Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
Dr. Robert L. Yeager Health Center
50 Sanatorium Road, Building T
Pomona, New York 10970
Phone: (845) 364-3434 Fax: (845) 364-3435

Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

May 6, 2019

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

Tax Data: 66.69-1-6.1 66.69-1-6 66.69-1-5

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 4/8/2019 **Date Review Received:** 4/8/2019

Item: ***LEVESQUE - 11 RIVERVIEW AVENUE (SN-147B)***

A variance application to allow the merger of three lots and the construction of a single-family dwelling. The parcels have a total area of 0.41 acres and are located in the RG-8H/R-12H zoning district and Critical Environmental Area 3. A variance of adjusted lot area is requested.

The eastern side of the Riverview Avenue right-of-way, approximately 200 feet south of Hillside Avenue and extending to the terminus of the right-of-way.

Reason for Referral:

Hillside Avenue (US Route 9W), NYS Thruway (I-87/287), 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 Village definition of "Lot Area, Adjusted" states that "Adjusted lot area shall be used for the minimum lot area and maximum lot coverage bulk requirements." The proposed maximum lot coverage of 17.1% is, presumably, based on the unadjusted lot area. 17.1% of 18,000 square feet is 3,078 square feet, which appears to the combined area of the residence, deck and driveway. Applying the maximum coverage limit of 45% to the adjusted lot area of 4,143 square feet results in a maximum coverage limit of 1,864 square feet, which is a significantly smaller area than the proposed structures and driveway.

The proposed maximum coverage must be recalculated using the adjusted lot area and the bulk table must be amended. If the proposed lot coverage exceeds 45%, a variance must be obtained. The public hearing notice must be reviewed and, if it contains inaccurate information, re-issued. The Village must consider requiring the use of pervious pavers to eliminate or reduce the extent of the development coverage variance.

LEVESQUE - 11 RIVERVIEW AVENUE (SN-147B)

2 The site plan indicates that the proposed retaining wall that runs parallel to the northern property line will have a maximum height of four feet. However, the top-of-wall and bottom-of-wall elevations at the eastern end of the wall indicate a height of eight feet. The site plan must be corrected. In addition, 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.

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

4 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.

5 The Town of Orangetown is one of the reasons this proposal was referred to this department for review. The municipal boundary is approximately 390 feet south of the site. As required under Section 239nn of the State General Municipal Law, the Town of Orangetown must be given the opportunity to review the proposed re-subdivision and site plan, and provide any concerns related to the project to the Village of South Nyack.

Arlene Miller
for Douglas J. Schuetz
Deputy ~~Acting~~ Commissioner of Planning

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

Centerpoint Engineering, PLLC
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.