



**COUNTY OF ROCKLAND**  
**DEPARTMENT OF PLANNING**

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EDWIN J. DAY  
County Executive

DOUGLAS J. SCHUETZ  
Acting Commissioner

August 13, 2014

ARLENE R. MILLER  
Deputy Commissioner

Orangetown Zoning Board of Appeals  
21 Greenbush Road  
Orangeburg, NY 10962

**Tax Data:** 74.10-1-67

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

**Map Date:** 8/1/2014

**Date Review Received:** 7/31/2014

**Item:** **ORANGETOWN SHOPPING CENTER (O-1112R)**

Use variance and area variances to permit a fast food restaurant as part of an existing shopping center on 10.98 acres in the CS zoning district. Fast food restaurants are only permitted in the CC and CO zoning districts. Area variances include the following: less than the required front yard, off-street parking, and sign setback; and greater than permitted sign area.  
South side of Orangeburg Road, east side of Dutch Hill Road, west side of Oak Street, north side of Highview Avenue

**Reason for Referral:**

Orangeburg Road (CR 20), Palisades Interstate Parkway

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 The use variance is disapproved for the following reasons: 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. 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.

**ORANGETOWN SHOPPING CENTER (O-1112R)**

The applicant has not demonstrated that an unnecessary hardship exists. The use variance shall not be granted.

2 We are disapproving the variances for sign setback, and total sign area. The Town's zoning standards are reasonable and should be followed. The granting of these variances can set a precedent and encourage nearby commercial uses along the County highway, such as the commercial use just west of the site, to request similar exemptions. The sign setback is deficient by 62.5% and the sign size exceeds the maximum allowable sign area by 628%. The resulting proliferation of oversized and improperly setback signs will have an adverse effect on the safe and efficient flow of traffic along the State highway. If your Board finds there is a pattern of requests for sign variances and that some rationale exists for lessening the Town's standards, we suggest a recommendation be made to the Town Board to revise the sign standards on parcels that front high-volume traffic corridors.

3 With regard to the area variance for front yard we are approving it with the following modifications: Since the front yard provided is 68% less than what is required, it is even more critical to shield the headlights of the parking vehicles and those in the drive-thru on site from shining into the County highway. The landscaping plan must be further supplemented to provide low evergreen landscaping in front of the drive-thru access and the two parking spaces to prevent vehicular glare.

4 With regard to the area variance for less than the required number of parking spaces we approve it with the following modifications: 1) A review of the Traffic Impact Study dated April 25, 2014 and submitted by Adler Consulting must be completed by the Rockland County Department of Highways to verify that the number of parking spaces provided will be sufficient to accommodate the future parking demand for the Orangetown Shopping Center. If the Rockland County Department of Highways determines that 374 parking spaces is not sufficient to serve the proposed uses, then additional parking spaces must be provided. 2) The Town must monitor the site to ensure that sufficient parking is provided into the future. Under no circumstances are vehicles to park along the County right-of-way.

  
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Douglas J. Schuetz  
Acting Commissioner of Planning

cc: Supervisor Andrew Stewart, Orangetown  
Rockland County Department of Highways  
Palisades Interstate Park Commission  
Rockland County Planning Board  
Atlantic Consulting & Engineering LLC

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.*

**ORANGETOWN SHOPPING CENTER (O-1112R)**

*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.*

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