

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

March 20, 2020

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

Tax Data: 71.05-1-8

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

Map Date: 2/10/2020

Date Review Received: 3/5/2020

Item: *MANDELL/26 SHADYSIDE AVENUE (O-901E)*

Variations to permit the construction of a detached garage, gazebo, patio with pergola, deck, and retaining walls for an existing single-family dwelling located on 0.523 acres in the R-22 zoning district and critical environmental area. The variations required include front yard, side yard, and building height. The variations for front yard and side yard were granted on September 6, 2017, but have expired.

East side of Shadyside Avenue, Opposite the southside of Townsend Avenue

Reason for Referral:

Old Mountain Road (CR 29), US Route 9W

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 Highways, any concerns addressed, and all required permits obtained.
- 3 A review must be completed by the County of Rockland Department of Health, any comment or concerns addressed, and any required permits obtained.
- 4 Since the parcel is located in the FEMA zone X, the floodplain Administrator for the Town of Orangetown shall certify that the proposed construction is in compliance with the floodplain regulations of the Town and the Federal Emergency Management Agency.
- 5 A review must be completed by the New York State Department of Environmental Conservation and any required permits obtained.

MANDELL/26 SHADYSIDE AVENUE (O-901E)

6 The Town of Orangetown must monitor the site to ensure that the additional run-off does not result in downhill drainage issues to either the adjacent property owner or the State Highway.

7 Retaining walls that are over four (4) feet in vertical height shall be designed by a licensed New York State Professional Engineer and be in compliance with the NYS Fire Prevention and Building Code. Design plans shall be signed and sealed by the licensed NYS Professional Engineer.

8 The application materials only state the need for front yard and side yard variances. However, the bulk table on the site plan indicates a variance for building height is also required. It must be clarified if this variance is required, and the appropriate materials updated so that all materials remain consistent. If the public hearing notice was issued with the incorrect information, it must be corrected and reissued.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor Teresa Kenny, Orangetown
New York State Department of Transportation
Rockland County Department of Health
Rockland County Department of Highways
New York State Department of Environmental Conservation

Atzl, Nasher & Zigler P.C.

**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.