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

Helen Kenny Burrows
Deputy Commissioner

Date Review Received: 9/10/2021

September 27, 2021

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

Tax Data: 65.44-2-9

65.44-2-8

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

Map Date: 5/14/2020

Item: 249-259 MAIN STREET (N-183F)

Variances to permit the proposed demolition of two houses, and construction of a 26-unit multi-family dwelling that will consist of both a 3- and 4-story structure. A re-subdivision is also proposed to combine two lots into one. The design of the multi-family dwelling includes access from Main Street and 30 parking spaces, plus three tandem spaces. Four alcove studios, 18 one-bedroom, and four two-bedroom units are proposed on the .38-acre parcel located in the DMU zoning district. The required variances include greater than permitted number of stories (3 permitted, 4 proposed) and rooftop solar energy collectors in excess of 1,000 ft.

South side of Main Street, approximately 233 feet west of Midland Avenue, and 364 feet east of N. Highland Avenue

Reason for Referral:

N. Highland Avenue (US Route 9W), NYS Thruway

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 New York State Department of Transportation, any comments or concerns addressed, and any required permits obtained.
- 2 The location of the rooftop solar energy collectors must be illustrated on the site plan. A separate rooftop plan must be provided, illustrating the location of the solar collectors, particularly in relation to the elevator shaft, chimney, pipes, etc.., and where access will be obtained to the roof for maintenance purposes. Item 12 on the June 26, 2019 letter from S & Co. in response to our May 28, 2019 review states Roof Plan SK-04 addresses these concerns. This sheet must be provided.
- 3 A note shall be placed on the bulk table that a variance is also required for the rooftop solar energy collectors in excess of 1,000 SF.

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- 4 The site plan is difficult to read, as there are too many different underlying layers. The June 26, 2019 response letter mentioned above indicates the site plan was separated into five different drawings to make each layer easier to read. These sheets must be provided.
- 5 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.
- 6 Pursuant to General Municipal Law (GML) Section 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 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.
- 7 In addition, pursuant to Executive Order 01-2017 signed by County Executive Day on May 22, 2017, County departments are prohibited from issuing a County permit, license, or approval until the report is filed with the County Commissioner of Planning. The applicant must provide to any County agency which has jurisdiction of the project: 1) a copy of the Commissioner 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.
- 8 The following additional comment is offered strictly as an observation and is not part of our General Municipal Law (GML) review. The board may have already addressed this point or may disregard it without any formal vote under the GML process:

8.1 The site plan shall include map notes that list all appropriate information, including the district details.

Acting Commissioner of Planning

cc: Mayor Donald N. Hammond, Nyack Rockland County Department of Health New York State Department of Transportation New York State Thruway Authority

Bart M. Rodi, Engineer S & Co. Architecture + Design Nyack Fire District

*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.