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County Executive

## 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 of Appeals      **Referral ID #:** NBT 31-13M

**Applicant:** James Palminteri      **Tax Map:** 32-3-2

**Proposed Action:** Area variance related to the increase of **Local File #:**  
nonconformity of rear, one side yard and combined  
side yard setbacks for the enclosure of a portion of an  
existing deck.

**Reason for County Review:** The project site is within 500 feet of County Route 23

**Date of Full Statement:** September 11, 2013

#### **Comments:**

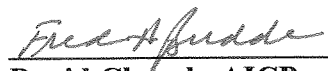
County Planning is in receipt of the GML §239 referral for the above referenced Project. Our office has found no evidence that significant inter-municipal or county-wide impacts would result from its approval; therefore, County Planning recommends that the Board make a decision only after weighing the 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 Applicant 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:** September 17, 2013

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

*for*   
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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 on-line at [www.orangecountygov.com/planning](http://www.orangecountygov.com/planning).