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County Executive

## 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 39-13M

**Applicant:** Martin Milano

**Tax Map:** 97-3-30.1, 30.22,  
and 33

**Proposed Action:** Area variance related to insufficient rear yard for two      **Local File #:**  
(2) proposed lots.

**Reason for County Review:** The subject parcels is within 500 feet NYS Route 300 and Interstate 87.

**Date of Full Statement:** October 17, 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(3)(b) of the which consists of the following:

- *“(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.”*

Although the subdivision itself is not subject to the ZBA's scrutiny, County Planning would like to offer the following guidance for the Boards consideration as deemed appropriate. Additionally we would like to inform the Appellant of potential issues identified that may need consideration prior to any approval by the Planning Board. These comments are informational only because this Variance is expected to be an early action leading to additional referrals and to fuller review. County Planning will expect to comment specifically on the subdivision and other next actions when referred to us under the GML process.


1. There is an existing water line on proposed lot no. 1 that provides water to the existing Diner as well as a fire hydrant on proposed lot no. 2. The proposed easement may need to be expanded to include the portion of the existing water line on proposed lot no. 1

2. Portions of the existing stormwater drainage system on proposed lot no. 1 include infrastructure on proposed lot no. 2, including, but not limited to underground piping, catch basins, vegetative swales, and a stormwater management pond. Our office recommends that the Appellant determine in appropriate drainage easements are needed on proposed lot no. 2 along the north side and east side of the existing development , as well as around the existing stormwater pond.

**County Recommendation: Local Determination**

**Date:** October 24, 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](http://www.orangecountygov.com/planning).