

DEPARTMENT OF PLANNING

Dr. Robert L. Yeager Health Center

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

March 16, 2020

Nyack Planning Board
9 North Broadway
Nyack, NY 10960

Tax Data: 60.77-2-8

60.77-2-7.2

60.77-2-7.1

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

Map Date: 1/18/2016

Date Review Received: 2/12/2020

Item: *NYACK COMMUNITY AMBULANCE CORP (N-32C)*

Special permit use to allow the conversion of a two-family dwelling to a four-family dwelling as an accessory apartment to the existing not-for-profit ambulance facility directly adjacent to the site. The site is located on .14 acres in the TFR zoning district. The total site, including the ambulance building consists of .57 acres. The special permit was previously granted for this project, but has expired.

Northwest corner of Sixth Avenue and West End Avenue; northeast corner of Sixth Avenue and Midland Avenue

Reason for Referral:

Village of Upper 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 Village of Upper Nyack is the reason this proposal was referred to this department for review. The municipal boundary is approximately 300 feet north of the subject property line. As required under Section 239nn of the State General Municipal Law, the Village of Upper Nyack must be given the opportunity to review the proposed special permit and provide any concerns related to the project to the Village of Nyack.

2 It is not clear what the requirement is for parking. Table 4-2, Minimum Parking Requirements does not have a use for "multifamily apartment accessory to not-for-profit ambulance facilities." Section 360-3.2E(9) states "At least one on-site parking space shall be required for each dwelling unit." However, the parking calculation on the plans indicate that two parking spaces are required per dwelling unit. This parking requirement discrepancy must be corrected. Furthermore, the site plan notes that five spaces are provided on Tax Lot 60.77-2-8, and that three additional spaces are provided on Tax Lots 60.77-2-7.1 & 7.2. These three parking spaces should be clearly identified on the site plan, so that they are reserved for the residences. As noted in our reviews dated March 15, 2016 and April 17, 2014, nine of the parking spaces are located partially within the right-of-way of Sixth Avenue. These nine parking spaces cannot be used for the residential parking, as they are not contained wholly on site.

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3 The Referral Form does not indicate that tax parcel 60.77-2-8 is part of this proposal. This must be corrected, as the dwelling is located on this parcel. If the public hearing notice was issued without the inclusion of this tax parcel, it must be reissued with the correct information.

4 In April 2014, our department reviewed an application for the dissolution of the lot lines between the three lots in this application. The site plan provided with this application, with a revised date of January 18, 2016, indicates the lot line between tax parcels 60.77-2-7.1 and 60.77-2-7.2 is to be disclaimed. It must be confirmed if the proposed lot line dissolution was approved. In addition, once a subdivision has been approved, 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 Village must make sure that the deeds are properly filed with the Rockland County Clerk to ensure that the tax maps are updated.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Mayor Donald N. Hammond, Nyack

Sparaco & Youngblood, PLLC
Village of Upper Nyack
Kier B. Levesque, R.A.

**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.