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 7, 2019

South Nyack Planning Board
Village Hall
282 South Broadway
South Nyack, NY 10960

Tax Data: 66.62-2-29

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 6/6/2019 **Date Review Received:** 7/15/2019

Item: ***HOWARD & PATRICIA KATZ - 1 GESNER AVENUE (SN-165)***

A site plan application to remove an existing detached garage, construct a new detached garage, reconfigure the driveway, and construct new patios for an existing single-family dwelling on 0.95 acres in the R-12 zoning district. Variances are required for front and rear yards for accessory structures.
The southern side of Gesner Avenue, approximately 460 feet east of Piermont Avenue

Reason for Referral:

Town of Orangetown (at the Hudson River)

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 the reason this proposal was referred to this department for review. The municipal boundary is along the eastern property line, at the water line of the Hudson River. As required under Section 239nn of the State General Municipal Law, the Town of Orangetown must be given the opportunity to review the proposed site plan and provide any concerns related to the project to the Village of South Nyack.

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 Prior to the start of construction or grading, a soil and erosion control plan shall be developed and in place for the entire site that meets the latest edition of the New York State Standards for Urban Erosion and Sediment Control.

4 There shall be no net increase in the peak rate of discharge from the site at all design points.

HOWARD & PATRICIA KATZ - 1 GESNER AVENUE (SN-165)

5 We request the opportunity to review any variances that may be needed to implement the proposed site plan, as required by New York State General Municipal Law, Section 239-m (3)(a)(v).

6 The application material does not indicate the intended use of the southern wing of the garage. A note on the architectural plans by Margaret L. Fowler, dated July 10, 2019, indicates that an HVAC system is proposed for the space. The applicants must clarify their intentions for the use of this space. The board must confirm that the proposed accessory structure meets the Village's definition of a garage, and no bathing or toilet facilities, sleeping quarters, or habitable areas are provided.

Douglas J. Schuetz
Acting Commissioner of Planning

cc: Mayor Bonnie Christian, South Nyack
Rockland County Department of Health

Atzl, Nasher & Zigler P.C.
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.