

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

February 7, 2019

Orangetown Planning Board
21 Greenbush Road
Orangeburg, NY 10962

Tax Data: 70.19-1-26.4

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

Map Date: 12/28/2018

Date Review Received: 1/8/2019

Item: *MADIRA FRAMING CORPORATION (ROCHRIS SUBDIVISION) (O-2023D)*

Site plan to permit an adjustment to the conservation easement line that was established during the four-lot subdivision process in 2004. The parcel is located on .69 acres in the R-15 zoning district.

West side of Old Greenbush Road (formerly Clausland Road), approximately 1,290 feet south of Spruce Street

Reason for Referral:

Old Greenbush Road (CR 11), Sparkill Creek, Clausland Mountain Park

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 comments in the January 14, 2019 letter from the Rockland County Highway Department must be met. All required permits must be obtained prior to any grading, vegetation removal, or construction on the site.
- 2 A review must be completed by the Rockland County Drainage Agency, and any comments or concerns addressed, and all required permits obtained.
- 3 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.
- 4 There shall be no net increase in the peak rate of discharge from the site at all design points.

MADIRA FRAMING CORPORATION (ROCHRIS SUBDIVISION) (O-2023D)

5 The narrative states that a low retaining wall will be constructed along the new conservation easement boundary. The site plan only shows a retaining wall for a portion of the easement. If a wall is not proposed along the entire length, then some other method should be used to identify the boundary for the easement, ensuring that encroachments will not occur in the future.

6 The purpose of a conservation easement is to protect the fragile features within the area. Construction of a retaining wall and regrading of the site may encroach into the conservation easement, negating the benefits of having a such an easement. Clearing limit lines must be shown on the plans, and the area delineated in the field prior to any construction or grading on site to ensure that minimal disturbance will be done within the conservation easement.

7 Item #5 in the Narrative Summary requests permission to enter the conservation easement to remove fallen and dead trees. Dead trees and limbs are essential to the health of forested areas by providing important nutrients to the ecosystem, and therefore, one of the valuable components within the conservation easement. It is also not clear if this is a one-time request, or an ongoing request. This must be clarified. We strongly caution the Town in permitting the owner from clearing out the dead debris from within the conservation easement area.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor Chris Day, Orangetown
Rockland County Department of Highways
Rockland County Drainage Agency
Rockland County Division of Environmental Resources
Rockland County Department of Health

Atzl, Nasher & Zigler P.C.

**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.