

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 41-13M

Applicant: Santa Monica Holdings, LLC **Tax Map:** 20-2-30.21

Proposed Action: Area variance related to the location of a freestanding pylon sign, including distance from streetline and within 40' intersection triangle. **Local File #:** 2368-13

Reason for County Review: The subject parcels is within 500 feet US Route 9W.

Date of Full Statement: November 15, 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 Appellant 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:

- *“(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

Included with the area variance was a request for interpretation of §85-14(C)(2)(a) of the Town of Newburgh Sign Regulations. The County's Law Department has determined that requests for interpretations from a Zoning Board of Appeals are not subject to the requirements of NYS General Municipal Law §239 l-m and therefore not required to be submitted to our office. We therefore defer from making any recommendation or comments about this matter.

County Planning appreciates, however, your diligence in referring all appeals for properties that are within 500 feet of any of the features spelled out in GML §239-m3(b).

Date: November 20, 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.