

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

March 20, 2020

Clarkstown Zoning Board of Appeals
10 Maple Avenue
New City, NY 10956

Tax Data: 65.08-2-9

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

Map Date: 12/6/2019

Date Review Received: 3/3/2020

Item: *MELVIN COOPER/10 UPPER DEPEW AVENUE (C-3653)*

Legalization of an existing two-family dwelling located on 0.20 acres in the R-10 zoning district.
North side of Upper Depew Avenue, opposite Waldron Avenue

Reason for Referral:

Village of Nyack, Long Path Hiking Trail

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***

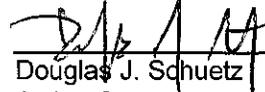
1 The parcels west of the site on the provided site plan, with a revised date of December 6, 2019, do not match the official tax maps maintained by the County Planning Department. A clarification as to how Mr. Cooper became the reputed owner of the area to the west and north of the parcel must be provided. It must also be explained how the parcels came to differ from the tax maps. If a subdivision occurred, the maps must be properly filed with the County Clerk's office. In addition, a filed map cannot be used to convey property, nor can the tax maps be updated with the lot changes, until the deeds are filed with the County Clerk, conveying the portions of the lots that are required to achieve the lot configuration indicated on the subdivision map. The applicant and the Town must make sure that the deeds are properly filed with the Rockland County Clerk to ensure that the tax maps are updated.

2 The Village of Nyack is one of the reasons this proposal was referred to this department for review. The municipal boundary is 86 feet west, 190 feet east, and 347 feet north of the site. As required under Section 239nn of the State General Municipal Law, the Village of Nyack must be given the opportunity to review the proposed legalization as a two-family dwelling and provide any concerns related to the project to the Town of Clarkstown.

3 The dwelling encroaches slightly onto the parcel to the east of the site and greatly onto the parcel to the west of the site. An easement must be secured for the encroachment onto both parcels.

MELVIN COOPER/10 UPPER DEPEW AVENUE (C-3653)

4 The site plan shall include a vicinity map and map notes that list all appropriate information, including the district details. A bulk table that shows compliance with the N Group for two-family dwellings located in the R-10 zoning district shall also be included.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor George Hoehmann, Clarkstown
New York - New Jersey Trail Conference

Robert E. Sorace, PLS
Village of Nyack

Clarkstown Planning Board, Attention Joe Simoes

**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.