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 9, 2017

Upper Nyack Planning Board
328 North Broadway
Upper Nyack, NY 10960

Tax Data: 60.17-1-42

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 5/31/2017 **Date Review Received:** 10/13/2017

Item: ***207 HIGHMOUNT AVENUE (UN-78A)***

Site plan amendments for the proposed construction of a new single-family dwelling located on .24 acres in the R-4 zoning district. The site plan is being amended to add a rear deck to the house. A rear yard variance is required.
South side of Highmount Avenue, 100 feet west of Front Street

Reason for Referral:

US Route 9W (North Highland Avenue), Village of 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 Nyack is one of the reasons this proposal was referred to this department for review. The municipal boundary is along the southern property line of the site. As required under Section 239nn of the State General Municipal Law, the Village of Nyack must be given the opportunity to review the proposed site plan and provide any concerns related to the project to the Village of Upper Nyack.

2 A review shall be completed by the New York State Department of Transportation and any comments considered.

3 A review must be done by the Rockland County Department of Health to ensure compliance with the County's Mosquito Code.

207 HIGHMOUNT AVENUE (UN-78A)

Douglas J. Schuetz
Acting Commissioner of Planning

cc: Mayor Karen Tarapata, Upper Nyack
New York State Department of Transportation
Rockland County Department of Health

Jay A. Greenwell, PLS, LLC
Village of Nyack Planning Board

**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.