

**DEPARTMENT OF PLANNING**

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

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

May 26, 2016

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

**Tax Data:** 70.15-1-10.1

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

**Map Date:** 11/9/2006

**Date Review Received:** 4/29/2016

**Item:** *DEAN DELLOLIO (O-2294)*

Variances to permit the conversion of a single-family dwelling to allow an additional dwelling unit for a residence located on .95 acres in the R-15 zoning district. Required variances include: greater than permitted square footage for the second unit; the house is not at least 15 years old; and the owner has not resided in the house for at least 15 years. In addition, the Certificate of Occupancy issued for the residence stated that the existing finished basement is not to be used as a second dwelling unit in the single-family residence.

North side of Hickory Street, approximately 385 feet east of NYS Route 303 and 220 feet west of S. Greenbush Road

**Reason for Referral:**

NYS Route 303, S. Greenbush Road (CR 11), Sparkill Creek

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 Town of Orangetown has very specific guidelines outlined in their Zoning Ordinance for a second dwelling unit in an existing single-family dwelling. The criteria set forth by the Town in Section 4.5 define size of the second unit, residency requirements, parking and entrance specifics to ensure that the residence maintains its single-family appearance, and safety conditions. Over the years, the Town of Orangetown has amended this Section of the Ordinance to ensure that the intent of allowing a second unit as envisioned is achieved.

The applicant is applying for variances so that a larger unit can be permitted (a two bedroom unit). In addition, the applicant does not meet the criteria established of either the house age or the residency years. Allowing a second unit that does not comply with the criteria set forth in the Code can set a precedent, thereby undermining the intent of the Zoning Ordinance, and changing the

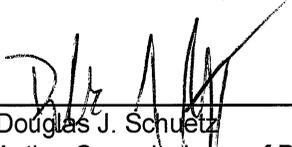
**DEAN DELLOLIO (O-2294)**

character of the surrounding neighborhood. One two-family residence that does not meet the conditions of Section 4.5 will not have an impact on the surrounding neighborhood, traffic, etc., but if other nearby owners also request a similar exemption, the intent of the zoning district can be undermined, and the increase in usage may negatively affect the County or State highways or the County stream.

2 Additional conditions for the second unit include the following:

2.1 A review must be completed by the County of Rockland Department of Highways and all required permits obtained.

2.2 The comments in the May 19, 2016 letter from the County of Rockland Drainage Agency must be met.

  
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Douglas J. Schuetz  
Acting Commissioner of Planning

cc: Supervisor Andrew Stewart, Orangetown  
Rockland County Drainage Agency  
Rockland County Department of Highways  
Rockland County Department of Health  
New York State Department of Transportation  
  
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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.*