Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
Dr. Robert L. Yeager Health Center
50 Sanatorium Road, Building T
Pomona, New York 10970
Phone: (845) 364-3434 Fax: (845) 364-3435

Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

March 9, 2018

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

Tax Data: 60.06-1-5.1

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 1/31/2018 **Date Review Received:** 2/13/2018

Item: ***649 NORTH BROADWAY (UN-21D)***

Variances to permit the proposed construction of formal gardens with walls, pergolas, and trellises for an existing residence located in the R-1 zoning district on 3.27 acres. Needed variances include less than required side setback, greater than permitted maximum lot coverage, construction (disturbance) on areas in excess of 40% slope, and construction of walls that exceed 6' in height.

East side of North Broadway, opposite Larchdale Avenue

Reason for Referral:

Nyack Beach State Park, 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 To help reduce the extent of the maximum lot coverage variance, pervious materials must be used where possible. It is not clear if the proposed driveway is to be done using macadam pavement.

2 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.

3 Tiered retaining walls should be used to help break up the massive walls, especially since they will be highly visible from the Hudson River. These tiered walls should have terraces that are at least five (5) feet wide, and are landscaped. In addition, the walls should be screened by vegetation or faced with wood, stone or other earth colored materials that blend with the surrounding natural landscape.

649 NORTH BROADWAY (UN-21D)

Douglas J. Schuetz
Acting Commissioner of Planning

cc: Mayor Karen Tarapata, Upper Nyack
Palisades Interstate Park Commission

Brooker Engineering, PLLC
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.