

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

August 21, 2020

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

Tax Data: 75.61-1-3

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

Map Date: 7/16/2020

Date Review Received: 7/31/2020

Item: **294 TWEED BOULEVARD - PANETIS RESIDENCE (P-0.3F)**

A variance application to construct a pool, patio, pergola, and cabana for an existing single-family residence on 0.92 acres in the R-40 zoning district. Variances are requested for rear yard, floor area ratio, and lot coverage.

The southwestern corner 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

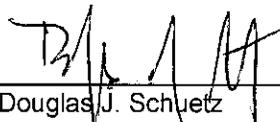
The County of Rockland Department of Planning has reviewed the above item. Acting under the terms of the above GML powers and those vested by the County of Rockland Charter, I, the Commissioner of Planning, hereby:

****Recommend the following modifications***

- 1 The Town of Orangetown is one of the reasons this proposal was referred to this department for review. The municipal boundary is approximately 210 feet west of parcel. As required under Section 239nn of the State General Municipal Law, the Town of Orangetown must be given the opportunity to review the proposed application and provide any concerns related to the project to the Village of Piermont.
- 2 A review must be completed by the Rockland County Department of Health to ensure compliance with Article XIX (Mosquito Control) of the Rockland County Sanitary Code.
- 3 As per the Rockland County Highway Department's letter of August 4, 2020, a Right-of-Way Permit must be obtained from them before starting any construction activities.
- 4 A review shall be completed by the New York State Department of Transportation and any required permits obtained.
- 5 To help reduce the extent of the lot coverage variance required for the site, pervious pavers or other porous materials must be used wherever possible.

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- 6 The site plan shall contain map notes, including district information, and a vicinity map with a north arrow and scale.
- 7 The bulk table indicates that a variance is required for total side yard. It is unclear why a variance of this requirement is necessary. The letter of appeal from the Village Building Inspector, dated July 21, 2020, does not indicate that a variance of the total side yard is required. The Village must clarify whether or not a total side yard variance is required. If it is, then the public hearing notice must be reviewed and, if necessary, corrected and re-issued. If not, then the bulk table must be corrected.
- 8 Aerial photography shows an accessway or path north of the main driveway to the rear of the property. If the accessway is comprised of an impervious surface, it is contributing to the overall lot coverage of the parcel, and its removal would reduce the extent of the development coverage variance. The applicant must clarify the purpose and composition of this accessway, in order for the Village to make an informed determination regarding the required variance.
- 9 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.
- 10 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 State Department of Transportation
Rockland County Department of Health
Rockland County Department of Highways

Bart M. Rodi
Town of Orangetown Planning Board

**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.