

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Commissioner

Richard M. Schiafo
Deputy Commissioner

March 06, 2026

Nyack Zoning Board of Appeals
9 North Broadway
Nyack, NY 10960

Tax Data: 66.30-2-26

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

Map Date: 06/17/2025

Date Review Received: 02/11/2026

Item: *Schenley Vital - 11 Fourth Avenue (GML-26-0094)*

Variance application to permit a two-lot subdivision of a 0.31-acre lot in the TFR zoning district and the construction of a two-family dwelling on each lot. An existing single-family dwelling will be demolished. Variances are requested for lot area, lot depth, and building stories for both lots. Additionally, Lot 1 requires a variance for building height and Lot 2 requires a variance for lot width. Southwest corner of Fourth Avenue and Gedney Street

Reason for Referral:

Town of Orangetown (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 Permitting development that does not comply with the applicable bulk standards can set an undesirable land use precedent and result in the overutilization of individual sites. The applicant is proposing a two-lot subdivision that would result in the construction of two two-family dwellings on undersized parcels. With minimum lot areas of 5,000 square feet for a single-family dwelling and 10,000 square feet for a two-family dwelling, the TFR zoning district allows a residential density of approximately 8.7 units per acre. This proposal would have a residential density of approximately 12.8 units per acre, exceeding that of the TFR zoning district by 47%. The ability of the existing infrastructure to accommodate increased residential density on undersized parcels is a countywide concern and must be evaluated. This continued pattern of development in the County is increasing congestion on local roads, overburdening the sewer system and stormwater management systems, and straining the public water supply. The Zoning Board of Appeals must consider the cumulative and regional impacts of approving such development before granting variances. We

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note that the existing lot has sufficient area to create two conforming single-family residences or be converted to a single two-family residence. Alternatively, the creation of two lots and the construction of one single-family dwelling and one two-family dwelling could be achieved with relatively minor area variances. We recommend that the proposal be modified so that the number of units is reduced and the overall residential density more closely conforms to the requirements of the TFR zoning district.

- 2 As per their letter dated February 26, 2026, an application is to be made to the Rockland County Department of Health for review of the storm water management system to ensure compliance with the County Mosquito Code.
- 3 The Town of Orangetown is the reason this proposal was referred to this department for review. The municipal boundary is approximately 240 feet east of the site, at the Hudson River. The Town of Orangetown must be given the opportunity to review the requested variances and provide any concerns regarding intercommunity and Countywide considerations related to the project to the Village of Nyack.
- 4 Pursuant to New York State General Municipal Law (GML) Sections 239-m and 239-n, if any of the conditions of this GML review are overridden by the board, then the local land use board must file a report with the County's Commissioner of Planning of the final action taken. If the final action is contrary to the recommendation of the Commissioner, the local land use board must state the reasons for such action.
- 5 In addition, pursuant to Executive Order 01-2017 signed by County Executive Day on May 22, 2017, County agencies are prohibited from issuing a county permit, license, or approval until the report is filed with the County's Commissioner of Planning. The applicant must provide to any County agency which has jurisdiction of the project: 1) a copy of the Commissioner's report approving the proposed action or 2) a copy of the Commissioner of Planning recommendations to modify or disapprove the proposed action, and a certified copy of the land use board statement overriding the recommendations to modify or disapprove, and the stated reasons for the land use board's override.
- 6 The following additional comments are offered strictly as observations and are not part of our General Municipal Law (GML) review. The Board may have already addressed these points or may disregard them without any formal vote under the GML process:
 - 6.1 The site plan drawing depicts proposed improvements overlain with existing site elements, descriptions, and measurements making it difficult to read. Drawings should be separated out with descriptions and measurements only labeled where necessary and in font that is appropriately sized to not overlap other writing to allow for an appropriate review of the proposal.
 - 6.2 Two family dwellings located within the TFR zoning district are required to have a minimum dwelling unit size of 750 square feet with a minimum of 500 square feet of usable open space per dwelling unit. The bulk table lists the proposed square footage of each unit as >750 and the minimum of usable open space as >500. The square footage of each unit and of the usable open space on each lot must be provided to ensure it complies with this standard and does not require a variance. The bulk table shall not include estimations.

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Commissioner of Planning

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cc: Mayor Joseph Rand, Nyack
Rockland County Department of Health
Rockland County Drainage Agency
Rockland County Planning Board
Town of Orangetown Planning Board
Collazuol Engineering & Surveying Assoc., LLC

*New York State General Municipal Law § 239(5) requires a vote of a 'majority plus one' of your agency to act contrary to the above findings.

The review undertaken by the County of Rockland Department of Planning 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 determines whether the proposed action reviewed implicates the Religious Land Use and Institutionalized Persons Act. The County of Rockland Department of Planning defers to the municipality referring the proposed action to render such opinions and make such determinations as 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.

Pursuant to New York State General Municipal Law §§ 239-m and 239-n, the referring body shall file a report of its final action with the County of Rockland Department of Planning within thirty (30) days after the final action. A referring body that 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.