

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

September 10, 2018

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

Tax Data: 77.20-2-24

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

Map Date: 6/26/2018

Date Review Received: 8/8/2018

Item: *ZAPATA RESTAURANT SIDEWALK DINING (O-339E)*

Variance to permit a sidewalk dining area, wall, and paver area for an existing restaurant located on 1.924 acres in the R-15 zoning district. The appeal is from Chapter 31B, Section 31B-3B & 31B-3K in which the application is required to go to the Architecture and Community Appearance Board of Review for the proposed sidewalk café seating; and the operation of a sidewalk café shall not adversely impact adjacent or nearby residential, religious, educational or commercial properties, and be in accordance with all applicable codes and regulations.

East side of NYS Route 340, approximately 90 feet north of Yadanza Court

Reason for Referral:

NYS Route 340

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 A review must be completed by the New York State Department of Transportation, any comments or concerns addressed, and all required permits obtained.
- 2 A review must be completed by the County of Rockland Department of Health and all necessary approvals obtained.
- 3 The architectural plans illustrate that a five-foot high wall is to be erected along the front of the proposed seating area; and a four-foot height wall along the side. The site plan indicates that a three-foot high block/paver wall is proposed along the side; no wall is shown along the front of the site plan. All information must be consistent. It must be clarified if a wall is proposed along the front of the seating area, and the height of the wall clarified. Lastly, the height of the masonry piers must be indicated.

ZAPATA RESTAURANT SIDEWALK DINING (O-339E)



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Acting Commissioner of Planning

cc: Supervisor Chris Day, Orangetown
Rockland County Department of Health
New York State Department of Transportation

Robert Hoene, Architect
Donald Brenner

**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.