

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

October 13, 2020

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

Tax Data: 66.78-1-15

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 1/30/2020

Date Review Received: 9/16/2020

Item: *ROTHSCHILD - 26 SMITH AVENUE (SN-170)*

A site plan application to widen an existing walkway and add a parking space, using permeable materials, for an existing two-family residence on 0.64 acres in the R-12 zoning district.
The southern side of the eastern terminus of Smith 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 approximately 145 feet east of the site, at 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 The proposed parking space is located at the terminus of a sidewalk, which creates a potential conflict with pedestrians since a vehicle entering the space would have to traverse the walkway. The parking space must be relocated to the east in order to avoid creating a hazardous situation. In addition, the edges of the space must be tapered to allow a vehicle to pull in and out of the space easily, or oriented to be perpendicular to the roadway.
- 3 The referral form provided lists the location of the parcel as 269 Piermont Avenue and indicates that a variance application is being made. The referral form must be corrected.
- 4 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.

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5 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 Bonnie Christian, South Nyack

Anthony R. Celentano P.L.S.
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.