

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

April 18, 2017

Pomona Planning Board
100 Ladentown Road
Pomona, NY 10970

Tax Data: 32.20-2-6.6

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

Map Date: 2/28/2017

Date Review Received: 3/20/2017

Item: 4 LITMAN LANE (POM-34B)

Site plan to amend a previously filed site plan in which a landscape easement standard (Map Note 29) was required for the lot. The landscape easement required that the area must remain in its natural state, and that no accessory structures, sheds, or any other imposing disturbance be permitted. In addition, any live tree exceeding three inches in diameter can not be cut down without written consent of the village engineer or code enforcement officer. The proposal is to permit additional landscaping and/or outdoor structures relating to recreation, including swimming and athletics, pursuant to a Landscaping Plan certified by a professional landscape architect and approved by the village engineer. The parcel is located in the R-40 zoning district on 1.4 acres.

East side of Litman Lane, at the eastern portion of the cul-de-sac bulb; approximately 155 feet south of New Pomona Road

Reason for Referral:

New Pomona Road (CR 86), NYS Route 306, Town of Ramapo, Village of Wesley Hills, Federal wetlands

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 This landscape easement was provided to protect the Federal wetlands on this site, and in the vicinity. The proposed changes to Map Note 29 would now allow landscaping, outdoor structures within this easement area. Several other adjacent properties also contain this landscaped (conservation) easement. Changing the Map Note will allow all other property owners to also infringe into this environmentally sensitive area, as precedent would be set. We advise against lessening the restrictions.

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2 The proposed changes to Map Note 29, as written in the Narrative Summary provided by Ryan Karben, Esq. is not complete. Page two omits the distance that must be maintained from the Army Corps of Engineers wetlands. This information must be provided so as to ensure that no encroachments, disturbances, or run-off occur to the wetland area.

3 Extensive landscaping, man-made structures (patio areas, seat wall, and fire pit), and regrading are being proposed within the existing landscape (conservation) easement area. They are being proposed up to the wetland boundary delineated on the site plan. No buffer area has been provided. To ensure the protection of the wetlands, a buffer area, with no disturbance must be provided.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Mayor Brett Yagel, Pomona
Rockland County Department of Highways
New York State Department of Transportation
United States Army Corps of Engineers

Sparaco & Youngblood PLLC
Town of Ramapo
Village of Wesley Hills
Yost Design Landscape Architecture
Ryan Karben, Esq.

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.