



# Rockland County

Ed Day, Rockland County Executive

## DEPARTMENT OF PLANNING

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**Douglas J. Schuetz**  
*Acting Commissioner*

**Arlene R. Miller**  
*Deputy Commissioner*

March 20, 2019

Sloatsburg Planning Board  
Village Hall  
96 Orange Turnpike  
Sloatsburg, NY 10974

**Tax Data:** 29.84-1-3.2

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

**Map Date:** 5/8/2012

**Date Review Received:** 2/8/2019

**Item:** *DOMINIC STABILITO/163 ORANGE TURNPIKE (SL-78A)*

Use variance to legalize an existing three-family residence on .3481 acres in an MU-2 zoning district. West side of Orange Turnpike, approximately 560 feet south of Ledge Road

**Reason for Referral:**

NYS Route 17 (Orange Turnpike), Eleanor Burlingham Memorial Park, Ramapo River

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 is our understanding that the third residential unit is located on the second story of the garage. The application materials submitted indicate that a building permit was issued for this apartment. The covered gravel walkway shown on the map, and visible in aerial photographs, connects the existing two-family residence and the detached garage to create one structure. The applicant is now seeking a use variance to legalize the third unit since three-family residences are not an as of right use in the MU-2 zoning district.

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 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.

This case is unique in that a building permit was granted to allow construction of the third residential unit.

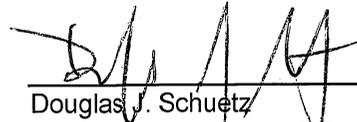
**DOMINIC STABILITO/163 ORANGE TURNPIKE (SL-78A)**

Although we recognize that the property owner should not be penalized for the Building Department's error, we do not believe a use variance is the appropriate relief. Multi-family dwellings are a special permit use in the MU-2 zoning district. They can consist of up to four units in one building, and each dwelling must contain a minimum of 900 SF of floor area. While the covered walkway is more than 50 feet long, it does serve to connect the two structures. We recommend that the property owner apply for a special permit to legalize the three-family residence.

The following comments address our additional concerns about the proposal.

- 2 A review must be completed by the New York State Department of Transportation, and all required permits obtained.
- 3 A review must be completed by the Rockland County Division of Environmental Resources, and any comments or concerns addressed.
- 4 A review must be completed by the Rockland County Drainage Agency, and all required permits obtained.
- 5 The residential structure must comply with all requirements of the New York State Uniform Fire Prevention and Building Code.
- 6 A review must be completed by the Rockland County Office of Fire and Emergency Services, the Village of Sloatsburg Fire Inspector, or the Sloatsburg Fire Department to ensure that there is sufficient maneuverability on site for fire trucks, in the event an emergency arises.
- 7 A review must be completed by the Rockland County Health Department to ensure compliance with Article XIX (Mosquito Control) of the Rockland County Sanitary Code.
- 8 A review must be completed by the Rockland County Sewer District #1, and all required permits obtained.
- 9 A bulk table must be provided on the map so it can be determined if the MU-2 bulk requirements and special permit standards are achieved.
- 10 Pursuant to the Rockland County Sanitary Code, Article XIII, Section 13.8.1, all multiple dwellings with three or more rental units must register and obtain a Multiple Dwelling Rental Certificate (MDRC). If this proposed multi-family dwelling meets the requirements of the Multiple Dwelling Rental Registry requirement, then the owner must register and obtain the MDRC. Failure to comply is a violation of Article XIII, which may result in penalties of \$2,000 per day.
- 11 Pursuant to General Municipal Law (GML) Section 239-m and 239-n, if any of the conditions of this GML review are overridden by the board, then the local land use board must file a report with the County Commissioner of Planning of the final action taken. If the final action is contrary to the recommendation of the Commissioner, the local land use board must state the reasons for such action.
- 12 In addition, pursuant to Executive Order 01-2017 signed by County Executive Day on May 22, 2017, County departments are prohibited from issuing a County permit, license, or approval until the report is filed with the County Commissioner of Planning. The applicant must provide to any County agency which has jurisdiction of the project: 1) a copy of the Commissioner report approving the proposed action; or 2) a copy of the Commissioner of Planning recommendations to modify or disapprove the proposed action, and a certified copy of the land use board statement overriding the recommendations to modify or disapprove, and the stated reasons for the land use board's override.

**DOMINIC STABILITO/163 ORANGE TURNPIKE (SL-78A)**

  
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Douglas J. Schuetz  
Acting Commissioner of Planning

cc: Mayor Carl Wright, Sloatsburg  
New York State Department of Transportation  
Rockland County Division of Environmental Resources  
Rockland County Drainage Agency  
Rockland County Department of Health  
Rockland County Sewer District #1  
New York State Department of State  
Rockland County Office of Fire and Emergency Services  
Sloatsburg Fire District  
  
Lantelme, Kurens & Associates, PC

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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.*

