

**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*

July 24, 2020

West Haverstraw Village Board  
130 Samsondale Avenue  
West Haverstraw, NY 10993

**Tax Data:**

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

**Map Date:**

**Date Review Received:** 7/16/2020

**Item:** *VILLAGE OF WEST HAVERSTRAW - OUTDOOR DINING (WH-192)*

A local law to add "Outdoor Dining" as a special permit use by the Village Board in the C and MLI zoning districts.

Throughout the C and MLI zoning districts

**Reason for Referral:**

State and County roads, Minisceongo Creek, Town of Haverstraw, Town of Stony Point, Helen Hayes Hospital, Village of Haverstraw

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 Proposed sections 250-14(B)(3)(b)[7] and 250-15.1(B)(3)(a)[7] grant the Village Board the authority to set the Lot and Bulk Regulations for outdoor dining at the time of the granting of the special permit. They further state "The requirements of the Schedule of Lot and Bulk regulations shall not apply." This text could be interpreted to mean that the parking requirements for the restaurant use do not apply to outdoor dining. The Village must clarify that parking must be provided for outdoor dining as required for restaurant use, especially since most of the zoning districts are located directly on a State or County highway.

  
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Douglas J. Schuetz  
Acting Commissioner of Planning

cc: Mayor Robert D'Amelio, West Haverstraw  
Rockland County Department of Highways  
Rockland County Drainage Agency  
New York State Department of Transportation  
Helen Hayes Hospital  
Town of Haverstraw Planning Board

## **VILLAGE OF WEST HAVERSTRAW - OUTDOOR DINING (WH-192)**

Town of Stony Point Planning Board  
Village of Haverstraw 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.*