

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

July 17, 2017

South Nyack Zoning Board of Appeals
Village Hall
282 South Broadway
South Nyack, NY 10960

Tax Data: 66.54-2-3

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

Map Date: 6/20/2017

Date Review Received: 6/21/2017

Item: *AMOS & AMI BONAWITZ DODI - VARIANCE APPLICATION (SN-88C)*

Variations for lot area, street frontage, coverage and side, total side, and rear yards to allow the construction of a new single-family residence on a 0.09 acre, non-conforming lot within a RG-6 zoning district.

East side of Piermont Avenue, west of the Hudson River, 210 feet south of Cedar Hill Avenue.

Reason for Referral:

Municipal boundaries with the Town of Orangetown and the Village of Nyack.

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 submitted application to the South Nyack Planning Board, as well as the site plan dated June 20, 2017, incorrectly indicate the lot number as 6, not 3. This must be corrected.
- 2 The concerns raised in the July 11, 2017 letter from the New York State Department of Environmental Conservation must be addressed.
- 3 Proximity to the Village of Nyack and the Town of Orangetown is the reason this proposal was referred to this department for review. The municipal boundary with Orangetown is approximately 50-55' east of the site at the Mean High Water line, and the municipal boundary with the Village of Nyack is approximately 230 feet north of the subject property line. As required under Section 239nn of the State General Municipal Law, both municipalities must be given the opportunity to review the proposal and provide any concerns related to the project to the Village of South Nyack.

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4 The site plan must include the use of pervious pavers, which would lower the lot coverage, thereby reducing or eliminating the need for the coverage variance.

5 The proposed residential building must comply with all requirements of the New York State Uniform Fire Prevention and Building Code. As shown on the site plan, the proposed residential building will require a variance from the New York State Uniform Fire Prevention and Building Code as the structure is located closer than ten feet from the property line.

6 The proposed site plan shows steps and air conditioning units within the required side yard setbacks. It is unclear whether or not these items require additional variances. This needs to be clarified and, if necessary, the site plan or variance application must be revised.

7 The referral form for this General Municipal Law review states that variances are needed for front yard, total lot size, street frontage, rear yard and side yard. However, the zoning analysis on the proposed site plan shows that variances are required for lot size, street frontage, maximum total lot coverage, rear yard, side yard, and total side yard. It must be clarified if a variance is required for total side yards. If so, the Village of South Nyack must ensure that the public hearing notices states such, and reissue it, if it does not.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Mayor Bonnie Christian, South Nyack
Rockland County Department of Health
New York State Department of Environmental Conservation
New York State Department of State

Robert Silarski, S & Co. Architecture
Town of Orangetown Planning Board
Village of Nyack 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.