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ORANGE COUNTY DEPARTMENT OF PLANNING

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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 Zoning Board of Appeals

Referral ID #: NBT 27-13M

Applicant: John Barry

Tax Map: 17-3-19

Proposed Action: Area variance related to the max height, max sq. ft.
of accessory building and storage for more than four
(4) vehicles.

Local File #: 2358-13

Reason for County Review: N/A

Date of Full Statement: N/A

Comments:

County Planning is in receipt of the GML §239 referral for the above referenced Project. After careful review it has come to our attention that the Proposed Action is not a referable action in accordance with the GML. Section 239m(3)(a) of the GML requires referral for area variances that are, in accordance with §239m(3)(b), within 500 feet of one or more of the following:

- the boundary of any city, village or town; or
- the boundary of any existing or proposed county or state park or any other recreation area; or
- the right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway; or
- the existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines; or
- the existing or proposed boundary of any county or state owned land on which a public building or institution is situated.

Based upon our review of the submitted materials, our office has found no evidence that significant inter-municipal or county-wide impacts would result from its approval. County Planning recommends that the Board make a decision only after weighing the benefit to be realized by the applicant against the potential detriment to the health safety and general welfare of the neighborhood and/or community. In an effort to aid the Board in making their decision, our office recommends working with the Appellant to understand the balancing test outlined in §267-b(3)(b) of the NYS Town Law which consists of the following:

- *"In making such determination the board shall also consider: (1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;(2) whether the benefit sought by*

the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; (3) whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance."

County Recommendation: N/A

Date: June 19, 2013



**Prepared by: Chad M. Wade, R.L.A.
Planner**

for **David Church, AICP
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.