



Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

January 8, 2019

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

Tax Data: 15.04-3-7

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

Map Date: 8/20/2018

Date Review Received: 12/7/2019

Item: *ANA ALFARO - 134 NORTH LIBERTY DRIVE (SP-488B)*

A use variance application to permit the conversion of an existing Manufactured Home to a detached, one-family dwelling on 1.01 acres in the MHC zoning district.

The eastern side of North Liberty Avenue (US Route 202/9W), opposite Bobby Lane.

Reason for Referral:

North Liberty Avenue (US Route 202/9W), Stony Point Battlefield State Historic Site

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 that applicable zoning regulations and restrictions have caused unnecessary hardship in order for a use variance to be granted. To prove such unnecessary hardship the applicant shall demonstrate to the board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:

- 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.

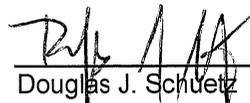
The applicant must demonstrate to the Town that these criteria haven been met and that there is an unnecessary hardship, which warrants the granting of a use variance.

ANA ALFARO - 134 NORTH LIBERTY DRIVE (SP-488B)

2 A review shall be completed by the New York State Department of Transportation and any required permits obtained.

3 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.

As mentioned above, this department is generally not in favor of granting use variances. Setting a precedent of allowing multiple detached, single-family dwellings on a single lot may lead to a significant overdevelopment of a site, which can have detrimental effects on county interests, resources, and infrastructure. There are, however, some mitigating factors for this application, specifically, the lack of any expansion or addition to the structure, its maintenance of its single-family status, and the minimal nature of the alterations. This department would like to point out that these factors are unique to this application, and recommends that the Town of Stony Point continue to maintain the increased level of scrutiny that is required for the granting of use variances.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor Jim Monaghan, Stony Point
New York State Department of Transportation
Palisades Interstate Park Commission

John Anthony Ferraro PC

**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.