

**DEPARTMENT OF PLANNING**

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

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

January 3, 2017

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:** 12/1/2016

**Date Review Received:** 12/9/2016

**Item:** *J & M NORTH CORP. SITE PLAN (O-393C)*

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; a refuse containment bin, new landscaping, gravel, and berm, and an office are 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 The proposed site plan is an improvement over previously submitted plans, as more of the encroachments are being addressed. However, the southeastern corner, though now improved with gravel and plantings, still contains pavement area that 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 entire paved area outside of the property boundary must be removed, and restored to the previous landscaped area. The site plan must illustrate that this area will be removed.

2 An updated review must be completed by the County of Rockland Department of Highways and all required permits obtained. As indicated in their October 26, 2016 letter, a permit is required for the proposed development.

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3 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.

4 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 or the proposed office space. It must be clarified what parking and bulk requirements are needed, and all components of the site factored into the parking calculation (auto repair, office, and convenient store uses).

5 The previous plan indicate that required parking was 3 + 4 for each service bay, or 11 spaces. This seems to indicate that there are two service bays. The current plans indicate that 6 + 4 for each service bay, or 15 spaces are required. If there are two service bays, then the total required would be 14, not 15 parking spaces. As requested above, it must be noted how is the "6" required spaces is derived, and what the parking calculation is based on. The parking analysis must be corrected if the number of parking spaces required is the total of "6 + 4 for each service bay (2)".

6 The previous version of the site plan showed that the pavement outside of the property boundary along the northwestern portion of the site, which extends onto a portion of tax lot 68.08-1-3, was to be removed. The current set of plans do not indicate that the macadam will be removed. In addition, a fence was also installed over the property line, but the plans do not indicate removal of this item either. The site plan must note that both the fencing and the paved area are to be removed so that no encroachments exist.

7 It is not clear how access will be provided to the air pump and vacuum located in the northeastern corner of the site. Less than 10 feet is being provided to access either of these features. They should be moved to a more accessible location of site.

8 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 southwestern corner, the southeastern portion of the site, and the northeastern corner of the site (if the air pump and vacuum are relocated). 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.

9 A new office area is proposed for the site. The square footage of the office space must be provided. The floor area ratio calculation provided does not seem to include the additional square footage. All building area must be listed and included in the floor area ratio calculation and parking requirements.

10 As indicated in the December 15, 2016 letter from the Rockland County Department of Health, the existing monitoring wells must be shown on the site plan to ensure that there are no conflicts with any of the proposed improvements.

11 A landscaping plan must be provided that notes the type of plantings proposed in the southeastern corner of the site.

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

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.

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

  
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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.*

