

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Richard M. Schiafo
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June 26, 2025

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

Tax Data: 66.46-1-39

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 04/18/2025

Date Review Received: 06/11/2025

Item: *80 South Broadway (GML-25-0310)*

Variance application to permit the construction of a 4-story, mixed-use building with 18 residential units and 5,900 square feet of commercial space. The subject site is on 0.28 acres in the DMU-1 zoning district. The existing gas station on the site will be demolished. A special permit was requested to allow for the increased building height to create a 4th floor. A site plan application was also completed. Variances are requested for the number of stories, and the number of parking spaces due to tandem parking spaces not being included in final parking counts.

West side of Broadway, approximately 100 feet north of Cedar Hill Avenue

Reason for Referral:

Town of Orangetown

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 shall be satisfied that the proposed mixed-use development adequately meets the standards for density and floor area ratio (FAR) bonuses outlined in Sections 360-4.14D, 360-4.14E, and 120-1C(13)(B).
- 2 A review must be done by the Rockland County Department of Health to ensure compliance with Article XIX (Mosquito Control) of the Rockland County Sanitary Code.
- 3 A review must be completed by the County of Rockland Office of Fire and Emergency Services, Village of Nyack fire inspector, or the Nyack Fire Department to ensure that the site is designed in a safe manner and that there is easy access to the structure, in the event of an emergency.
- 4 The Town of Orangetown is one of the reasons this proposal was referred to this department for review.

The municipal boundary is approximately 50 feet south of the subject property. New York State General Municipal Law states that the purposes of Sections 239-l, 239-m and 239-n shall be to bring pertinent inter-community and countywide planning, zoning, site plan and subdivision considerations to the attention of neighboring municipalities and agencies having jurisdiction. Such review may include inter-community and county-wide considerations in respect to the compatibility of various land uses with one another; traffic generating characteristics of various land uses in relation to the effect of such traffic on other land uses and to the adequacy of existing and proposed thoroughfare facilities; and the protection of community character as regards predominant land uses, population density, and the relation between residential and nonresidential areas.

The Town of Orangetown must be given the opportunity to review the proposal and its impact on community character, traffic, water quantity and quality, drainage, stormwater runoff and sanitary sewer service. The areas of countywide concern noted above that directly impact the Town of Orangetown must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

- 5 Any proposed signage must be shown on the site plan and conform to the Village requirements found in Section 360-4.11 of the Village Code. If any variances are required for signage, we request the opportunity to review them, as required by New York State General Municipal Law, Section 239-m (3)(a)(v).
- 6 Pursuant to the Rockland County Sanitary Code, Article XIII, Section 13.8.1, all multiple dwellings with three or more rental units must register and obtain a Multiple Dwelling Rental Certificate (MDRC). If this proposed multifamily dwelling meets the requirements of the Multiple Dwelling Rental Registry requirement, then the owner must register and obtain the MDRC. Failure to comply is a violation of Article XIII, which may result in penalties of \$2,000 per day.
- 7 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.
- 8 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.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Mayor Joseph Rand, Nyack
Rockland County Department of Health
Rockland County OFES
Rockland County Planning Board
Nyack Fire District
DRPILLA Consulting Engineers

80 South Broadway (GML-25-0310)

*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.