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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 34-13M

Applicant: Jody Harvey

Tax Map: 43-1-51.22

Proposed Action: Variance related to an accessory apartment in a dwelling unit less than five (5) years old.

Local File #:

Reason for County Review: The subject parcels is within 500 feet of O.C. Agriculture District No. 1.

Date of Full Statement: October 4, 2013

Comments:

County Planning is in receipt of the GML §239 referral for the above referenced Project. 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(2)(b) of the NYS Town Law which consists of the following:

- *“In making such determination the board shall also consider: (1) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence; (2) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood; (3) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and (4) that the alleged hardship has not been self-created.*”

County Recommendation: Local Determination

Date: October 8, 2013

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

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.