



# CATANIA, MAHON & RIDER, PLLC

## ATTORNEYS AT LAW

JOSEPH A. CATANIA JR.\*  
RICHARD M. MAHON  
MICHELLE F. RIDER, CPA ( FL )  
PAUL S. ERNENWEIN  
JOSEPH G. McKAY  
MICHAEL E. CATANIA ( NJ )  
SEAMUS P. WEIR  
ARI I. BAUER  
JOHN W. FURST  
MICHAEL R. FRASCARELLI ( NJ )

641 BROADWAY  
NEWBURGH, NEW YORK 12550  
TEL (845) 565-1100  
FAX (845) 565-1999  
TOLL FREE 1-800-344-5655

E-MAIL: [CMR@CMRLAW.COM](mailto:CMR@CMRLAW.COM)  
(FAX AND E-MAIL SERVICE NOT ACCEPTED)  
[WWW.CMRLAW.COM](http://WWW.CMRLAW.COM)

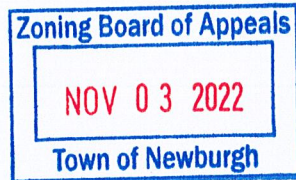
SHAY A. HUMPHREY \*\*  
JEFFREY S. SCULLEY \*\*  
GEORGE L. KIAMOS  
NICHOLAS C. LOZITO  
JONATHAN J. DeJOY  
JONATHAN S. BERCK ( NJ, DC )\*\*  
DAVID E. DECKER  
MELISSA L. COWAN  
JUSTIN W. VAN HOUTEN

HOBART J. SIMPSON ( 1975-2016 )

( ALSO ADMITTED IN )

\* Of Counsel  
\*\* Special Counsel

Writer's Direct No.  
(845) 569-4397



Writer's E-Mail  
[jdejoy@cmrlaw.com](mailto:jdejoy@cmrlaw.com)

November 2, 2022

**VIA E-MAIL ([zoningboard@townofnewburgh.org](mailto:zoningboard@townofnewburgh.org)) and Hand Delivery (11 copies)**

Town of Newburgh Zoning Board of Appeals  
Attention: Siobhan Jablesnik, ZBA Secretary  
21 Hudson Valley Professional Plaza  
Newburgh, NY 12550

RE: David & Madelyn Jones  
6 Susan Drive/ SBL 46-5-4 (the "Property")  
Our File No.: 15704-67301

Dear Chairman Scalzo and Members of the ZBA:

**Introduction and the Property**

We represent the property owners, David and Madelyn Jones (hereinafter the "Applicants") in connection with their request for variances to legalize certain aspects of an existing single-family home at the above-referenced Property. The Property consists of a single-family home, with one shed and is located on Susan Drive, near its intersection of Commonwealth Drive. The Property is zoned R1 (Residential District), where single-family homes are permitted as of right. The Property is approximately 14,079 square feet in size, with frontage on Susan Drive. The Property is surrounded by many other single-family homes. The Applicant is not proposing to alter the existing single-family home or any accessory structures. Rather, the Applicant is merely seeking to legalize some existing non-conformities.

Town of Newburgh Zoning Board of Appeals

November 2, 2022

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The modest house on the Property was originally constructed in approximately 1956. Since then, a deck was constructed in the rear yard. No additions to the home itself were ever added. The lot was approved in 1956, and the lot's configuration has not changed since then. Attached is a copy of the filed subdivision map.

**The Variance Requests**

The Applicant's proposed single-family home requires the following area variances as per the Town's Table of General Bulk Requirements:

<u>Variance</u>	<u>Required</u>	<u>Proposed</u>
Rear Yard Setback	40 ft.	14.1 ft.
Lot Surface Coverage	<20%	32%
Lot Building Coverage	<10%	12%

**The Application of the Balancing Test and Five Factors for an Area Variance Pursuant to NYS Town Law Section 2676-b.3 Weigh Heavily in the Applicant's Favor**

In making its determination, the ZBA shall take into consideration the benefit to the Applicant if the variance is granted, as weighed against the detriment to the health safety and welfare of the neighborhood or community by such grant. In making such a determination the ZBA shall consider the following five (5) factors:

1. WHETHER AN UNDESIRABLE CHANGE WILL BE PRODUCED IN THE CHARACTER OF THE NEIGHBORHOOD OR WHETHER A DETRIMENT WILL BE CREATED TO NEARBY PROPERTIES BY THE GRANTING OF THE AREA VARIANCES

In determining whether an undesirable change in the community will be produced, a relevant inquiry is how the Property compares with surrounding lots. This can refer to both the dimensions of the surrounding properties, as well as the general characteristics. Here, the Property is located in the R1 (Residential) and is surrounded by numerous other single-family homes. The Susan Drive subdivision alone consists of roughly seventy (70) single-family homes. Of those other single-family properties in the neighborhood, many do not meet the Code requirements for minimum lot size. Similarly, there are many homes in the neighborhood with patios, decks, pools and accessory structures in the rear yard (see attached aerial photo).

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Because few of the lots near the Property comply with the 40,000 sq. ft. minimum lot area requirement, it follows that other homes with structures in the rear yard, on similarly sized lots, do not comply with the rear yard setback and lot coverage requirements. In general, the Property shares similar characteristics with the other nonconforming lots in the neighborhood.

Accordingly, the requested variances will not at all alter the aesthetics or makeup of the neighborhood. In fact, nothing about the neighborhood will change because the Applicant is not proposing to make any alterations to the Property.

2. WHETHER THE BENEFIT SOUGHT BY THE APPLICANT CAN BE ACHIEVED BY SOME METHOD, FEASIBLE FOR THE APPLICANT TO PURSUE, OTHER THAN THE AREA VARIANCES

Here, the benefit sought by the Applicants is to continue using the Property as it exists today. No further improvements are planned. Even if, *arguendo*, the Property was not yet developed, its small size means that almost any proposed single-family home would have similar setbacks and coverage. The raised patio and deck are both modest in size and even without them, the pre-existing home would not meet the rear yard setback requirement due to the unusual angle of the rear lot line. As such, the benefit sought by the Applicants cannot be achieved by any other method.

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Although alternatives such as purchasing additional land from surrounding property owners should typically be considered, doing so is not feasible here. Most, if not all, of the adjacent lots are also nonconforming in some respect, so purchasing additional land would likely just create new nonconformities elsewhere. Moreover, it is not feasible for the Applicants to purchase additional property simply to rectify longstanding nonconformities of a single-family home, especially when no new development is planned.

3. WHETHER THE REQUESTED VARIANCES ARE SUBSTANTIAL

The substantiality of a variance cannot be judged solely by a comparison of the percentage deviation from the mandated requirement. Indeed, a deviation cannot be viewed in the abstract because the deviation only becomes relevant if it relates to an adverse effect.

While the requested rear yard setback and lot surface variances are arguably quantitatively substantial, they are not qualitatively substantial and cannot be viewed in the abstract. The deviation only becomes relevant if it relates to an adverse effect. Here, the requested variances only concern a raised patio and wood deck. The Property has already been developed and is not at

Town of Newburgh Zoning Board of Appeals

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all out of character with the neighborhood, so there is no qualitative deviation. Moreover, the requested building coverage variance is *de minimis*. Given the lack of any community character or environmental impacts, the quantitative deviation should not be given any significant weight and therefore, the requested variances are not substantial.

4. WHETHER THE PROPOSED VARIANCES WILL HAVE AN ADVERSE EFFECT OR IMPACT ON THE PHYSICAL OR ENVIRONMENTAL CONDITIONS IN THE NEIGHBORHOOD OR DISTRICT

Absent any special circumstances, the primary focus of the fourth statutory factor is whether granting the area variances will result in any negative impacts on traffic or parking. In some cases, there may be concerns as to negative impacts on unobstructed views, sunlight, wetlands, etc. Here, there are no environmental impacts.

The requested variances would allow only for the existing single-family home to continue its existence and there are no unique environmental characteristics associated with the Property. The requested variances would not have any impact on traffic or parking. The Property has ample off-street parking and the amount of traffic to and from the Property will not be affected. The Property is also well screened with ample tree coverage in the rear.

Given the lack of any physical or environmental concerns, it can be concluded that the requested variances will not have any adverse impact on the conditions of the neighborhood.

5. WHETHER THE ALLEGED DIFFICULTY WAS SELF-CREATED

According to Town Law Section 267-b.3(b)(5), this consideration shall be relevant to the decision, but shall not necessarily preclude the granting of the variances. While the hardship here is arguably self-created, the ZBA should choose not to assign significant negative weight to this particular consideration, based upon the fact the area variances will not negatively alter the character of the neighborhood or have any detrimental effect on nearby properties,

**Conclusion**

Enclosed are eleven (11) copies of the following:

- (1) This cover letter with narrative in support of the application;
- (2) The completed application forms signed by the Applicant as property owner;

Town of Newburgh Zoning Board of Appeals

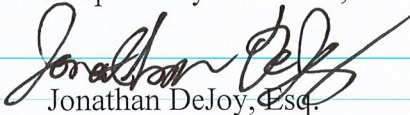
November 2, 2022

Page 5

- (3) A signed Proxy Statement;
- (4) An Assessor's List of property owners within 500' of the Property;
- (5) The Notice of Disapproval letters, dated October 28, 2022, received from the Code Compliance Department;
- (6) The Deed and related subdivision map;
- (7) A copy of the Survey prepared by Gary R. Rich.
- (8) Photographs of the Property, taken from different angles;
- (9) A Short Environmental Assessment Form (EAF) pursuant to SEQRA; and
- (10) A copy of the receipt showing payment of a \$250 application filing fee and \$50 public hearing fee.

Please note that we believe this request is a Type II Action under SEQRA because it involves area variances for a single-family home (See 6 NYCCR 617.5(c)(17)); and therefore, no Environmental Assessment Form is required. In any event, we have submitted the Short Form EAF for your convenience. If the Town requires anything else, please advise me at your earliest convenience. Kindly place on the ZBA's next meeting agenda, which I believe is January 27, 2022. Your anticipated cooperation is greatly appreciated.

Respectfully submitted,



Jonathan DeJoy, Esq.

JED/jed/2187454

*Pursuant to IRS Regulations, any tax advice contained in this communication or attachments is not intended to be used and cannot be used for purposes of avoiding penalties imposed by the Internal Revenue Code or promoting, marketing or recommending to another person any tax related matter.*



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:

\_\_\_\_\_

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: See attached narrative.

\_\_\_\_\_

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:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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:

See attached narrative.

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- 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:

See attached narrative.

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- c) THE REQUESTED AREA VARIANCE IS NOT SUBSTANTIAL BECAUSE:

See attached narrative.

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

See attached narrative.

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

See attached narrative.

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7. ADDITIONAL REASONS (IF PERTINENT):

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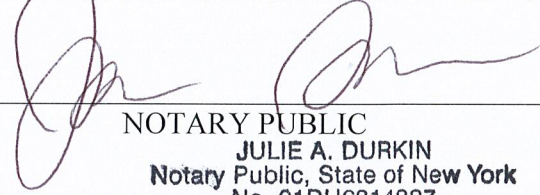
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PETITIONER (S) SIGNATURE

STATE OF NEW YORK: COUNTY OF ORANGE:

SWORN TO THIS 2<sup>nd</sup> DAY OF November 2022

  
NOTARY PUBLIC  
JULIE A. DURKIN  
Notary Public, State of New York  
No. 01DU6314887  
Qualified in Dutchess County  
Commission Expires 11/17/2022

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 13 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)

TOWN OF NEWBURGH  
ZONING BOARD OF APPEALS

PROXY

David Jones, DEPOSES AND SAYS THAT  
HE/SHE RESIDES AT 6 Susan Drive  
IN THE COUNTY OF Orange AND STATE OF New York  
AND THAT HE/SHE IS THE OWNER IN FEE OF 6 Susan Drive, Newburgh  
New York, 12550  
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: 10/21/22

David Jones

OWNER'S SIGNATURE

Jonathan Pelts

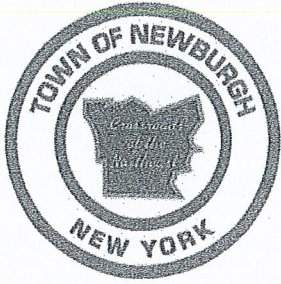
WITNESS' SIGNATURE

STATE OF NEW YORK: COUNTY OF ORANGE:

SWORN TO THIS 21<sup>st</sup> DAY OF September October 2022

Julie A. Durkin  
NOTARY PUBLIC

JULIE A. DURKIN  
Notary Public, State of New York  
No. 01DU6314887  
Qualified in Dutchess County  
Commission Expires 11/17/2022



## TOWN OF NEWBURGH

*~Crossroads of the Northeast~*

**CODE COMPLIANCE DEPARTMENT**  
21 HUDSON VALLEY PROFESSIONAL PLAZA  
NEWBURGH, NEW YORK 12550

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

# 3013-22

### NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

Date: 10/28/2022

Application No. 22-0923

To: David Jones  
6 Susan Drive  
Newburgh, NY 12550

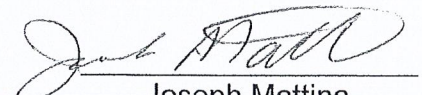
SBL: 46-5-4  
ADDRESS: 6 Susan Dr

ZONE: R1

PLEASE TAKE NOTICE that your application dated 08/26/2022 for permit to keep a 20' x 27.58' Raised concrete patio with a 6' x 8' and 13' x 11'-6" rear decks on the premises located at 6 Susan Dr is returned herewith and disapproved on the following grounds:

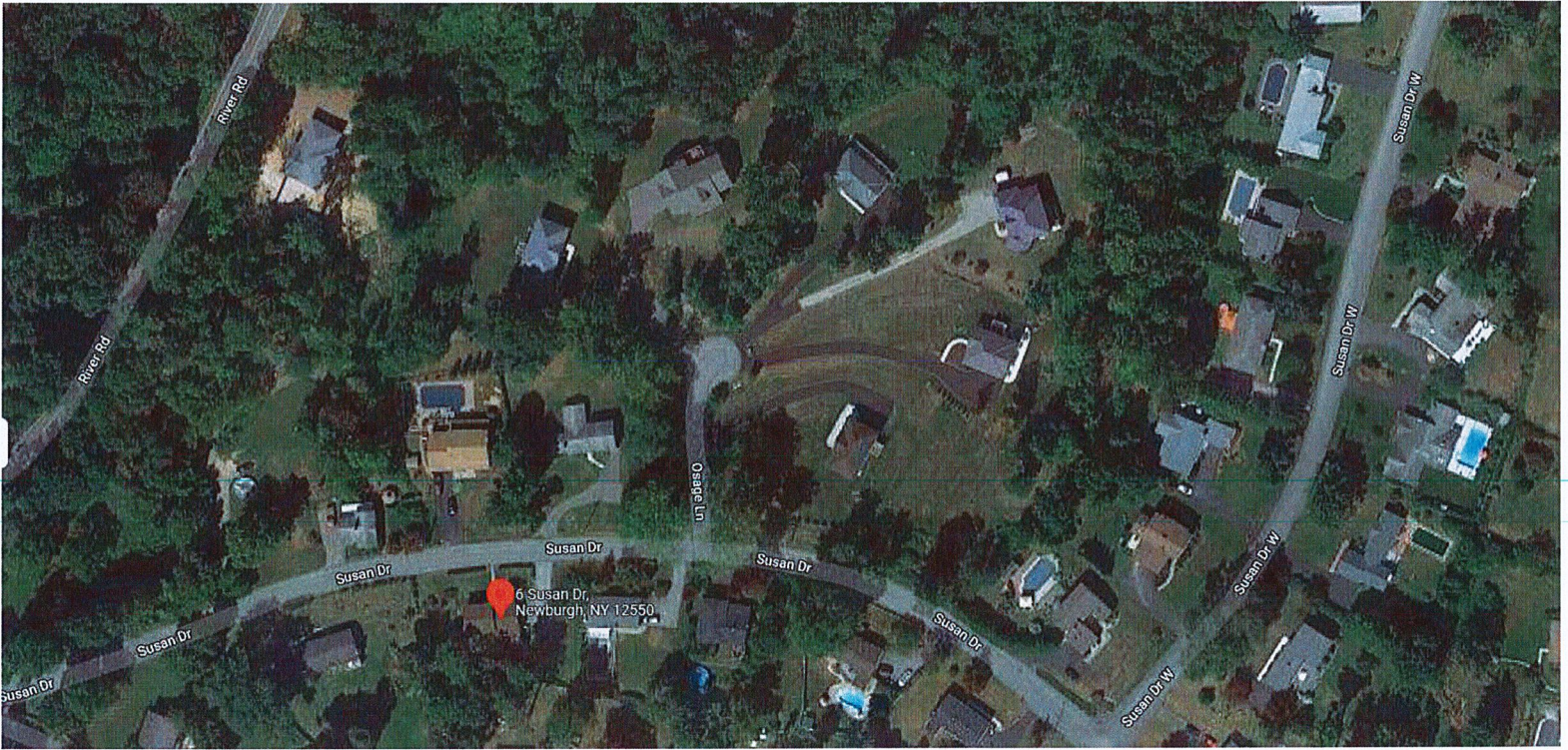
Town of Newburgh municipal code:

- 1) Bulk table schedule 3: Requires a 40' minimum rear yard setback. (14.1')
- 2) Bulk table schedule 3: Allows a maximum lot surface coverage of 20%. (32%)
- 3) Bulk table schedule 3: Allows a maximum lot building coverage of 10%. (12%)

  
Joseph Mattina

Cc: Town Clerk & Assessor (500')  
File



















ORANGE COUNTY – STATE OF NEW YORK  
 ANN G. RABBITT, COUNTY CLERK  
 255 MAIN STREET  
 GOSHEN, NEW YORK 10924

COUNTY CLERK'S RECORDING PAGE  
 \*\*\*THIS PAGE IS PART OF THE DOCUMENT – DO NOT DETACH\*\*\*



BOOK/PAGE: 14579 / 1346  
 INSTRUMENT #: 20190039817

Receipt#: 2663883  
 Clerk: KOD  
 Rec Date: 06/13/2019 01:47:31 PM  
 Doc Grp: D  
 Descrip: DEED  
 Num Pgs: 4  
 Rec'd Frm: BLOOM & BLOOM, PC

Party1: SUTCLIFFE MADELYN S  
 Party2: JONES DAVID L  
 Town: NEWBURGH (TN)  
 46-5-4

Recording:  
 Recording Fee 40.00  
 Cultural Ed 14.25  
 Records Management - Coun 1.00  
 Records Management - Stat 4.75  
 TP584 5.00  
 RP5217 Residential/Agricu 116.00  
 RP5217 - County 9.00

Sub Total: 190.00

Transfer Tax  
 Transfer Tax - State 0.00

Sub Total: 0.00

Total: 190.00

\*\*\*\* NOTICE: THIS IS NOT A BILL \*\*\*\*

\*\*\*\*\* Transfer Tax \*\*\*\*\*  
 Transfer Tax #: 9991  
 Transfer Tax  
 Consideration: 0.00

Total: 0.00

Payment Type: Check \_\_\_\_\_  
 Cash \_\_\_\_\_  
 Charge \_\_\_\_\_  
 No Fee \_\_\_\_\_

Comment: \_\_\_\_\_

*Ann G. Rabbitt*

Ann G. Rabbitt  
 Orange County Clerk

Record and Return To:

BLOOM & BLOOM, PC  
 530 BLOOMING GROVE TPKE  
 PO BOX 4323  
 NEW WINDSOR, NY 12553

**Quit Claim Deed**

This is a Legal Instrument and should be executed under Supervision of an Attorney

S/B/L:  
46-5-4

**THIS INDENTURE**, made the 6<sup>th</sup> day of June, 2019

BETWEEN

**MADELYN S. SUTCLIFFE a/k/a MADELYN SHAW JONES**, residing at  
6 Susan Drive, Newburgh, New York 12550,

*Grantor,*

and

**DAVID L. JONES and MADELYN SHAW JONES**, husband and wife,  
residing at 6 Susan Drive, Newburgh, New York 12550,

*Grantees.*

**WITNESSETH**, that the Grantor, in consideration of Ten (\$10.00) Dollars lawful money of the United States, and other good and valuable consideration paid by the Grantee, does hereby remise, release and quitclaim unto the Grantee, the heirs or successors and assigns of the Grantee forever,

SEE SCHEDULE "A" ATTACHED HERETO AND MADE A PART  
HEREOF.

**BEING AND INTENDED TO BE** the same premises as described in a certain deed dated April 21, 2010, running from Garry A. Sutcliffe and Madelyn S. Sutcliffe to Madelyn S. Sutcliffe, which deed was thereafter recorded in the Orange County Clerk's Office on June 4, 2010 in Liber 13012 at Page 0397.

**TOGETHER** with the appurtenances and all the estate and rights of the grantor in and to said premises.

**TO HAVE AND TO HOLD**, the premises herein granted unto the grantee, the heirs or successors and assigns of the grantee forever.

**AND** the said grantor covenants that the grantor has not done or suffered anything whereby the said premises have been encumbered in any way whatever. This deed is subject to the trust provisions of Section 13 of the



## SCHEDULE A

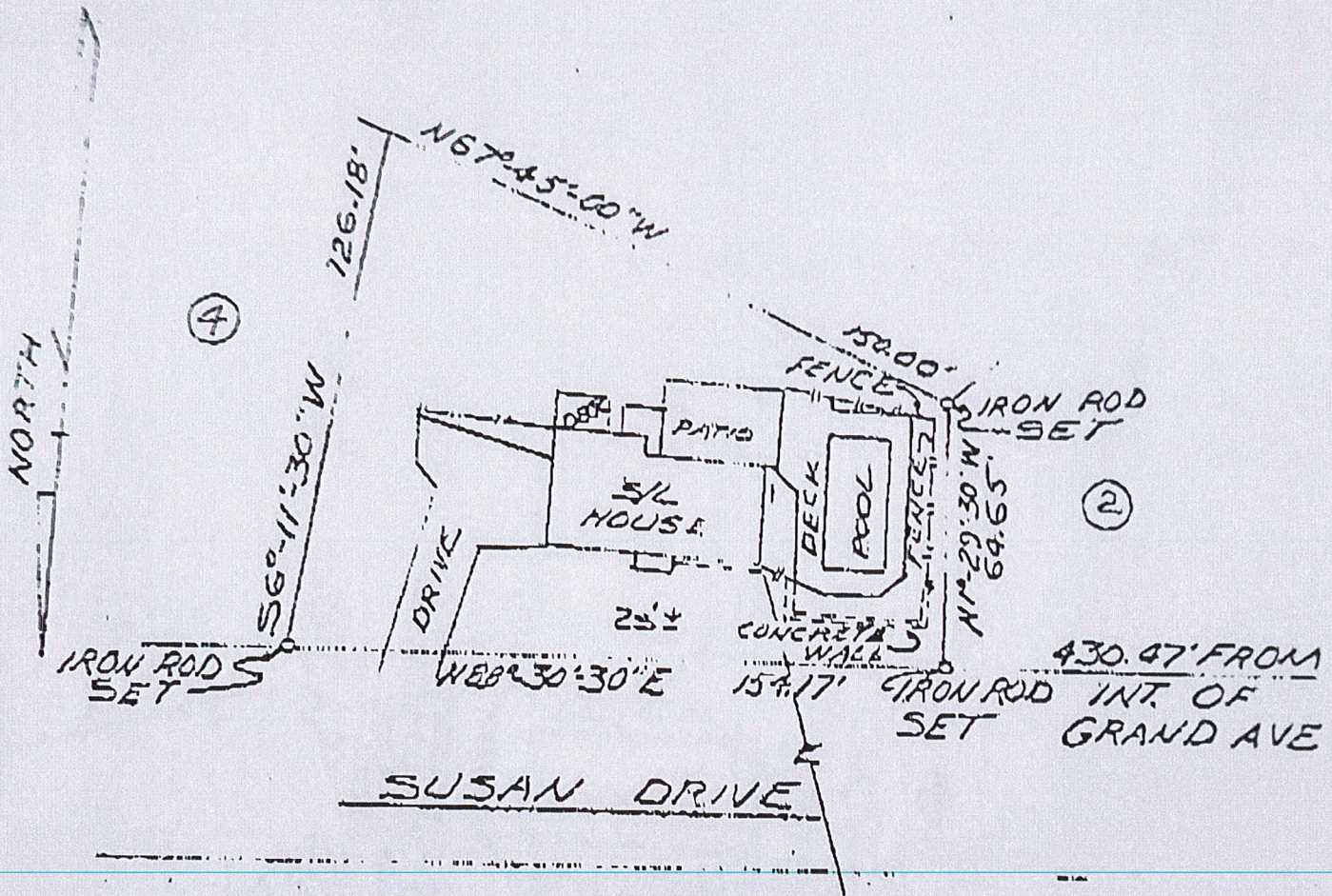
ALL that certain plot, piece or parcel of land, situate, lying and being in the Town of Newburgh, County of Orange and State of New York, known and designated as Lot #3 on a certain map entitled "Plan of Subdivision of Delano Estates, Town of Newburgh, Orange County, New York", dated May 18, 1956, revised June 4<sup>th</sup>, 1956, made by Eustance & Horowitz, Engineers, P O Box 175, Circleville, N.Y. and filed in the Orange County Clerk's Office on July 20, 1956, Map #1676.

SUBJECT to the following restrictions which shall run with the title to the land forever:

1. That the premises herein described shall never be used for business or manufacturing purposes, except for office of doctor or dentist.
2. That the premises shall not be used for manufacture or sale of spirituous liquors or intoxicating beverages.
3. That only a one-family private residence and no more than a two (2) car garage shall be erected and placed upon the premises herein described.
4. That no structure shall be erected nearer than twenty-five (25 feet) to the street or roadline, or nearer than ten (10) feet to the lot sidelines, or nearer than ten (10) feet to the rear lot line.
5. That no residence erected on the premises shall contain less than twelve hundred (1200) square feet of area, , exclusive of porch or garage.
6. That no fences shall be erected upon the premises herein described , except along the rear line thereof and any such fence shall not be more than five (5) feet in height and may not be of wire construction.

SUBJECT to grants and easements of record to public utilities, if any.

BEING the same premises as described in that certain deed dated November 15, 1993 made by David C. Varnerin and Elsie L. Varnerin, husband and wife to Garry A. Sutcliffe and Madelyn S. Sutcliffe, husband and wife and recorded in the Orange County Clerk's Office on November 17, 1993 in Liber of Deeds 3930 at Page 222.



NATURE OF REVISION	UNAUTHORIZED ALTERATION OR ADDITION TO THIS DOCUMENT IS A VIOLATION TO SECTION 7209 (2) OF THE NEW YORK STATE EDUCATION LAW.
<del>REVISED</del>	
<del>REVISED-UPDATED-RETRACED</del>	

SURVEY OF  
LOT 3

DELANO ESTATES

NEWBURGH

COUNTY OF ORANGE

1" = 50'

OCTOBER 27, 1956

EUSTANCE & HOROWITZ, P. C.

JOB NO. \_\_\_\_\_

# 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.

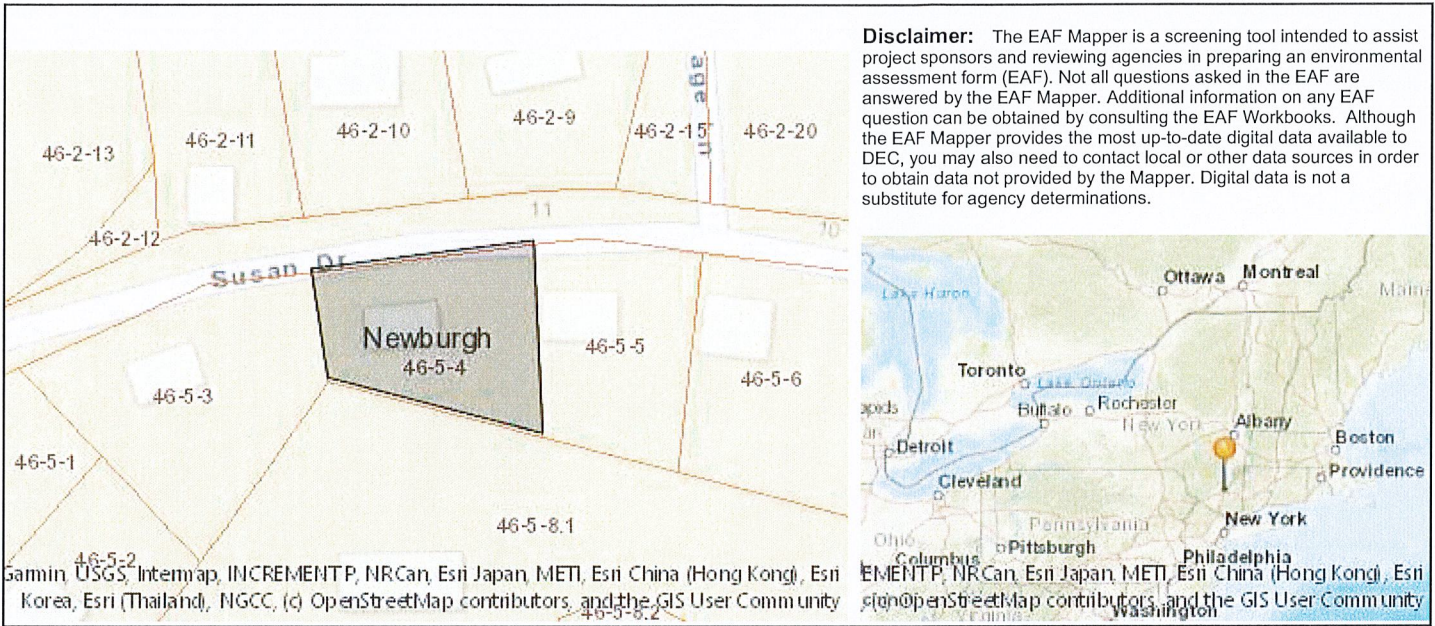
Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

<b>Part 1 – Project and Sponsor Information</b>			
Name of Action or Project: 6 Susan Drive Area Variances			
Project Location (describe, and attach a location map): 6 Susan Drive, Newburgh, New York 12550			
Brief Description of Proposed Action: Area variances for existing non-conformities			
Name of Applicant or Sponsor: Catania, Mahon & Rider, PLLC		Telephone: (845) 565-1100	
Address: 641 Broadway		E-Mail: jdejoy@cmrlaw.com	
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 type="checkbox"/>
			YES <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval: Town of Newburgh Zoning Board of Appeals			NO <input type="checkbox"/>
			YES <input checked="" type="checkbox"/>
3. a. Total acreage of the site of the proposed action?		_____ >1 acres	
b. Total acreage to be physically disturbed?		_____ 0 acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		_____ >1 acres	
4. Check all land uses that occur on, are adjoining or near the proposed action:			
5. <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			



	NO	YES	N/A
5. Is the proposed action, <ul style="list-style-type: none"> <li>a. A permitted use under the zoning regulations?</li> <li>b. Consistent with the adopted comprehensive plan?</li> </ul>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	<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	YES	<input 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	YES	<input type="checkbox"/>
8. a. Will the proposed action result in a substantial increase in traffic above present levels? b. Are public transportation services available at or near the site of the proposed action? c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	NO	YES	<input checked="" type="checkbox"/>
	<input type="checkbox"/>	<input 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	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	YES	<input type="checkbox"/>
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____ _____	NO	YES	<input type="checkbox"/>
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?  b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	NO	YES	<input checked="" type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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	YES	<input checked="" type="checkbox"/>
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	





Part 1 / Question 7 [Critical Environmental Area]	No
Part 1 / Question 12a [National or State Register of Historic Places or State Eligible Sites]	No
Part 1 / Question 12b [Archeological Sites]	Yes
Part 1 / Question 13a [Wetlands or Other Regulated Waterbodies]	No
Part 1 / Question 15 [Threatened or Endangered Animal]	Yes
Part 1 / Question 15 [Threatened or Endangered Animal - Name]	Atlantic Sturgeon, Bald Eagle, Shortnose Sturgeon, Indiana Bat
Part 1 / Question 16 [100 Year Flood Plain]	No
Part 1 / Question 20 [Remediation Site]	Yes

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

STATE OF NEW YORK: COUNTY OF ORANGE:

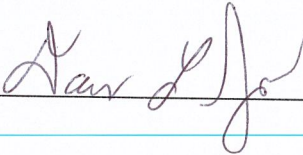
I David L. Jones, being duly sworn, depose and say that I did on or before

November 8, 2022, post and will thereafter maintain at

6 Susan Dr 46-5-4 R1 Zone 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 4<sup>th</sup>

day of November, 2022.

**JULIE A. DURKIN**  
Notary Public, State of New York  
No. 01DU6314887  
Qualified in Dutchess County  
Commission Expires 11/17/2022



11/04/