

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

September 15, 2020

Nyack Planning Board
9 North Broadway
Nyack, NY 10960

Tax Data: 59.84-1-44

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

Map Date: 10/4/2019

Date Review Received: 9/2/2020

Item: *OAK HILL CEMETERY (N-176A)*

Site plan for the construction of a community mausoleum at an existing cemetery located on approximately 37.625 acres in the SFR-1 zoning district. A variance is required for an accessory structure greater than 12 feet in height.

West side of North Highland Avenue, north side of Sickles Avenue

Reason for Referral:

North Highland Avenue (US Route 9W), NYS Thruway (I-87/287), Mountainview Nature Park, Long Path Hiking Trail, Town of Clarkstown, Village of Upper Nyack

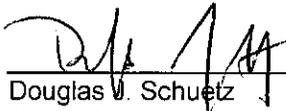
The County of Rockland Department of Planning has reviewed the above item. Acting under the terms of the above GML powers and those vested by the County of Rockland Charter, I, the Commissioner of Planning, hereby:

****Recommend the following modifications***

- 1 Since the topography of the area slopes east towards US Route 9W, a review must be completed by the New York State Department of Transportation, any comments or concerns addressed, and any required permits obtained.
- 2 A review must be completed by the County of Rockland Department of Health, any comment or concerns addressed, and any required permits obtained.
- 3 The Town of Clarkstown and Village of Upper Nyack are two of the reasons this proposal was referred to this department for review. The municipal boundary of Clarkstown is along the western border of the site. The municipal boundary of Upper Nyack is approximately 398 feet north of the site. As required under Section 239nn of the State General Municipal Law, the Town of Clarkstown and Village of Upper 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.

OAK HILL CEMETERY (N-176A)

- 4 A bulk table shall be provided that shows the proposed mausoleum is in compliance with the bulk standards of the SFR-1 zoning district. A note should be placed with the bulk table indicating the need for a height variance for the proposed structure. The yard measurements must also be shown on the site plan.
- 5 The height of the proposed mausoleum must be provided to determine the extent of the height variance that is required.
- 6 Prior to the start of construction or grading, all soil and erosion control measures must be in place for the site. These measures must meet the latest edition (November 2016) of the New York State Standards for Urban Erosion and Sediment Control.
- 7 There shall be no net increase in the peak rate of discharge from the site at all design points.
- 8 Retaining walls that are over four (4) feet in vertical height shall be designed by a licensed New York State Professional Engineer and be in compliance with the NYS Fire Prevention and Building Code. Design plans shall be signed and sealed by the licensed NYS Professional Engineer.
- 9 The vicinity map should show the subject site in relation to the surrounding parcels, rather than a topographic map.



Douglas V. Schuetz
Acting Commissioner of Planning

cc: Mayor Donald N. Hammond, Nyack
New York State Department of Transportation
New York - New Jersey Trail Conference
New York State Thruway Authority
Rockland County Department of Health
Rockland County Division of Environmental Resources

Atlantic Consulting & Engineering LLC
Town of Clarkstown
Village of Upper Nyack

**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.