

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

July 11, 2016

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

Tax Data: 68.16-5-57

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

Map Date:

Date Review Received: 6/13/2016

Item: *DANIEL FANNING (O-2302)*

Variations to permit the conversion of a single-family dwelling to allow an additional dwelling unit for a residence located on .92 acres in the R-15 zoning district. Required variations include: greater than permitted square footage for the second unit; changing the exterior and/or adding a new structure on the property within the past 10 years so as to create the additional dwelling unit; and the owner has not resided in the house for at least 15 years.

North side of E. Washington Avenue, approximately 370 feet west of N. Middletown Road

Reason for Referral:

N. Middletown Road (CR 33), E. Central Avenue (CR 30)

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***

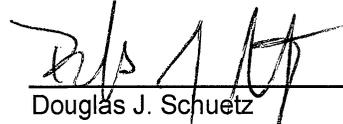
1 The Town of Orangetown has very specific guidelines outlined in their Zoning Ordinance for a second dwelling unit in an existing single-family dwelling. The criteria set forth by the Town in Section 4.5 define size of the second unit, residency requirements, parking and entrance specifics to ensure that the residence maintains its single-family appearance, and provides safe 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 variations so that a larger unit can be permitted. In addition, the applicant does not meet the criteria established of the residency years, and is proposing to build a two-story garage with the apartment unit above for the new housing unit, thereby significantly changing the exterior and building within the past 10 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 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

DANIEL FANNING (O-2302)

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 highways.

2 Additional conditions for the second unit include the following: A review must be completed by the County of Rockland Department of Highways and all required permits obtained.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor Andrew Stewart, Orangetown
Rockland County Department of Highways

Harry J. Goldstein, Architect
Daniel Fanning

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.