



Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

June 18, 2018

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: 12/22/2017

Date Review Received: 5/18/2018

Item: *VULFRANO LAZCARES - GARAGE ADDITION (Hi-41A)*

A variance application to allow the construction of a 2-car garage addition with living space on the second floor on 0.17 acres in the R-6 zoning district. Variances are requested for 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 Permitting development that does not comply with the applicable bulk standards can set an undesirable land use precedent and result in the overutilization of individual sites. The side and total side yards are deficient by 67% and 78%, respectively. The proposed maximum coverage is 83% greater than allowed, and the floor area ratio exceeds the allowable limit by 120%. The ability of the existing infrastructure to accommodate increased residential density on undersized parcels is a countywide concern and must be evaluated. This evaluation must consider whether local roads will become more congested and the sewer system, stormwater management systems and the public water supply will be overburdened. The Village must consider the cumulative and regional impacts of permitting such development. The proposal must be scaled back, and the second story living space removed, to more closely conform to the requirements of the R-6 zoning district.
- 2 A review shall be completed by the New York State Department of Transportation and any required permits obtained.
- 3 A review must be completed by the Rockland County Department of Health to ensure compliance with Article XIX (Mosquito Control) of the Rockland County Sanitary Code.

VULFRANO LAZCARES - GARAGE ADDITION (Hi-41A)

- 4 An updated review must be completed by the County of Rockland Sewer District No. 1 and any required permits obtained from them.
- 5 The site plan shall contain map notes, including district information, and a vicinity map with a north arrow.
- 6 To reduce the extent of the maximum development coverage variance, pervious pavers must be used.
- 7 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. 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.
- 8 Pursuant to General Municipal Law (GML) Section 239-m and 239-n, if any of the conditions of this GML review are overridden by the board, then the local land use board must file a report with the County Commissioner of Planning of the final action taken. If the final action is contrary to the recommendation of the Commissioner, the local land use board must state the reasons for such action.
- 9 In addition, pursuant to Executive Order 01-2017 signed by County Executive Day on May 22, 2017, County departments are prohibited from issuing a County permit, license, or approval until the report is filed with the County Commissioner of Planning. The applicant must provide to any County agency which has jurisdiction of the project: 1) a copy of the Commissioner report approving the proposed action; or 2) a copy of the Commissioner of Planning recommendations to modify or disapprove the proposed action, and a certified copy of the land use board statement overriding the recommendations to modify or disapprove, and the stated reasons for the land use board's override.



Douglas J. Schuetz
Acting Commissioner of Planning

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

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.