



COUNTY OF ROCKLAND
DEPARTMENT OF PLANNING

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C. SCOTT VANDERHOEF
County Executive

THOMAS B. VANDERBEEK, P.E.
Commissioner

October 28, 2013

ARLENE R. MILLER
Deputy Commissioner

Stony Point Zoning Board of Appeals
74 East Main Street
Stony Point, NY 10980

Tax Data: 20.07-2-8.1

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

Map Date: 1/11/1993

Date Review Received: 10/10/2013

Item: *KARA & ANDREW KEAHON (SP-694A)*

Use variance to allow a second kitchen in an existing single-family dwelling, to be used for a small party catering business, in the R-1 zoning district on .46 acres.
South side of Route 210, approximately 380 feet west of US Routes 9W/202

Reason for Referral:

Route 210 (CR 106), US Routes 9W/202

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 This department is not generally in favor of granting use variances because of the land use precedent that can be set. An applicant must prove unnecessary hardship in order for a use variance to be granted. The Otto test requires the demonstration of the following:
- A. The applicant cannot realize a reasonable return, provided the lack of return is substantial as shown by competent financial evidence.
 - B. The alleged hardship is unique and does not apply to a substantial portion of the district or neighborhood.
 - C. The requested variance will not alter the essential character of the neighborhood.
 - D. The alleged hardship is not self-created.

The applicant must demonstrate that they meet all of the requirements listed above, to be granted a use variance. In addition, we caution the Town, with regard to the request for the use variance, to consider the cumulative impact of permitting such development and the land use precedent that will be set. Allowing a second kitchen can undermine the intent of the zoning ordinance, and change the character of the surrounding neighborhood, and could result in two-family dwellings. The ability of the existing infrastructure to accommodate this increased density

KARA & ANDREW KEAHON (SP-694A)

must be evaluated as well.

2 A review must be completed by the County of Rockland Department of Highways and all required permits obtained.



Thomas B. Vanderbeek, P.E.
Commissioner of Planning

cc: Supervisor Geoffrey Finn, Stony Point
Rockland County Department of Highways
New York State Department of Transportation

Kara Keahon

**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.