

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Richard M. Schiafo
Deputy Commissioner

May 01, 2025

Montebello Planning Board
One Montebello Road
Montebello, NY 10901

Tax Data: 48.11-1-13

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

Map Date: 04/09/2025

Date Review Received: 04/11/2025

Item: *Kohn - 17 Sterling Forest Lane (GML-25-0216)*

Wetlands and Stream Protection Permit to allow a 2,918 SF addition to an existing single-family dwelling located on 0.62 net acres (0.81 gross acres) in the RR-50 zoning district. A pool is also proposed. Variances for front setback, front yard, side yard, floor area ratio, and development will be needed. Northwest corner of Sterling Forest Lane and Highgate Court

Reason for Referral:

Mahwah 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:

Recommend the Following Modifications

- 1 Section 191-6(3)(a)[3] of the Village Code states that additions to existing structures within the W-EPOD are limited to a total of 1,000 SF basal area within a 10 year period. The narrative indicates the proposed addition will be 2,917 SF. The basal area of this addition must be stated. If it is greater than 1,000 SF, the addition shall not be allowed as proposed, in compliance with this section of the Village Code.
- 2 The subject property is approximately 370 feet east of the Mahwah River, a county regulated stream, and within the 100-foot buffer of its 100-year floodplain. A review of the current application must be completed by the Rockland County Drainage Agency and the applicant shall comply with the comments made by County of Rockland Drainage Agency in their letter dated September 30, 2024.
- 3 A review must be done by the Rockland County Department of Health to ensure compliance with the Rockland County Sanitary Code, Article XIX, Mosquito Control.
- 4 The applicant must comply with the comments made by the County of Rockland Sewer District No. 1 in

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their letter dated April 23, 2025.

- 5 According to the Hudson River Natural Resources Mapper (<https://gisservices.dec.ny.gov/gis/hvnm/>), and as is indicated on the Full EAF, there are federally regulated freshwater forested/shrub wetlands in the northern section of the subject property. A review must be completed by the United States Army Corps of Engineers and all required permits obtained.
- 6 The narrative dated April 9, 2025, indicates that NYSDEC issued a permit and an approval letter to allow disturbance in the area adjacent to the wetlands, were attached to the application. Neither the permit nor the letter seems to have been submitted with this referral. Recent changes to the New York State Freshwater Wetlands regulations, which took effect on January 1, 2025, have expanded the jurisdictional authority of the NYSDEC to include small wetlands of unusual importance. As a result, wetlands of any size meet the jurisdictional criteria for protection if they possess any of eleven characteristics of unusual importance, including being situated within an urban area, as defined by the US Census Bureau. This department recommends that the Planning Board ensure that any previously issued permits are consistent with and in accordance with these new regulations.
- 7 The engineer of record shall certify to the floodplain administrator for the Village of Montebello that the proposed construction is in compliance with the floodplain regulations of the Town and the Federal Emergency Management Agency.
- 8 We request the opportunity to review any variances that may be needed to implement the proposed project, as required by New York State General Municipal Law, Section 239-m (3)(a)(v).
- 9 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.
- 10 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 Lance Millman, Montebello
NYS Department of Environmental Conservation
Rockland County Department of Health
Rockland County Drainage Agency
Rockland County Planning Board
Rockland County Sewer District No. 1
United States Army Corps of Engineers
Paul Gdanski, P.E., PLLC

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*New York State General Municipal Law § 239(5) requires a vote of a 'majority plus one' of your agency to act contrary to the above findings.

The review undertaken by the County of Rockland Department of Planning 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 determines whether the proposed action reviewed implicates the Religious Land Use and Institutionalized Persons Act. The County of Rockland Department of Planning defers to the municipality referring the proposed action to render such opinions and make such determinations as 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.

Pursuant to New York State General Municipal Law §§ 239-m and 239-n, the referring body shall file a report of its final action with the County of Rockland Department of Planning within thirty (30) days after the final action. A referring body that 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.