

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene Miller
Deputy Commissioner

April 22, 2020

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

Tax Data: 65.36-1-16

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

Map Date: 3/13/2020

Date Review Received: 3/10/2020

Item: **24 NORTH HIGHLAND AVENUE (N-95H)**

Variance for a fueling station located within 600 feet of another lot with an existing automotive service station or fueling station. A 3,043 SF convenience store and fueling station is proposed on 1.0 acres in the CC and RMU zoning districts. The convenience store will be located partially in both zoning districts, while the fueling station will be fully contained in the CC zoning district. Six fuel pumps with two fueling positions, for a total of twelve fueling positions, will be provided, as well as a canopy with fire suppressions systems. Fifteen parking spaces are proposed.

Southwest corner of North Highland Avenue, and High Avenue

Reason for Referral:

NYS Route 59, North & South Highland Avenue, (US Route 9W), NYS Thruway (I-87/287)

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 Section 360-3.2.D.(2)(h) indicates that no new fueling stations may be permitted within 600 feet of another lot where an automobile service station or fueling station already exists. According to mapping information available to our department, a fueling station already exists directly opposite Route 9W, to the east of the site. Another fueling station and auto repair shop also exists within 600 feet of the site. The Village must determine if the inclusion of this proposal within close proximity to the existing facilities will create an overabundance of fueling stations and be a detriment to the Village. If the Village feels the location of this fueling station is not an issue, a better approach may be to amend the zoning code to allow for more than one station within 600 feet of another, rather than grant a variance.

2 A review must be completed by the New York State Department of Transportation, any comments or concerns addressed, and all required permits obtained.

3 A review must be completed by the County of Rockland Department of Health, any comment or concerns addressed, and any required permits obtained.

24 NORTH HIGHLAND AVENUE (N-95H)

- 4 The proposed convenience store building and fueling station must comply with all requirements of the New York State Uniform Fire Prevention and Building Code.
- 5 A review must be completed by the Rockland County Office of Fire and Emergency Services, the Village of Nyack Fire Inspector, or the Nyack Fire Department to ensure that there is sufficient maneuverability on site for fire trucks, in the event an emergency arises.
- 6 The revision table on the site plan indicates the first issue of the maps was on March 13, 2020. However, we are in possession of a previous map submission, with a date of January 28, 2020. This date is not reflected on the newer maps. The revision table must be updated to show all submissions and their dates.
- 7 The site plan must contain a vicinity map with a scale and north arrow.



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Acting Commissioner of Planning

- cc: Mayor Donald N. Hammond, Nyack
- New York State Department of Transportation
- New York State Thruway Authority
- Rockland County Department of Health
- Rockland County Office of Fire and Emergency Services
- New York State Department of State
- Stonefield Engineering & Design
- Nyack Fire Department

**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.