



Orange County Department of Planning

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David E. Church, AICP
Commissioner

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County Reply – Mandatory Review of Local Planning Action as per NYS General Municipal Law §239-l, m, &n

Local Referring Board: Town of Newburgh ZBA

Applicant: Drivanos/McCarthy

Project Name: none provided

Proposed Action: Use Variance for existing accessory apartment on same lot as existing single family residence

Reason for County Review: Within 500 feet of the Orange/Ulster County boundary

Date of Full Statement: January 16, 2018

Referral ID #: NBT 03-18M

Tax Map #: 2-1-15

Local File #: 2659-18

Comments:

The Planning Department has reviewed the submitted materials regarding the appeal for a use variance and has found no evidence that intermunicipal or countywide impacts would result from its approval. County Planning recommends that the Board act on this variance request only if the applicant satisfies the unnecessary hardship standard, as defined by New York State law.

The courts of New York hold that the unnecessary hardship standard is satisfied by competent proof of each of the following:

1. the land in question cannot yield a reasonable return, in dollars and cents, if used for any use permitted in the zone,
2. the use to be authorized by the variance will not alter the essential character of the locality,
3. the hardship is unique to the parcel and not general throughout the zoning district, and
4. the hardship is not self-created.

County Recommendation:

Local Determination

Date: January 30, 2018

Prepared by: Megan Tennermann, AICP, Planner


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Commissioner of Planning

As per NYS General Municipal Law 239-m & n, within 30 days of municipal final action on the above referred project, the referring board must file a report of the final action taken with the County Planning Department. For such filing, please use the final action report form attached to this review or available on-line at www.orangecountygov.com/planning.