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County Reply – Mandatory Review of Local Planning Action as per NYS General Municipal Law §239-l, m, & n

Local Referring Board: Town of Chester ZBA

Applicant: Darin Hecht

Project Name: Hecht

Proposed Action: Use Variance or Zoning Interpretation for continued operation of existing home business in existing residence

Reason for County Review: Within 500 feet of County Route 5 (Lakes Rd)

Date of Full Statement: September 20, 2017

Referral ID #: CHT 08-17M

Tax Map #: 18-1-52

Local File #: none provided

Comments:

The Department has received the above referenced use variance and has found no evidence that significant intermunicipal or countywide impacts would result from its approval. We would like to offer the following advisory comments:

Zoning Interpretation: Per the Schedule of Use and Area Requirements for the SR-2 Zoning District, customary home occupations permitted as accessory uses for residences includes only family day care and group family day care operations. However, County Planning does not typically issue zoning interpretations for municipalities. It is our opinion that the Town would be within their rights to require a Use Variance for this project.

Use Variance: A use variance is subject to a “balancing test” that weighs the needs of the applicant against the needs of the community as a whole. The Zoning Board of Appeals must determine whether the applicant has passed this balancing test. County Planning has no objection to the continued operation of the existing home business on the project site, should that be the decision of the ZBA.

County Recommendation: Local Determination

Date: October 5, 2017

Prepared by: Megan Tennermann, AICP, Planner


David Church, AICP
Commissioner of Planning

As per NYS General Municipal Law 239-m & n, within 30 days of municipal final action on the above referred project, the referring board must file a report of the final action taken with the County Planning Department. For such filing, please use the final action report form attached to this review or available online at www.orangecountygov.com/planning.

