



COUNTY OF ROCKLAND
DEPARTMENT OF PLANNING

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EDWIN J. DAY
County Executive

DOUGLAS J. SCHUETZ
Acting Commissioner

February 3, 2015

ARLENE R. MILLER
Deputy Commissioner

Haverstraw Village Zoning Board of Appeals
40 New Main Street
Haverstraw, NY 10927

Tax Data: 26.50-1-48

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

Map Date: 7/30/2001

Date Review Received: 1/9/2015

Item: 260 WESTSIDE AVENUE (VH-134)

Use variance to allow the conversion of an existing single-family residence to a two-family residence on .09 acres in the R-1 zoning district.

South side of Gurnee Avenue, northeast side of Westside Avenue (US Route 202)

Reason for Referral:

US Routes 202 & 9W, Village of West 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. This department is not generally in favor of granting use variances because of the land use precedent that can be set. An applicant must prove that applicable zoning regulations and restrictions have caused unnecessary hardship in order for a use variance to be granted. In order to prove such unnecessary hardship the applicant shall demonstrate to the board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:

- A. The applicant cannot realize a reasonable return, provided the lack of return is substantial as shown by competent financial evidence.
- B. The alleged hardship is unique and does not apply to a substantial portion of the district or neighborhood.
- C. The requested variance will not alter the essential character of the neighborhood.
- D. The alleged hardship is not self-created.

The Village must review the criteria listed above, and the information provided by the applicant to ensure that all of the applicable requirements have been met.

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- 2 A review shall be completed by the New York State Department of Transportation and any required permits obtained.
- 3 The site is located on a State highway, and Gurnee Avenue, both very heavily traveled roadways. It is therefore critical that adequate parking and turnaround areas be provided on the site. The site plan must be revised to illustrate the existing parking spaces, demonstrating that there is sufficient maneuverability on site so that vehicles do not have to back out of the parking spaces and into the roadway.
- 4 The Zoning Board of Appeals should determine if there have been other similar requests for use variances in the R-1 zoning district in this neighborhood. If so, and these use variances have been granted, then the Zoning Board should suggest to the Village Board that a comprehensive study be undertaken of the neighborhood to determine if it would be more appropriate to rezone some of the parcels within the R-1 zoning district in this vicinity to a zoning district which permits two-family residences. Rezoning is a more appropriate zoning tool to achieve the desired land uses, as bulk regulations for the zoning district provide standards that can be used to determine compliance.



Douglas V. Schuetz
Acting Commissioner of Planning

cc: Mayor Michael Kohut, Haverstraw Village
New York State Department of Transportation
Village of West Haverstraw

Josue Thomas

**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.