

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

August 6, 2019

Orangetown Zoning Board of Appeals
21 Greenbush Road
Orangeburg, NY 10962

Tax Data: 74.16-1-9

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

Map Date: 12/3/2019

Date Review Received: 7/18/2019

Item: *ROCKLAND CEMETERY (O-2009P)*

Special permit to allow a cemetery on 14.90 acres adjacent to an existing cemetery in the R-40 zoning district.

East side of Kings Highway, approximately 330 feet north of Princes Gate

Reason for Referral:

Long Path Regional Hiking Trail, Village of Piermont

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 Special permit uses are, by definition, subject to a higher standard of review than as-of-right uses. The proposed cemetery does not comply with the special use requirements for the R-80 zoning district as outlined in the Table 3.11 General Use Table. The special permit use only allows for cemeteries on plots of 10 acres or less whereas the proposed cemetery is to be 14.93 acres. Due to this, a variance will be needed.

2 In addition, the map provided with the application is dated December 3, 2009. Our department has previously reviewed applications for this parcels with maps dated as recent as August 25, 2015. Multiple additions have been added to the parcel between the two dates. An up-to-date map must be provided for our department to accurately review the site and to comply with Section 4.31 of the Town's Zoning Code which states: "For all special permit uses a proposed plan showing the size and location of the lot, design and location of the proposed facilities [including access drives, screening and streets within 1,000 feet], and a detailed description thereof must be submitted in accordance with rules prescribed by the Board."

3 A review must be completed by the County of Rockland Department of Health and all required permits obtained.

ROCKLAND CEMETERY (O-2009P)

- 4 A review must be completed by the New York - New Jersey Trail Conference and any concerns addressed.
- 5 The Village of Piermont is the reason this proposal was referred to this department for review. The municipal boundary is approximately 250 feet east and 350 feet south of the subject property line. As required under Section 239nn of the State General Municipal Law, the Village of Piermont must be given the opportunity to review the proposed special permit and provide any concerns related to the project to the Town of Orangetown.
- 6 We request the opportunity to review the variance needed to implement the proposed special permit use, as required by New York State General Municipal Law, Section 239-m (3)(a)(v).



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor Chris Day, Orangetown
Rockland County Department of Health
New York - New Jersey Trail Conference

Jay A. Greenwell, PLS, LLC
Village of Piermont

**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.