

**DEPARTMENT OF PLANNING**

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**Douglas J. Schuetz**  
*Acting Commissioner*

**Arlene R. Miller**  
*Deputy Commissioner*

January 28, 2019

Ramapo Zoning Board of Appeals  
237 Route 59  
Suffern, NY 10901

**Tax Data:** 41.18-2-23

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

**Map Date:** 12/14/2018

**Date Review Received:** 12/17/2018

**Item:** *MALKI LEVINE/5 ORCHARD HILL DRIVE (R-2675)*

Side setback variance to allow the construction of an addition to an existing single-family dwelling on .46 acres in an R-35 zoning district.

Southeast corner of Orchard Hill Drive and Plum Road

**Reason for Referral:**

Forshay Road (CR 81), Village of Wesley Hills

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 addition is described as "a full two-bedroom apartment" in the December 6, 2018 project narrative. It is further noted there will be a side entrance to provide private access. The floor area ratio is increasing from .12 to .29, or 142 percent. Based on this information, the addition appears to be an accessory unit. Since only single-family dwellings are permitted in the R-35 zoning district, a use variance is required for an accessory unit. Clarification must be provided. The use variance, if required, is subject to a review by this department, as mandated by the New York State General Municipal Law.
- 2 A review must be completed by the Rockland County Highway Department, and all required permits obtained.

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3 The Village of Wesley Hills is one of the reasons this proposal was referred to this department for review. The municipal boundary is approximately 220 feet north 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 Village of Wesley Hills 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 Village of Wesley Hills must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

4 A review must be done by the Rockland County Department of Health to ensure compliance with Article XIX (Mosquito Control) of the Rockland County Sanitary Code.

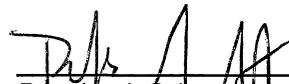
5 A review must be completed by the Rockland County Sewer District #1, and all required permits obtained.

6 The Building Inspector's December 5, 2018 denial letter indicates that only a total side setback variance is required. The denial letter is based on the previous revision dated November 16, 2018. Since this is a corner property with two frontages, we believe that the total side setback standard does not apply, and only a side setback variance is needed. Clarification must be provided.

7 The plot plan shall contain map notes that list all appropriate information, including the section, block and lot number for the subject parcel, and district details.

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.

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.

  
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Douglas J. Schuetz  
Acting Commissioner of Planning

cc: Supervisor Michael B. Specht, Ramapo  
Rockland County Department of Highways  
Rockland County Department of Health  
Rockland County Sewer District #1

Greenman-Pederson, Inc.  
Village of Wesley Hills

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Malki Levine

Mona Montal, Chief of Staff

*\*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.*

