



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 38-13M

Applicant: Martin Milano

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

Proposed Action: Use variance to remove a diner from an accessory
use to allow a subdivision.

Local File #:

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 unnecessary hardship outlined in §267-b(2)(b) of the 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.”*

Although the subdivision itself in 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

g stormwater drainage system on proposed lot no. 1 include infrastructure including, but not limited to underground piping, catch basins, vegetative water management pond. Our office recommends that the Appellant ute drainage easements are needed on proposed lot no. 2 along the north e existing development , as well as around the existing stormwater pond.

Local Determination



**David Church, AICP
Commissioner of Planning**

R.L.A. Law 239-m & n, within 30 days of municipal final action on the above referred file a report of the final action taken with the County Planning Department. For final action report form attached to this review or available on-line at ing.