Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

November 26, 2018

Nyack Zoning Board of Appeals
9 North Broadway
Nyack, NY 10960

Tax Data: 66.46-1-46

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 10/9/2018 **Date Review Received:** 10/25/2018

Item: ***66 SOUTH BROADWAY - WILKINSON (N-185A)***

Variances to permit the legalization of a fourth efficiency apartment located within an existing mixed use building that sits on a .06 acre parcel in the DMU zoning district. Variances are required for density, one parking space, and less than 400 sq. ft. in size for the unit.
West side of South Broadway, approximately 47 feet south of Hudson Avenue

Reason for Referral:

Village of South Nyack

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 must provide information as to where the tenant can park off site, since no parking is proposed on site. If the Village were to approve the parking variance, then they should require a payment in lieu of parking as permitted in Section 360-4.5L.

2 The Village of South Nyack is the reason this proposal was referred to this department for review. The municipal boundary is approximately 312 feet south of the subject property line. As required under Section 239nn of the State General Municipal Law, the Village of South Nyack must be given the opportunity to review the proposed site plan and provide any concerns related to the project to the Village of Nyack.

3 The following additional comment is offered strictly as an observation and is not part of our General Municipal Law (GML) review. The board may have already addressed this point or may disregard it without any formal vote under the GML process.

66 SOUTH BROADWAY - WILKINSON (N-185A)

3.1 The application form lists the parcel to be within the TFR zoning district. This is incorrect, as the parcel is located within the DMU-1 zoning district. This must be corrected. In addition, only two variances are listed to be needed on the Referral Form, when three are required. The density variance was omitted from the form. If the public hearing notice lists the incorrect zoning district, and does not list the need for a density variance, then it must be corrected and re-issued.

Douglas J. Schuetz
Acting Commissioner of Planning

cc: Mayor Donald N. Hammond, Nyack

Kier B. Levesque, R.A.
Village of South Nyack Zoning Board of Appeals

**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.