

**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 17, 2018

Ramapo Zoning Board of Appeals  
237 Route 59  
Suffern, NY 10901

**Tax Data:** 30.10-1-9

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

**Map Date:** 9/14/2018

**Date Review Received:** 10/15/2018

**Item:** *DONALD G. UEBEL/105-107 JOHNSONTOWN ROAD (R-2670)*

Use variance to allow two principal dwellings on a 3.518-acre lot in an RR-80 zoning district; a variance is also required for the expansion of a non-conforming use to permit an addition to one of the existing residences.

Northwest side of Johnstontown Road, approximately 3,000 feet northeast of Seven Lakes Drive

**Reason for Referral:**

Johnstontown Road (CR 97), Harriman State Park, Dater Mountain Nature Park, 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:

***\*Recommend the following modifications***

1 This department is not generally in favor of granting use variances because of the land use precedent that can be set. An applicant must prove that applicable zoning regulations and restrictions have caused unnecessary hardship in order for a use variance to be granted. 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.

The Town must be satisfied that the applicant has demonstrated that an unnecessary hardship exists. Alternatively, the applicant can subdivide the property so that each residential structure is located on a separate parcel, thereby eliminating the need for a use variance or an expansion of a non-conforming use variance.

**DONALD G. UEBEL/105-107 JOHNSONTOWN ROAD (R-2670)**

- 2 A review must be completed by the Rockland County Highway Department, and any required permits obtained.
- 3 A review must be completed by the Palisades Interstate Park Commission, and any comments or concerns addressed.
- 4 A review must be completed by the County of Rockland Division of Environmental Resources, and any comments or 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 A review must be done by the Rockland County Department of Health to ensure compliance with Article XIX (Mosquito Control) of the Rockland County Sanitary Code.

  
\_\_\_\_\_  
Douglas J. Schuetz  
Acting Commissioner of Planning

cc: Supervisor Michael B. Specht, Ramapo  
Rockland County Department of Highways  
Palisades Interstate Park Commission  
Rockland County Division of Environmental Resources  
United States Army Corps of Engineers  
Rockland County Department of Health  
  
Robert E. Sorace, PLS

Donald G. Uebel

Mona Montal, Chief of Staff

*\*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.*