

**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*

September 10, 2021

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

**Tax Data:** 66.45-1-30

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

**Map Date:** 8/23/2021

**Date Review Received:** 8/28/2021

**Item:** **82-84 SOUTH FRANKLIN STREET (N-175B)**

Variance for parking to permit an existing structure to be used as an adult daycare facility. The building is located on 0.12 acres in the DMU-2 zoning district.

Northwest corner of South Franklin Street and Cedar Hill Avenue

**Reason for Referral:**

Village of South Nyack

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 of South Nyack is the reason this proposal was referred to this department for review. The municipal boundary is along the Southern property line of the site. As required under Section 239nn of the State General Municipal Law, the Village of South Nyack must be given the opportunity to review the proposed site plan and special permit and provide any concerns related to the project to the Village of Nyack.
- 2 The parking calculation on the site plan indicates one space per staff member plus one space per classroom are required, for a total of 19 spaces. As per Table 4-2, Minimum Parking Requirements, the parking requirements for an adult daycare center are one space per staff member plus one space per eight attendees allowed under maximum occupancy. Based on the 60 attendees stated on Sheet SP-2, eight spaces are required for the attendees, totaling 23 required spaces. The parking calculation must be corrected to state such.
- 3 As per Section 360-4.5B.(3), the parking that must be provided for a change of use is the difference between the required parking for the existing use and the new use. Due to this, the existing use must be stated. Based on street data available to this department, it appears the previous use was a gym, which requires 1 space per 500 SF, for a total of 13 spaces. The applicant is therefore required to provide 10 spaces, of which only four are shown on the drawing. A variance for the additional six spaces is required, and must be stated with the parking calculation on the site plan.

**82-84 SOUTH FRANKLIN STREET (N-175B)**

- 4 The parking calculation states that the additional spaces not provided on site will be located on-street or in a public parking lot. However, the nearest municipal lot is several blocks away from the site. The Village must monitor the site to ensure that the available parking is adequate. If it is found that the parking is inadequate or the off-site parking is too great a distance from the site, an off-site parking agreement must be obtained with a nearby property owner to fulfill the parking needs of staff, family, and attendees.
- 5 Areas designated for snow removal must be clearly delineated on the site plan so that the plow drivers will know where to place the snow piles. Providing specific locations on the site for the snow piles will reduce the loss of available parking spaces meant to be used by staff, family, and attendees. This is especially critical since less than the required number of spaces are being provided and the parking area is very constrained.
- 6 A review must be done by the Rockland County Department of Health to ensure compliance with the Rockland County Sanitary Code, Article XIX, Mosquito Control.
- 7 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 there is sufficient maneuverability on site for emergency vehicles and compliance with Section 5.9C.(1).

  
\_\_\_\_\_  
Douglas J. Schuetz  
Acting Commissioner of Planning

cc: Mayor Donald N. Hammond, Nyack  
Rockland County Department of Health  
Rockland County Office of Fire and Emergency Services  
  
Kimmerle Newman Architects  
Village of South Nyack  
Nyack Fire Department  
New York State Division of Human Services - OPWDD

*\*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.*