

TOWN OF NEWBURGH

Crossroads of the Northeast

ZONING BOARD OF APPEALS
OLD TOWN HALL
308 GARDNERTOWN ROAD
NEWBURGH, NEW YORK 12550

APPLICATION

OFFICE OF ZONING BOARD
(845) 566-4901

DATED: 5/16/19

TO: THE ZONING BOARD OF APPEALS
THE TOWN OF NEWBURGH, NEW YORK 12550

I (WE) Jessica Guelberg - Dunlop PRESENTLY
RESIDING AT NUMBER 259 Fostertown Rd.
TELEPHONE NUMBER (845) 401-0765

HEREBY MAKE APPLICATION TO THE ZONING BOARD OF APPEALS FOR THE FOLLOWING:

- A USE VARIANCE
- AN AREA VARIANCE
- INTERPRETATION OF THE ORDINANCE
- SPECIAL PERMIT

1. LOCATION OF THE PROPERTY:

39-1-23 (TAX MAP DESIGNATION)
259 Fostertown Rd. (STREET ADDRESS)
R-2 (ZONING DISTRICT)

2. PROVISION OF THE ZONING LAW APPLICABLE, (INDICATE THE SECTION AND SUBSECTION OF THE ZONING LAW APPLICABLE BY NUMBER; DO NOT QUOTE THE LAW).

Section 185



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3. IF VARIANCE TO THE ZONING LAW IS REQUESTED:

- a) APPEAL IS MADE FROM DISAPPROVAL BY THE TOWN BUILDING INSPECTOR OR BUILDING PERMIT APPLICATION. SEE ACCOMPANYING NOTICE DATED: 5/10/19
- b) OR DENIAL (REFERRAL) BY THE PLANNING BOARD OF THE TOWN OF NEWBURGH OF AN APPLICATION TO THE BOARD, SEE ACCOMPANYING NOTICE DATED: _____

4. DESCRIPTION OF VARIANCE SOUGHT: seeking to build rear deck without 40' rear yard setback

5. IF A USE VARIANCE IS REQUESTED: STRICT APPLICATION OF THE ZONING LAW WOULD PRODUCE UNNECESSARY HARDSHIP IN THAT:

- a) UNDER APPLICABLE ZONING REGULATIONS THE APPLICANT IS DEPRIVED OF ALL ECONOMIC USE OR BENEFIT FROM THE PROPERTY IN QUESTION BECAUSE:

(ATTACH WITH THIS APPLICATION COMPETENT FINANCIAL EVIDENCE ESTABLISHING SUCH DEPRIVATION)

- b) THE HARDSHIP IS UNIQUE AND DOES NOT APPLY TO A SUBSTANTIAL PORTION OF THE DISTRICT OR NEIGHBORHOOD BECAUSE:

- c) THE VARIANCE WOULD NOT ALTER THE ESSENTIAL CHARACTER OF THE NEIGHBORHOOD BECAUSE:



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d) THE HARDSHIP HAS NOT BEEN SELF-CREATED BECAUSE:

6. IF AN AREA VARIANCE IS REQUESTED:

a) THE VARIANCE WILL NOT PRODUCE AN UNDESIRABLE CHANGE IN THE CHARACTER OF THE NEIGHBORHOOD OR A DETRIMENT TO NEARBY PROPERTIES BECAUSE:

most homes in area have rear decks or some sort of outdoor living area and it won't be seen by most neighbors

b) THE BENEFIT SOUGHT BY THE APPLICANT CAN NOT BE ACHIEVED BY SOME METHOD, FEASIBLE FOR THE APPLICANT TO PURSUE, OTHER THAN AN AREA VARIANCE, BECAUSE:

my current rear yard is only 31' to begin with

c) THE REQUESTED AREA VARIANCE IS NOT SUBSTANTIAL BECAUSE:

I will still have rear yard left and we back up to a large wooded area.

d) THE PROPOSED VARIANCE WILL NOT HAVE AN ADVERSE EFFECT OR IMPACT ON THE PHYSICAL OR ENVIRONMENTAL CONDITIONS IN THE NEIGHBORHOOD OR DISTRICT BECAUSE:

It is merely a rear deck to enjoy the lovely surroundings to our home.

e) THE HARDSHIP HAS NOT BEEN SELF-CREATED BECAUSE:

I purchased the home with this shallow rear yard, I did not get rid of the property. It was always this small since home was built in the 50's.



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7. ADDITIONAL REASONS (IF PERTINENT):

Front yard is very large I assume house was placed so far back on lot because Fostertown Rd is dangerous.

This explains why rear yard is so small but we would like to build deck so we

Joseph P. PEDI
PETITIONER (S) SIGNATURE

can be in the backyard with our baby girl. As front yard is dangerous for baby on this Rd.

STATE OF NEW YORK: COUNTY OF ORANGE:

SWORN TO THIS 21 DAY OF May 20 19

JOSEPH P. PEDI
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01PE6370913
Qualified in Orange County
Commission Expires February 12, 2022

Joseph P. PEDI
NOTARY PUBLIC

NOTE: NYS GML Section 239-m (3) for proposed actions that are within 500 feet of the properties or thresholds listed in the statute the Zoning Board of Appeals is required to send a copy of the complete application to the Orange County Department of Planning to be reviewed prior to Zoning Board of Appeals decision. And also NYS GML Section 239-NN requires notification for any proposed actions, to the Municipal Clerk, within 500 feet of the Border of that adjoining County, Town or City.

(ALL MATERIALS REGARDING THE APPLICATION MUST BE SUBMITTED TO THE ZONING BOARD OFFICE FOR REVIEW NO LATER THAN 10 DAYS PRIOR TO THE HEARING DATE OR THEY MAY NOT BE CONSIDERED THE NIGHT OF THE MEETING).

(NOTE: BOARD MEMBERS MAKE SITE VISITS TO ALL THE PROPERTIES)



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PROXY

_____, DEPOSES AND SAYS THAT

HE/SHE RESIDES AT _____

IN THE COUNTY OF _____ AND STATE OF _____

AND THAT HE/SHE IS THE OWNER IN FEE OF _____

WHICH IS THE PREMISES DESCRIBED IN THE FOREGOING APPLICA-

TION AND THAT HE/SHE HAS AUTHORIZED _____

TO MAKE THE FOREGOING APPLICATION AS DESCRIBED THEREIN.

DATED: _____

OWNER'S SIGNATURE

WITNESS' SIGNATURE

STATE OF NEW YORK: COUNTY OF ORANGE:

SWORN TO THIS _____ DAY OF _____ 20 _____

NOTARY PUBLIC

Short Environmental Assessment Form
Part 1 - Project Information

Instructions for Completing

Part 1 - Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 - Project and Sponsor Information			
Name of Action or Project: Rear Deck			
Project Location (describe, and attach a location map): 259 Fostertown Rd. rear of home see attached drawing			
Brief Description of Proposed Action: I would like to build a rear deck off back of house but do not have a large enough rear yard to meet setback requirement.			
Name of Applicant or Sponsor: Jessica Guelberg - Dunlop		Telephone: 845 - 401 - 0765	
Address: 259 Fostertown Rd.		E-Mail: grimace188@yahoo	
City/PO: Newburgh		State: NY	Zip Code: 12550
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.		NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval: Town of Newburgh Building Permit		NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>
3.a. Total acreage of the site of the proposed action?		110 x 115 acres	
b. Total acreage to be physically disturbed?		_____ acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		_____ acres	
4. Check all land uses that occur on, adjoining and near the proposed action.			
<input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban)			
<input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): _____			
<input type="checkbox"/> Parkland			

5. Is the proposed action, a. A permitted use under the zoning regulations?	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>	N/A <input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>	
b. Are public transportation service(s) available at or near the site of the proposed action?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>	
12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places? b. Is the proposed action located in an archeological sensitive area?	NO <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	YES <input type="checkbox"/> <input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency? b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____	NO <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	YES <input type="checkbox"/> <input type="checkbox"/>	
14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban			
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>	
16. Is the project site located in the 100 year flood plain?	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>	
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, a. Will storm water discharges flow to adjacent properties? <input type="checkbox"/> NO <input type="checkbox"/> YES b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: <input type="checkbox"/> NO <input type="checkbox"/> YES	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>	

<p>18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)?</p> <p>If Yes, explain purpose and size: _____</p> <p>_____</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>
<p>19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility?</p> <p>If Yes, describe: _____</p> <p>_____</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>
<p>20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste?</p> <p>If Yes, describe: _____</p> <p>_____</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>

I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE

Applicant/sponsor name: Jessica Guelberg - Dunlop Date: 5/19/19

Signature: Jessica Guelberg - Dunlop

Agency Use Only [If applicable]

Project:

Date:

Short Environmental Assessment Form
Part 2 - Impact Assessment

Part 2 is to be completed by the Lead Agency.

Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing:		
a. public / private water supplies?	<input type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input type="checkbox"/>	<input type="checkbox"/>
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input type="checkbox"/>	<input type="checkbox"/>

Agency Use Only [If applicable]

Project:

Date:

Short Environmental Assessment Form Part 3 Determination of Significance

For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.

Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.

Name of Lead Agency

Date

Print or Type Name of Responsible Officer in Lead Agency

Title of Responsible Officer

Signature of Responsible Officer in Lead Agency

Signature of Preparer (if different from Responsible Officer)



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~Crossroads of the Northeast~

CODE COMPLIANCE DEPARTMENT
308 GARDNERTOWN ROAD
NEWBURGH, NEW YORK 12550

TELEPHONE 845-564-7801
FAX LINE 845-564-7802

2751-19

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

Date: 05/10/2019

Application No. 19-0377

To: Jessica Guelberg - Dunlop
259 Fostertown Rd
Newburgh, NY 12550

SBL: 39-1-23
ADDRESS: 259 Fostertown Rd

ZONE: R2

PLEASE TAKE NOTICE that your application dated 04/26/2019 for permit to build a 14' x 30' rear open deck on the premises located at 259 Fostertown Rd is returned herewith and disapproved on the following grounds:

Town of Newburgh Municipal Code:

1) Bulk table schedule 4 (R-2) / Requires a 40' minimum rear yard setback.


Joseph Mattina

Cc: Town Clerk & Assessor (500')
File

Town of Newburgh Code Compliance

OWNER INFORMATION **BUILT WITH OUT A PERMIT** YES / **NO**

NAME: Jessica Guelberg / Dunlop Building Application # 19-0377

ADDRESS: 259 Fostertown Rd. Newburgh NY 12550

PROJECT INFORMATION: **AREA VARIANCE** USE VARIANCE

TYPE OF STRUCTURE: 14' x 30' open rear deck

SBL: 39-1-23 ZONE: R-2 ZBA Application # _____

TOWN WATER: **YES** / NO TOWN SEWER: YES / **NO**

	MINIMUM	EXISTING	PROPOSED	VARIANCE	VARIANCE PERCENTAGE
LOT AREA					
LOT WIDTH					
LOT DEPTH					
FRONT YARD					
REAR YARD	40'		17'	23'	57.49%
SIDE YARD	OK				
MAX. BUILDING HEIGHT					
BUILDING COVERAGE					
SURFACE COVERAGE					

INCREASING DEGREE OF NON-CONFORMITY - 185-19-C-1 _____ YES / NO
2 OR MORE FRONT YARDS FOR THIS PROPERTY _____ YES / NO
CORNER LOT - 185-17-A _____ YES / NO

ACCESSORY STRUCTURE:

GREATER THEN 1000 S.F. OR BY FORMULA - 185-15-A-4 _____ YES / NO
FRONT YARD - 185-15-A _____ YES / NO
STORAGE OF MORE THEN 4 VEHICLES _____ YES / NO
HEIGHT MAX. 15 FEET - 185-15-A-1 _____ YES / NO
10% MAXIMUM YARD COVERAGE - 185-15-A-3 _____ YES / NO

NOTES:

Existing non-conforming

VARIANCE(S) REQUIRED:

- 1 Bulk table schedule 4 / Requires a 40' minimum rear yard setback
- 2 _____
- 3 _____
- 4 _____

REVIEWED BY: Joseph Mattina DATE: 10-May-19



[Sent from Yahoo Mail for iPhone](#)





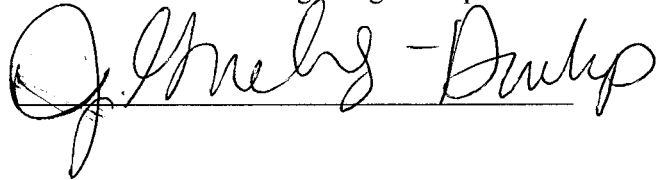


**AFFIDAVIT OF POSTING(S) OF
NOTICE OF PUBLIC HEARING
AT THE PROPERTY**

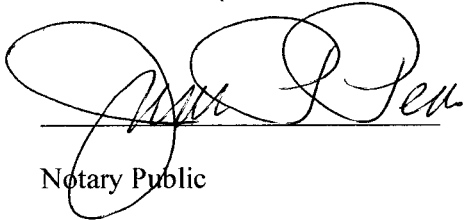
STATE OF NEW YORK: COUNTY OF ORANGE:

I Jessica Guelberg - Dunlop, being duly sworn, depose and say that I did on or before
June 13, 2019, post and will thereafter maintain at
259 Fostertown Rd in the Town of Newburgh, New York, at or near the front
property line(s) and within view of each fronting street a copy(ies) of the Notice of Public Hearing, which
notice was in the form attached hereto.

The applicant shall maintain and update notice(s) (with amended information if there is any change to the information contained in the original Notice of Hearing) until after the Public Hearing is closed. The Notice must then be removed and property disposed of within ten (10) days of the close of the Public Hearing. Failure to follow the required procedure may result in the Public Hearing being held open for additional time.



Sworn to before me this 23
day of May, 2019.



Notary Public

JOSEPH P. PEDI
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01PE6370913
Qualified in Orange County
Commission Expires February 12, 2022

[Photograph(s) of the posted Public Hearing Notice(s) must be submitted by the applicant with this affidavit.]

