Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

August 13, 2019

Piermont Zoning Board of Appeals
Village Hall
478 Piermont Avenue
Piermont, NY 10968

Tax Data: 75.45-1-1.1

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 7/12/2019 **Date Review Received:** 7/19/2019

Item: ***PETER OBE - 171 TWEED BOULEVARD (P-148C)***

A variance application to allow unauthorized site changes to a previously approved single-family residence on 0.74 acres (gross) in the R-20 zoning district. Net lot area after steep slope adjustment is 0.51 acres. Variances are requested for front yard, side yard, total side yard, rear yard, and lot coverage.

The eastern side of Tweed Boulevard, approximately 1,900 feet north of the intersection of Tweed Boulevard and US Route 9W

Reason for Referral:

Tweed Boulevard (CR 5), US Route 9W, Long Path Hiking Trail, Town of Orangetown

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 most recently provided version of the site plan does not include proposed elevations or give top/bottom wall elevations. However, the current site plan is substantially similar to a previously submitted version with regard to the length and location of retaining walls. In addition, the total land disturbance is unchanged, and the impervious surface area is reduced by only 1.6% from the previous submission. Based on the current submission and data from the previous application, the County renews its objection to the proposed site changes.

This proposal requires extensive grading on a property that is characterized by significant areas of steep slopes. 14,678 sq. ft., or 46% of the total lot area, has a slope of 25% or greater. 3,796 sq. ft. of the site has category 4 slopes, in which any disturbance is prohibited. The site plan includes a series of retaining walls to provide a level yard and accommodate the proposed pool and patio. The retaining walls on the previously submitted site plan had heights of up to 12.5'. The current proposal is presumed to have similarly excessive wall heights. In addition, the total area of on-site disturbance is 31,868 sq. ft., which represents 99% of the total gross lot area. Article XIX of the Village code states that environmentally sensitive sites and features "merit special protection

from potential adverse environmental impacts". This proposal represents an overdevelopment of sensitive environmental features found on the site. This application must be disapproved.

The following comments address our additional concerns about this proposal.

2 The proposal appears to include disturbances within areas of category 4 slopes, which are not permitted. The variance must be obtained to allow disturbances in these area. The application must be amended and the public hearing notice must be re-issued.

3 The applicant must comply with all comments made by the Rockland County Highway Department in their letter of August 5, 2019.

4 A review shall be completed by the New York State Department of Transportation and any required permits obtained.

5 A review must be completed by the New York - New Jersey Trail Conference and any concerns addressed.

6 The Town of Orangetown is one of the reasons this proposal was referred to this department for review. The municipal boundary is the centerline of Tweed Boulevard, along the western property line of the site. New York State General Municipal Law states that the purposes of Sections 239-l, 239-m and 239-n shall be to bring pertinent inter-community and countywide planning, zoning, site plan and subdivision considerations to the attention of neighboring municipalities and agencies having jurisdiction. Such review may include inter-community and county-wide considerations in respect to the compatibility of various land uses with one another; traffic generating characteristics of various land uses in relation to the effect of such traffic on other land uses and to the adequacy of existing and proposed thoroughfare facilities; and the protection of community character as regards predominant land uses, population density, and the relation between residential and nonresidential areas. In addition, Section 239-nn was enacted to encourage the coordination of land use development and regulation among adjacent municipalities, and as a result development occurs in a manner that is supportive of the goals and objectives of the general area.

The Town of Orangetown must be given the opportunity to review the proposal and its impact on community character, traffic, water quantity and quality, drainage, stormwater runoff and sanitary sewer service. The areas of countywide concern noted above that directly impact the Town of Orangetown must be considered and satisfactorily addressed, as well as any additional concerns about the proposal. In addition, all concerns and recommendations from the Department of Environmental Management and Engineering of the Town of Orangetown in their letter of December 11, 2017 regarding an earlier version of the application must be addressed.

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 Pursuant to General Municipal Law (GML) Section 239-m and 239-n, if any of the conditions of this GML review are overridden by the board, then the local land use board must file a report with the County Commissioner of Planning of the final action taken. If the final action is contrary to the recommendation of the Commissioner, the local land use board must state the reasons for such action.

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9 In addition, pursuant to Executive Order 01-2017 signed by County Executive Day on May 22, 2017, County departments are prohibited from issuing a County permit, license, or approval until the report is filed with the County Commissioner of Planning. The applicant must provide to any County agency which has jurisdiction of the project: 1) a copy of the Commissioner report approving the proposed action; or 2) a copy of the Commissioner of Planning recommendations to modify or disapprove the proposed action, and a certified copy of the land use board statement overriding the recommendations to modify or disapprove, and the stated reasons for the land use board's override.

Douglas J. Schuetz
Acting Commissioner of Planning

cc: Mayor Bruce E. Tucker, Piermont
New York - New Jersey Trail Conference
New York State Department of Transportation
Rockland County Department of Health
Rockland County Department of Highways

Leonard Jackson Associates
Town of Orangetown Planning Board

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.