



COUNTY OF DUTCHESS
DEPARTMENT OF PLANNING AND DEVELOPMENT

May 14, 2021

To: Zoning Board of Appeals, Town of Washington
Re: **Referral ZR21-136 — Former Mine Habitat Restoration Use Variance**
Lot: 110182; Woodstock Rd/NY 82

The Dutchess County Department of Planning and Development has reviewed the subject referral within the framework of General Municipal Law (Article 12B, §239-l/m).

ACTION

The applicant is seeking a use variance to allow a soil mining operation in the RL-5 (low-density residential) zoning district. The applicant is proposing to excavate a portion of the former mine land (~35 acres, total two million tons of earth) for the creation of an aquatic habitat (~20 acres), consisting of open water and shallow wetlands for future hunting and fishing, aiming to maximize biodiversity. There will be no on-site processing of the earth materials.

COMMENTS

New York State law outlines a four-part test for Zoning Boards of Appeal to follow when considering granting a use variance, all of which are required to be met in order to lawfully grant the variance. Based on the materials submitted, the applicant has not provided any economic information to demonstrate that a reasonable rate of return on investment is unachievable through any of the other allowed uses in the RL-5 zoning district. The applicant asserts that a use of this nature is “not one that is capable of being described financially...” As “unnecessary hardship” across the four-part test has not wholly been proven, it does not appear that the project meets the criteria for a use variance.

If the creation of the aquatic habitat is the sole purpose of the intended action, the department suggests that this goal could be achieved without the need for a use variance through the repurposing of the materials to be excavated on the 162.7-acre site. As opposed to taking the soil and earth off-site, these materials could be utilized to create a unique collection of microhabitats for the site’s future wildlife (i.e. hillsides, dunes, pastures, etc.), further maximizing the property’s biodiversity potential.

RECOMMENDATION

The Department recommends that the Board rely upon its own study of the facts in the case with due consideration of the above comments.

Eoin Wrafter, AICP, Commissioner

By

Shelby Frangk, Planner

Dutchess County Department of Planning and Development

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|---------------|-----------|---------|------|
| Fax Info Only | To | Date | #pgs |
| | Co./Dept. | From | |
| | Fax # | Phone # | |

239 Planning/Zoning Referral - Exemption Communities

Municipality: **Town of Washington**

Referring Agency: **Zoning Board of Appeals**

Tax Parcel Number(s): **1101820000**

Project Name: **Former Mine Habitat Restoration Use Variance**

Applicant: **Chatillion Realty Corporation**

Address of Property: **Woodstock Rd, Washington, NY 125450000**

Please Fill in this section

Exempt Actions:* 239 Review is NOT Required

- Administrative Amendments (fees, procedures, penalties, etc.)
- Special Permits for residential uses (accessory apts, home occupations, etc.)
- Use Variances for residential uses
- Area Variances for residential uses
- Renewals/Extension of Site Plans or Special Permits that have no changes from previous approvals

No Authority to review these Actions

- Subdivisions / Lot Line Adjustments
- Interpretations

Exempt Action submitted for informal review

Actions Requiring 239 Review

- Comprehensive/Master Plans
- Zoning Amendments (standards, uses, definitions, district regulations, etc.)
- Other Local Laws associated with zoning (wetlands, historic preservation, affordable housing, architectural review, etc.)
- Rezoning involving all map changes
- Architectural Review
- Site Plans (all)
- Special Permits for all non-residential uses
- Use Variances for all non-residential uses
- Area Variances for all non-residential uses
- Other (Describe):

Parcels within 500 feet of:

- State Road: **NY 82**
- County Road:
- State Property (with recreation area or public building)
- County Property (with recreation area or public building)
- Municipal Boundary
- Farm operation in an Agricultural District

Date Response Requested: **5/18/2021**

Entered By: **Frangk, Shelby**

These actions are only exempt in municipalities that signed an intermunicipal agreement with Dutchess County to that effect.

For County Office Use Only

Response From Dutchess County Department of Planning and Development

No Comments:

- Matter of Local Concern
- No Jurisdiction
- No Authority
- Withdrawn
- Incomplete - municipality must resubmit to County
- Exempt from 239 Review
- None

Comments Attached:

- Local Concern with Comments
- Conditional
- Denial
- Incomplete with Comments- municipality must resubmit to County
- Informal Comments Only (Action Exempt from 239 Review)

Date Submitted: **4/28/2021**

Date Received: **4/30/2021**

Date Requested: **5/18/2021**

Date Required: **5/27/2021**

Date Transmitted: **5/14/2021**

Notes:

Major Project

Referral #: **ZR21-136**

Also mailed hard copy

Reviewer:

Shelby Frangk