Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
Dr. Robert L. Yeager Health Center
50 Sanatorium Road, Building T
Pomona, New York 10970
Phone: (845) 364-3434 Fax: (845) 364-3435

Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

July 12, 2019

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

Tax Data: 70.06-1-44

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 6/7/2019 **Date Review Received:** 6/20/2019

Item: ***MAYER ADDITION (O-2379)***

Variances to permit a family room addition to an existing single-family residence located on .448 acres in the R-40 zoning district. Required variances include: floor area ratio, front yard, and total side yard.
North side of Leber Road, approximately 1.390 feet east/southeast of Redbud Lane

Reason for Referral:

Leber Road (CR 36)

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 Permitting development that does not comply with the applicable bulk standards can set an undesirable land use precedent and result in the overutilization of individual sites. The proposed addition will result in a floor area ratio that is 42% greater than permitted, a front yard that is deficient by 46%, and total side yards that are 20% less than required. The ability of the existing infrastructure to accommodate a residential expansion on an undersized parcel is a countywide concern and must be evaluated. This evaluation must consider whether local roads will become more congested and the sewer system, stormwater management systems and the public water supply will be overburdened. The Town must consider the cumulative and regional impacts of permitting such development, and the precedent that could be set if the variances are permitted.

MAYER ADDITION (O-2379)

2 No narrative or justification has been provided for granting the variances. The Zoning Board of Appeals must weigh the benefit to the applicant versus the detriment to the health, safety and welfare of the neighborhood community before granting the variances. Consideration must be given as to the following: 1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; (3) whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self- created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance. The applicant must provide justification to the Board before the variances can be granted.

3 The comments in the June 25, 2019 letter from the Rockland County Highway Department must be met.

4 A review must be done by the Rockland County Department of Health to ensure compliance with the Rockland County Sanitary Code, Article XIX, Mosquito Control. In addition, the Health Department must review the proposal in relation to the existing well on site to ensure compliance with Article II of the Rockland County Sanitary Code.

Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor Chris Day, Orangetown
Rockland County Department of Highways
Rockland County Department of Health

Hess Architects
Diane Mayer

**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.