

**DEPARTMENT OF PLANNING**

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**Douglas J. Schuetz**  
*Acting Commissioner*

**Arlene R. Miller**  
*Deputy Commissioner*

December 8, 2017

Hillburn Zoning Board of Appeals  
31 Mountain Avenue  
Hillburn, NY 10931

**Tax Data:** 47.18-1-47

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

**Map Date:** 8/28/2017

**Date Review Received:** 11/20/2017

**Item: VULFRANO LAZCARES - GARAGE WITH CARETAKER QUARTERS (Hi-41)**

A variance application to allow the construction of a detached, 2-car garage with a caretaker's quarters on 0.17 acres in a R-6 zoning district. Variances are requested for building height, distance to side street for accessory structure, front yard, side yard, total side yard, maximum development coverage, and floor area ratio.

The southern side of the privately-owned extension of Seventh Street (aka Denison Street), approximately 220 feet east of the end of the Seventh Street right-of-way.

**Reason for Referral:**

NYS Route 17

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***

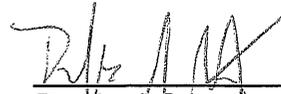
- 1 A review shall be completed by the New York State Department of Transportation and any required permits obtained.
- 2 A review shall be completed by the Rockland County Health Department and any required permits obtained.
- 3 A review must be completed by the County of Rockland Sewer District #1 and any required permits obtained from them.
- 4 The site plan shall contain map notes, including district information, and a vicinity map with a north arrow.
- 5 Prior to the start of construction or grading, a soil and erosion control plan shall be developed and in place for the entire site that meets the latest edition of the New York State Guidelines for Urban Erosion and Sediment Control.

**VULFRANO LAZCARES - GARAGE WITH CARETAKER QUARTERS (Hi-41)**

6 There shall be no net increase in the peak rate of discharge from the site at all design points.

7 The Village zoning regulations define "Coverage" as "That percentage of the plot or lot area covered by the building area of the principal building." It is unclear why a variance for maximum coverage is required to construct an accessory structure. In addition, the requested variance of 13.7 feet for total side yard appears to apply to the existing principal structure, not the proposed accessory structure. The Village application form also lists the requested variance for minimum side yard as 13.7 feet, not 5.9 feet as is shown on the site plan. All materials must be consistent. The Village must review the application, determine which variances are necessary for the proposed project, and, if necessary, the public notice must be reissued.

8 Although there are no easements shown on the site plan, there is no direct access to the public right-of-way for this parcel, as well as neighboring parcels. Aerial photographs indicate that the only access to the roadway for the neighboring parcel to the east (# 47.18-1-48) is through the applicant's property and the location of the proposed garage. The applicant must confirm that a thorough review of land records has been conducted and, if any easements are found, they must be shown on the site plan. The Village must also consider the impact of this proposal on the neighboring property and its ability to access the public right-of-way.



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Douglas J. Schuetz  
Acting Commissioner of Planning

cc: Mayor Craig Flanagan, Jr., Hillburn  
New York State Department of Transportation  
Rockland County Sewer District #1  
Rockland County Department of Health  
Paul Gdanski, P.E. PLLC

*\*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.*