

**DEPARTMENT OF PLANNING**

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

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

October 11, 2016

Orangetown Planning Board  
21 Greenbush Road  
Orangeburg, NY 10962

**Tax Data:** 68.08-1-4

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

**Map Date:** 8/2/2016

**Date Review Received:** 9/16/2016

**Item:** *J & M NORTH CORP. (O-393B)*

Site plan to bring an existing auto body shop and convenience store, located on .53 acres in the CO zoning district, into conformity. Existing propane tanks and storage containers are to be relocated; an 8' x 16' storage container is proposed, and encroachments onto the adjacent property to the north are to be removed.

Northwest corner of Crooked Hill Road and N. Middletown Road

**Reason for Referral:**

N. Middletown Road (CR 33), NYS Route 304

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 An updated review must be completed by the County of Rockland Department of Highways and all required permits obtained.
- 2 The convenience mart is a pre-existing non-conforming use in the CO zoning district. A use variance was granted in 1996 for a gas station; and the convenience store use was a permitted when the site was previously zoned CC. However, the current zoning does not permit either uses, and since two uses are proposed on the site, a commercial subdivision will need to occur. In addition, several changes have been made over time to the site plan. If it is determined that more than 50% of the site plan has been expanded, then a use variance will have to be sought. It must be determined if a use variance is warranted, and an internal subdivision must be obtained for the two uses on the site.

**J & M NORTH CORP. (O-393B)**

3 This use does not appear to be a permitted use, and therefore it is not clear how the parking analysis numbers were derived or the bulk requirements obtained. In addition, no parking information was provided for the food mart/convenience store use. It must be clarified what parking and bulk requirements are needed, and all components of the site factored into the parking calculation (auto repair and convenient store uses).

4 Aerial photography flown in 2013 shows that vehicles are parked within the southeast area of the site, which is outside of the property boundary, and within the road right-of-way. Previous aerial photography illustrates that prior to 2010, this area was landscaped, and not being used by the property owner. Since this land is roadway right-of-way, and not permitted to be used by the property, this paved area must be removed, and restored to the previous landscaped area. The site plan must note that this area will be removed.

5 Two curb cuts exist along Crooked Hill Road. The site plan still does not depict the southwestern most curb cut, though it does now indicate that new curbing and a sidewalk are proposed. It appears that the eastern curb cut will remain, but be relocated further west. The area between the stacked parking and the sidewalk, and the macadam area in the southeastern corner must be planted with vegetation. No parking or other use can occur in this southeastern corner of the site since it is within the County right-of-way.

6 The site plan now shows that the pavement outside of the property boundary along northwestern portion of the site, which extends onto a portion of tax lot 68.08-1-3, will be removed. A fence has also been installed over the property line, but not mention is made to the removal of this item. The fencing, along with the paved area must be removed so that no encroachments result.

7 The paved areas on the site plan that are not being used for parking or driveway should be removed and landscaped. This will help to break up the large macadam areas while reducing the amount of stormwater runoff from the site. These areas include the northeastern corner, the southwestern corner, and the southeastern portion of the site. This will also reduce the ability of vehicles to park within roadway rights-of-ways, which can impede sight distance, and cause other safety concerns.

8 The bulk table on the site plan is still incomplete. The table does not provide a floor area ratio calculation. This information must be provided.

9 A landscaping plan must be provided. Low evergreen landscaping or a berm must be provided in front of the parking spaces facing the county highway to shield headlights from shining into oncoming vehicles traveling on the road.

10 All proposed signage shall be indicated on the site plan and shall conform to the municipality's sign standards.

12 We request the opportunity to review any variances which may be necessary to implement the proposed site plan.

13 A lighting plan shall be provided that shows fields of illumination. Lighting shall not shine beyond the property line or into the County highway.

**J & M NORTH CORP. (O-393B)**

  
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Douglas J. Schuetz  
Acting Commissioner of Planning

cc: Supervisor Andrew Stewart, Orangetown  
Rockland County Department of Highways  
Rockland County Department of Health  
New York State Department of Transportation  
  
John J. Bezuyen, PLS

*\*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.*

