



## ORANGE COUNTY DEPARTMENT OF PLANNING

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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 Zoning Board

**Referral ID #:** NBT29-12M

**Applicant:** Mark and Kathleen Judson

**Tax Map #:** 39-1-16.24

**Proposed Action:** Area variance to increase degree of non-conformity related to the front yard setback for the installation of a pool deck.

**Local File #:** 2304-12

**Reason for County Review:** Project Site is within 500 feet of County Route 86.

**Date of Full Statement:** July 31, 2012

#### 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(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: Local Determination

**Date:** August 21, 2012

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

*David Church*  
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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 online at [www.orangecountygov.com/planning](http://www.orangecountygov.com/planning).