



# Rockland County

Ed Day, Rockland County Executive

## DEPARTMENT OF PLANNING

Dr. Robert L. Yeager Health Center

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Phone: (845) 364-3434 Fax: (845) 364-3435

**Douglas J. Schuetz**

*Acting Commissioner*

**Arlene R. Miller**

*Deputy Commissioner*

December 23, 2019

Hillburn Zoning Board of Appeals

31 Mountain Avenue

Hillburn, NY 10931

**Tax Data:** 47.18-3-56

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

**Map Date:** 10/4/2019

**Date Review Received:** 11/27/2019

**Item:** *SCOTT DEVELOPMENT - 194 ROUTE 17 (Hi-42A)*

Variations to permit the construction of a single-family dwelling located on 0.105 acres in the R-6 zoning district. Variations are requested for rear yard, front yard, maximum development coverage, and floor area ratio.

North side of NYS Route 17, approximately 160 feet east of Brook Street.

### **Reason for Referral:**

NYS Route 17, Federal wetlands

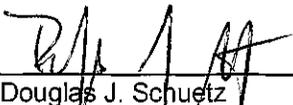
The County of Rockland Department of Planning has reviewed the above item. Acting under the terms of the above GML powers and those vested by the County of Rockland Charter, I, the Commissioner of Planning, hereby:

### ***\*Recommend the following modifications***

- 1 A substantial portion of the site, and the proposed structure, appear to be located within federal wetlands. A review shall be completed by the United States Army Corps of Engineers and all required permits obtained.
- 2 If wetlands are located on the site, they must be delineated on the site plan.
- 3 Section 250-17.M(1) of the Village Code states "Not more than 50% of a parcel may be counted as part of any minimum lot area if subject to the following:... that portion of any freshwater wetland..." The lot area must be adjusted if federal wetlands are located on site. This will result in the need for greater required variations for net lot area, maximum development coverage, and floor area ratio. Revised calculations must be provided on the site plan and the public hearing notice must be updated and reissued if wetlands are present.

**SCOTT DEVELOPMENT - 194 ROUTE 17 (Hi-42A)**

- 4 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 front and rear yards are deficient by 72% and 68%, respectively. Based on the unadjusted lot area, the proposed development coverage and floor area ratio exceed the maximum standards by 84% and 140%, respectively. Incorporating the adjusted lot area will further exacerbate the degree of non-conformity of these bulk requirements. 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 reduced in size to more closely conform to the Village's standards.
- 5 When our department previously reviewed a variance application for this parcel on April 26, 2019, the Full Environmental Assessment Form provided was mostly blank. A full EAF must be completed and submitted.
- 6 A review must be completed by the New York State Department of Transportation, any comments or concerns addressed, and all required permits obtained.
- 7 As per the March 4, 2019 letter from the Rockland County Department of Health, an application is to be made to them for compliance with the County Mosquito Code.
- 8 A review must be completed by the County of Rockland Sewer District No. 1, any comments or concerns addressed, and all required permits obtained.
- 9 The site plan indicates erosion control measures are to be installed within the state right-of-way. All erosion control measures must be located on the site.
- 10 Public sewer mains requiring extensions within a right-of-way or an easement shall be reviewed and approved by the Rockland County Department of Health prior to construction.
- 11 As per Chapter 240 of the Village of Hillburn code, a Wetlands and Stream Protection permit must be issued by the Village Planning Board for this proposal if wetlands are present on site. We request the opportunity to review the permit application under the requirements of New York State General Municipal Law.
- 12 The map notes on the site plan shall include district information, and a vicinity map with a north arrow and scale must be provided.
- 13 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.
- 14 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.

  
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Douglas J. Schuetz  
Acting Commissioner of Planning

cc: Mayor Joseph Tursi, Hillburn  
New York State Department of Transportation

**SCOTT DEVELOPMENT - 194 ROUTE 17 (Hi-42A)**

Rockland County Department of Health  
Rockland County Sewer District #1  
United States Army Corps of Engineers  
  
Paul Gdanski, P.E.

*\*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.*