

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Richard M. Schiafo
Deputy Commissioner

May 08, 2025

Wesley Hills Zoning Board of Appeals
432 Route 306
Wesley Hills, NY 10952

Tax Data: 40.16-1-10.22

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

Map Date: 01/17/2025

Date Review Received: 04/07/2025

Item: *Fried - 91 Spook Rock Road (GML-25-0206)*

Variances to permit the construction of a covered porch and deck and the installation of landscape pavers for an existing single-family dwelling located on 1.04 acres in the R-50 zoning district. The requested variances are for front yard, impervious surface, and front yard impervious surface.
West side of Spook Rock Road, approximately 30 feet north of Oren Court

Reason for Referral:

Spook Rock Rd (County Route 85), Willow Tree Brook

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 Permitting development that does not comply with the applicable bulk standards is setting an undesirable land use precedent that is resulting in the overutilization of individual sites. We caution the Village to consider precedent before granting substantial variances for maximum impervious surface and front yard impervious surface, particularly in a Significant Biodiversity Area as identified on the Hudson Valley Natural Resources Mapper <https://gisservices.dec.ny.gov/gis/hvnm/>. Maximum impervious surface and front yard impervious surface bulk standards can define the neighborhood's community character. The applicant is proposing a maximum impervious surface that exceeds the permitted standard by 45 percent. The proposed front yard impervious surface exceeds the maximum permitted standard by 180 percent. Granting maximum impervious surface and front yard impervious surface variances of this magnitude will set a precedent that may result in nearby property owners seeking the same relief. Additional coverage will result in a neighborhood characterized by greater building mass and less green space. Height and setback variances are also required for this larger residence. The Zoning Board of Appeals must consider the

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cumulative and community impacts of permitting such development when evaluating the requested variances.

- 2 The applicant shall comply with the comment made by the Rockland County Highway Department in their letter dated April 8, 2025.
- 3 The applicant shall comply with the comments made by the Rockland County Sewer District No. 1 in their letter dated April 11, 2025.
- 4 A review must be completed by the County of Rockland Department of Health, any comments or concerns addressed, and any required permits obtained.
- 5 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.
- 6 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 Marshall Katz, Wesley Hills
Rockland County Department of Health
Rockland County Drainage Agency
Rockland County Highway Department
Rockland County Planning Board
Rockland County Sewer District No. 1
Paul Gdanski, P.E., PLLC

*New York State General Municipal Law § 239(5) requires a vote of a 'majority plus one' of your agency to act contrary to the above findings.

The review undertaken by the County of Rockland Department of Planning 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 determines whether the proposed action reviewed implicates the Religious Land Use and Institutionalized Persons Act. The County of Rockland Department of Planning defers to the municipality referring the proposed action to render such opinions and make such determinations as 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.

Pursuant to New York State General Municipal Law §§ 239-m and 239-n, the referring body shall file a report of its final action with the County of Rockland Department of Planning within thirty (30) days after the final action. A referring body that 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.