

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

March 18, 2020

Orangetown Planning Board
21 Greenbush Road
Orangeburg, NY 10962

Tax Data: 74.11-1-12

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

Map Date: 10/7/2019

Date Review Received: 2/13/2020

Item: 27 GREENBUSH ROAD (O-331P)

Site plan for the reconfiguration of a parking lot and building access for an existing 7,153.79 SF unfinished building located on 1.04 acres in the CC zoning district. The building is proposed to be used for contractor's storage.

North side of Greenbush Road, south side of Orangeburg Road, approximately 82 feet west of NYS Route 303

Reason for Referral:

NYS Route 303, NYS Route 340, Orangeburg Road (CR 20), 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 It does not appear that contractor's storage is a permitted use in the CC zoning district. It must be clarified if this is, in fact, a permitted use. If the use is permitted, the Town must confirm that use group JJ applies to this proposal, and that the 1992 approval still applies. If contractor's storage is not a permitted use, this application must not be approved, and a use variance must be sought. In order to be granted a use variance, an applicant must prove unnecessary hardship in order for a use variance to be granted. In order to prove such unnecessary hardship, the applicant shall demonstrate to the board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:

- A. The applicant cannot realize a reasonable return, provided the lack of return is substantial as shown by competent financial evidence.
- B. The alleged hardship is unique and does not apply to a substantial portion of the district or neighborhood.
- C. The requested variance will not alter the essential character of the neighborhood.
- D. The alleged hardship is not self-created.

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2 A parking calculation based on the applicable district standards must be provided to ensure that adequate parking can be achieved.

The following comments address our additional concerns about this proposal:

3 If it is found that the 1992 approval does not still apply to this site, additional variances may be required. We request the opportunity to review any variances that may be necessary, as required by New York State General Municipal Law.

4 A review must be completed by the New York State Department of Transportation, any comments or concerns addressed, and all required permits obtained.

5 An updated review must be completed by the County of Rockland Drainage Agency, any comments or concerns addressed, and all required permits obtained.

6 As per their letter of September 26, 2019, an application is to be made to the Rockland County Department of Health for review of the stormwater management system for compliance with the County Mosquito Code.

7 The floodplain Administrator for the Town of Orangetown shall certify that the proposed construction is in compliance with the floodplain regulations of the Town and the Federal Emergency Management Agency.

8 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.

9 Areas designated for snow removal must be clearly delineated on the site plan so that the plow drivers will know where to place the snow piles. In addition, providing specific locations on the site for the snow piles will reduce the loss of available parking spaces meant to be utilized by the new users.

10 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.

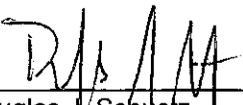
11 There shall be no net increase in the peak rate of discharge from the site at all design points.

12 A landscaping plan shall be provided for the site.

13 A lighting plan shall be provided that shows fields of illumination. This plan must demonstrate that the intensity of the candle lumens is less than 0.1 at the property line.

14 A signage plan that conforms to the Town's standards must be submitted for review. Any signs must be kept out of the County right-of-way.

15 The cover sheet submitted with this application states the project is located in the LI zoning district. This shall be corrected to the CC zoning district. If the public hearing notice was issued with wrong zoning information, it must be reissued with the correct zone.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor Teresa Kenny, Orangetown
New York State Department of Transportation
Rockland County Department of Health
Rockland County Department of Highways
Rockland County Drainage Agency

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United States Army Corps of Engineers
Federal Emergency Management Agency

Michael J. Calise, P.E. & Associates, P.C.

John McIntyre

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.