

**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*

**Richard M. Schiafo**  
*Deputy Commissioner*

June 18, 2025

Montebello Zoning Board of Appeals  
One Montebello Road  
Montebello, NY 10901

**Tax Data:** 49.05-1-13

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

**Map Date:** 05/21/2025

**Date Review Received:** 06/04/2025

**Item:** *158 Spook Rock Road - Bistritsky (GML-25-0291)*

Variance to allow an installed six-foot tall fence when only four feet is permitted. The fence is in the front and side yards of a single-family dwelling located on approximately 1.80 acres in the RR-50 zoning district and Historic and Scenic Roads Overlay District.

East side of Spook Rock Road, approximately 515 feet north of Viola Road

**Reason for Referral:**

Spook Rock Rd (County Route 85), Viola Rd (County Route 74)

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 applicant shall satisfactorily address the concern raised by the Rockland County Highway Department regarding sight distances in their letter dated June 5, 2025.
- 2 The Village shall be assured the fence is in compliance with the requirements of the Historic and Scenic Roads Overlay District.
- 3 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.
- 4 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

**158 Spook Rock Road - Bistritsky (GML-25-0291)**

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 Lance Millman, Montebello  
Rockland County Department of Health  
Rockland County Highway Department  
Rockland County Planning Board  
Rockland County Sewer District No. 1  
Civil Tec Engineering & Surveying PC

\*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.