Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

July 18, 2017

Upper Nyack Zoning Board of Appeals
328 North Broadway
Upper Nyack, NY 10960

Tax Data: 60.10-1-14

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 6/27/2017 **Date Review Received:** 6/30/2017

Item: ***WIDEWATER (UN-76E)***

Maximum lot coverage variance, to permit the proposed relocation of a driveway, and installation of curbing and a gravel access area for a refuse enclosure area for a single-family dwelling currently under construction, and which is located in the R-2 zoning district on 3.43 acres. The relocation of the driveway will help to reduce the slope and the severity of the turn at the bottom or the hill.

East side of North Broadway, approximately 215 feet south of Lexow Avenue

Reason for Referral:

Town of Clarkstown (at the Hudson River)

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 An updated review shall be completed by the New York State Department of Environmental Conservation, and any required permits obtained.

2 An updated review must be completed by the U.S. Army Corps of Engineers, and any required permits obtained.

3 An updated review must be completed by the New York State Department of State, Division of Coastal Zone management, and any required permits obtained.

4 The Floodplain Administrator for the Village of Upper Nyack shall certify that the proposed construction is in compliance with the floodplain regulations of the Village and the Federal Emergency Management Agency.

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5 To help reduce the extent of the lot coverage variance, pervious materials must be used on the site, wherever possible. This could include the driveway or terrace areas.

6 The Town of Clarkstown is the reason this proposal was referred to this department for review. The municipal boundary is located at the mean high tide water line, along the eastern property line of the subject site. As required under Section 239nn of the State General Municipal Law, the Town of Clarkstown must be given the opportunity to review the proposed variance and provide any concerns related to the project to the Village of Upper Nyack.

Douglas J. Schuetz
Acting Commissioner of Planning

cc: Mayor Karen Tarapata, Upper Nyack
United States Army Corps of Engineers
New York State Department of Environmental Conservation
New York State Department of State,
Division of Coastal Zone Management

Jay A. Greenwell, PLS, LLC
Town of Clarkstown 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.