

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene Miller
Deputy Commissioner

April 8, 2020

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

Tax Data: 60.05-2-34

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

Map Date: 1/25/2020

Date Review Received: 3/9/2020

Item: *AHMETAJ - CABANA AND SHED (UN-8H)*

Site plan application to allow the construction of a 16'x14' cabana and a 10'x12' shed on 1.35 acres in an R-1 zoning district. A side setback variance is required for the cabana.

West side of Palmer Drive, opposite Kuyper Drive; east side of Route 9W

Reason for Referral:

US Route 9W, Town of Clarkstown, the Long Path

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 A review must be completed by the Rockland County Health Department to ensure compliance with Article XIX (Mosquito Control) of the Rockland County Sanitary Code.
- 2 The Town of Clarkstown is one of the reasons this proposal was referred to this department for review. The municipal boundary is along the west side of US Route 9W, 60 feet west of the 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 site plan, and provide any concerns related to the project to the Village of Upper Nyack.
- 3 The GML referral form indicates that the map date is December 18, 2003. All application materials must be consistent. It is important that accurate information be provided about the application materials contained in the referral so this department can confirm that we are reviewing the same submission as the Village.



Douglas J. Schuetz/
Acting Commissioner of Planning

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

AHMETAJ - CABANA AND SHED (UN-8H)

New York - New Jersey Trail Conference

Paul Gdanski, PE, PLLC

Town of Clarkstown Planning Board

Louie Ahmetaj

**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.