

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

November 13, 2017

Wesley Hills Zoning Board of Appeals
432 Route 306
Wesley Hills, NY 10952

Tax Data: 40.16-1-10.2

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

Map Date: 11/28/2016

Date Review Received: 11/6/2017

Item: *HURWITZ/89 SPOOK ROCK ROAD (Whi-50B)*

A variance application to allow a two-lot subdivision on 2.12 acres in the R-50 zoning district. An existing single-family residence will remain on lot 1. Variances are requested for lot area (lots 1 and 2), minimum lot frontage (lot 2), minimum side yard (lot 1), minimum total side yard (lot 1), maximum impervious surface area (lot 1), and maximum impervious surface area for front yard (lot 2).

Western side of Spook Rock Road, approximately 720 feet north of Grandview Avenue.

Reason for Referral:

Spook Rock Road (CR 85), Willow Tree Brook

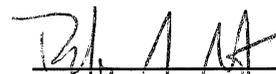
The County of Rockland Department of Planning has reviewed the above item. Acting under the terms of the above GML powers and those vested by the County of Rockland Charter, I, the Commissioner of Planning, hereby:

****Recommend the following modifications***

- 1 The measurements for all required yard and setback variances must be provided on the plans. The 20.9 foot side yard measurement for Lot 1 is not indicated on the drawings.
- 2 The applicant must comply with all comments in the September 1, 2017 letter from the Rockland County Highway Department.
- 3 As required by the Rockland County Stream Control Act, the subdivision plan must be reviewed and signed by the Chairman of the Rockland County Drainage Agency before the County Clerk can accept the plan to be filed.
- 4 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.
- 5 The location of the proposed well on Lot 2, and the existing and proposed septic systems on both lots, must be shown on the subdivision plat.

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- 6 The proposed well must be installed pursuant to all requirements of Article II of the Rockland County Sanitary Code, and under permit with the Rockland County Department of Health.
- 7 For installation of a sanitary sewer system, engineering plans and specifications shall be reviewed and approved by the Rockland County Department of Health prior to construction.
- 8 There shall be no net increase in the peak rate of discharge from the site at all design points.
- 9 Prior to the start of construction or grading, a soil and erosion control plan shall be developed and in place for the entire site that meets the latest edition of the New York State Guidelines for Urban Erosion and Sediment Control.
- 10 A stormwater pollution prevention plan (SWPPP) was not provided. The SWPPP, if required, shall conform to the current regulations, including the New York State Stormwater Management and Design Manual (January 2015) and local ordinances.
- 11 Map Note 22 must be corrected to specify Section 239N of the General Municipal Law, as Section 239 K no longer exists.
- 12 The variance application and site plan bulk table indicate that the proposed impervious area for the front yard for Lot 2 is 0.37. The calculation shown on drawing 2 indicates that the proposed impervious area for the front yard will be 0.3763. The requested variance must either show the full number of figures or be rounded to 0.38.
- 13 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.
- 14 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.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Mayor Marshall Katz, Wesley Hills
Rockland County Department of Highways
Rockland County Drainage Agency
Rockland County Department of Health
Tallman Fire District

Sparaco & Youngblood, PLLC
Bessie Hurwitz

**NYS General Municipal Law Section 239 requires a vote of a 'majority plus one' of your agency to act contrary to the above findings.*

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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.

