.

2 Aerial photography going back as far as 2000, shows that two driveways have been placed within the right-of-way of this portion of the road. Beginning in 2004, the aerial photography shows that buildings/sheds have been constructed within the right-of-way as well for both the parcel to the north and south of the roadway. Vehicles have been using this section of the right-of-way for parking since before 2000. Fencing has also been located within the right-of-way. This further supports the fact that the entire right-of-way must be abandoned, and purchased from the town by the current owners. If this does not occur, then all buildings, driveways, fencing, landscaping, and parking must be removed from the right-of-way.

CATHRYN PENQUE (C-3633)

3 None of the information provided indicates who will own this section of Gillis Avenue once abandoned. Is it the intention to be merged with the adjacent parcel(s)? For tax title and assessment purposes, this must be clarified. In addition, this section of Gillis Avenue must be removed from the Town's Official Map.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor George Hoehmann, Clarkstown
Rockland County Division of Environmental Resources

Attention Kathleen Houlahan, Town Attorney's Office
Justin Sweet, Town Clerk
Clarkstown Planning Board, Attention Joe Simoes

**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.