

DEPARTMENT OF PLANNING

Dr. Robert L. Yeager Health Center
50 Sanatorium Road, Building T
Pomona, New York 10970
Phone: (845) 364-3434 Fax: (845) 364-3435

Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

December 27, 2019

Orangetown Planning Board
21 Greenbush Road
Orangeburg, NY 10962

Tax Data: 70.19-1-27.1

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

Map Date: 8/14/2019

Date Review Received: 11/21/2019

Item: *NATELLI CONSERVATION EASEMENT RELOCATION (O-1394E)*

Relocation of a conservation easement to allow for the construction of an in-ground pool at an existing single-family dwelling located on 1.38 acres in the R-15 zoning district.
West side of South Greenbush Road, approximately 689 feet south of Pine Street

Reason for Referral:

South Greenbush Road (CR11), Clausland Mountain Park, Sparkill Creek

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:

****Disapprove***

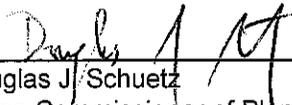
1 The purpose of the conservation easement located on this property is to protect the floodplain of the Sparkill Creek by leaving it in its natural state. The proposed location of the new easement line places development within the floodplain, undermining the intent of the conservation easement. In addition, the location of the new easement line includes an area that is to be regraded and fenced, which again defeats the purpose of a conservation easement. In order to protect the floodplain, the conservation easement must be located so as to preserve and protect the environmentally sensitive lands. Additionally, under no circumstances can regrading or man-made features including fencing, a pool, a patio, etc. be located within the easement area. The owners purchased this parcel with knowledge of the conservation easement, and should be aware of the easement's intended purpose. The Town must consider the cumulative and regional impacts of permitting this relocation and the precedent it will set as neighboring parcels also contain conservation easements. The relocation of the conservation easement must not be permitted.

The following comments address our additional concerns about the proposal:

2 The applicant must comply with the comments made by the Rockland County Drainage Agency in their letter of December 10, 2019.

NATELLI CONSERVATION EASEMENT RELOCATION (O-1394E)

- 3 The applicant must comply with the comments made by the Rockland County Highway Department in their letter of December 6, 2019.
- 4 A review must be completed by the County of Rockland Division of Environmental Resources and any concerns addressed.
- 5 If there is any encroachment into the Federal wetlands, a review must be completed by the United States Army Corps of Engineers and all required permits obtained.
- 6 The boundaries of the construction envelope shall clearly be marked on site prior to any grading or disturbance of the site. Soils outside the construction envelope shall not be disturbed.
- 7 Prior to the start of construction or grading, all soil and erosion control measures must be in place for the site. These measures must meet the latest edition (November 2016) of the New York State Standards for Urban Erosion and Sediment Control.
- 8 There shall be no net increase in the peak rate of discharge from the site at all design points.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor Chris Day, Orangetown
Rockland County Department of Highways
Rockland County Division of Environmental Resources
Rockland County Drainage Agency
United States Army Corps of Engineers
Paul Gdanski P.E., PLLC

Rockland County Planning Board Members

**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.