



# 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: 9-22-2020

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

I (WE) JAN KADNAR PRESENTLY

RESIDING AT NUMBER 501 STACHE ROAD, MONROE, NY

TELEPHONE NUMBER 845-238-9403 1095C

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:

SBL 6-1-10.5 (TAX MAP DESIGNATION)

275 PRESSLER RD (STREET ADDRESS)

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 PROVISION OF THE ZONING LAW APPLICABLE, (INDICATE THE SECTION AND SUBSECTION OF THE ZONING LAW APPLICABLE BY NUMBER; DO NOT QUOTE THE LAW).

185-11 BULK TABLE SCHEDULE 2



# TOWN OF NEWBURGH

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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: \_\_\_\_\_

b) OR DENIAL (REFERRAL) BY THE PLANNING BOARD OF THE TOWN OF NEWBURGH OF AN APPLICATION TO THE BOARD, SEE ACCOMPANYING NOTICE DATED: 9-3-2020

4. DESCRIPTION OF VARIANCE SOUGHT: FRONT YARD SETBACK OF 10 FEET WHERE 50 FEET IS REQUIRED.

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

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: *SEE ATTACHED ADDENDUM*

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

c) THE REQUESTED AREA VARIANCE IS NOT SUBSTANTIAL BECAUSE:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

e) THE HARDSHIP HAS NOT BEEN SELF CREATED BECAUSE:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



# TOWN OF NEWBURGH

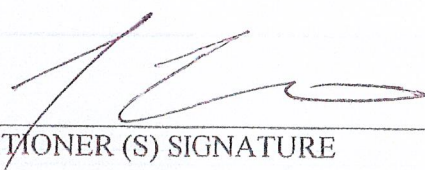
*Crossroads of the Northeast*

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OLD TOWN HALL  
308 GARDNERTOWN ROAD  
NEWBURGH, NEW YORK 12550

OFFICE OF ZONING BOARD  
(845) 566-4901

### 7. ADDITIONAL REASONS (IF PERTINENT):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

  
\_\_\_\_\_  
PETITIONER (S) SIGNATURE

STATE OF NEW YORK: COUNTY OF ORANGE:

SWORN TO THIS 24 DAY OF September 2020

  
\_\_\_\_\_  
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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308 GARDNERTOWN ROAD  
NEWBURGH, NEW YORK 12550

## PROXY

JAN KADNAR, DEPOSES AND SAYS THAT  
HE/SHE RESIDES AT 501 STAGE RD MONROE  
IN THE COUNTY OF ORANGE AND STATE OF NY  
AND THAT HE/SHE IS THE OWNER IN FEE OF  
TAX PARCEL SBL 6-1-10.5

WHICH IS THE PREMISES DESCRIBED IN THE FOREGOING APPLICA-  
TION AND THAT HE/SHE HAS AUTHORIZED VINCENT J. DOLE ASSOCIATES  
DARREN G. DOLE  
TO MAKE THE FOREGOING APPLICATION AS DESCRIBED THEREIN.

DATED: 9/24/2020

[Signature]

OWNER'S SIGNATURE

[Signature]

WITNESS' SIGNATURE

STATE OF NEW YORK: COUNTY OF ORANGE:

SWORN TO THIS 24 DAY OF September 2020

[Signature]  
NOTARY PUBLIC



# Short Environmental Assessment Form

## Part 1 - Project Information

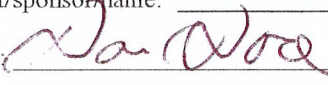
### Instructions for Completing

**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.

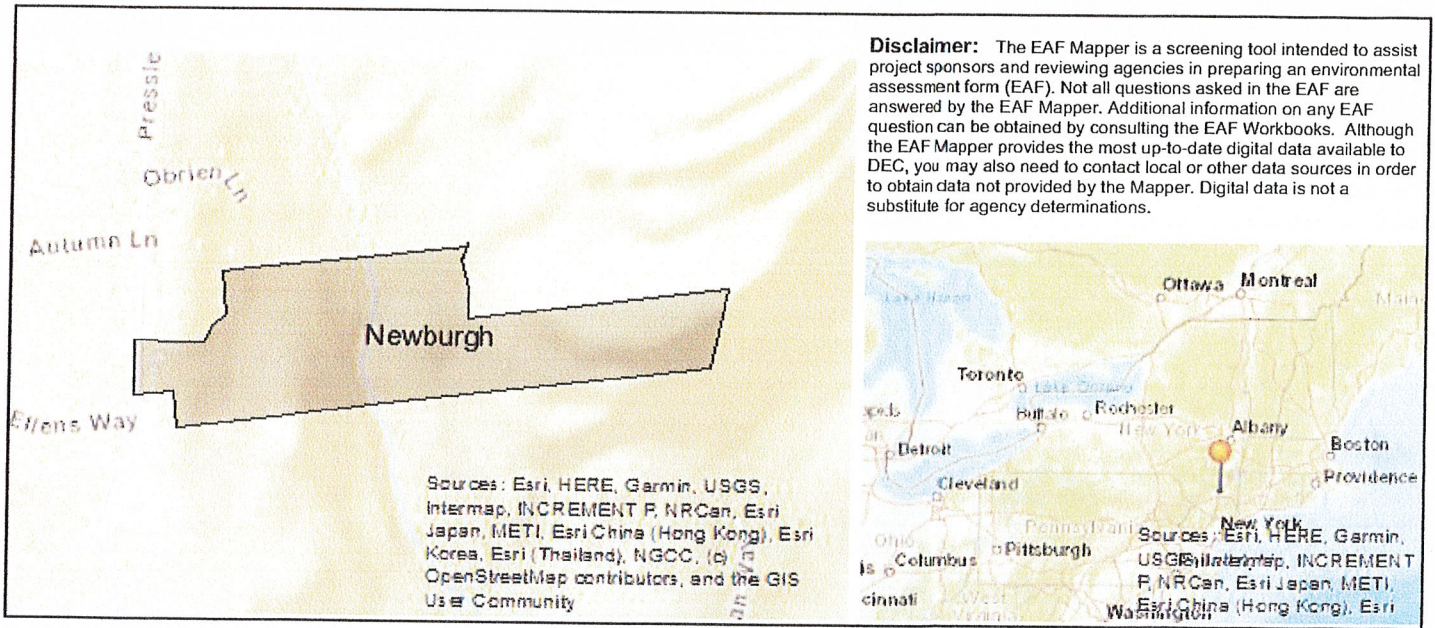
Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

<b>Part 1 – Project and Sponsor Information</b>			
Name of Action or Project: Subdivision Plan lands of Jan Kadnar			
Project Location (describe, and attach a location map): 275 Pressler Road, Town of Newburgh, Orange County			
Brief Description of Proposed Action:  Two lot subdivision of an 42.2 +/- acre parcel. One lot (Lot No. 5) will be 2.24 +/- acres in size and contain an existing dwelling. This lot will be serviced by a well and septic system. The second lot (Lot No. 6) will be 39.96 +/- acres in size. At this time, the second lot will not be a building lot. There is an existing building located on Lot No. 5 that has a front yard setback of 10 feet where 50 feet is required; thereby requiring an area variance.			
Name of Applicant or Sponsor:  Jan Kadnar		Telephone: 845 238-9403  E-Mail: jankadnar@icloud.com	
Address: 501 Stage Road			
City/PO: Monroe		State: NY	Zip Code: 10950
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 checked="" 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 Planning Board Subdivision approval			NO <input type="checkbox"/>
			YES <input checked="" type="checkbox"/>
3. a. Total acreage of the site of the proposed action?		42.2 +/- 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?		45.1 +/- 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 checked="" 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,	NO	YES	N/A
a. A permitted use under the zoning regulations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<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 services 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 the 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 type="checkbox"/>	YES <input checked="" type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____ Individual well	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: _____ Individual septic system	NO <input checked="" type="checkbox"/>	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 <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 type="checkbox"/>  <input checked="" type="checkbox"/>	YES <input checked="" 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 checked="" type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input checked="" 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	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources?	NO	YES
If Yes,	<input type="checkbox"/>	<input checked="" type="checkbox"/>
a. Will storm water discharges flow to adjacent properties?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
If Yes, briefly describe:		
Road side swales		
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)?	NO	YES
If Yes, explain the purpose and size of the impoundment:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility?	NO	YES
If Yes, describe:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste?	NO	YES
If Yes, describe:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</b> Applicant/sponsor name: <u>Jan Kadnar/Vincent J Doce Associates (Darren C Doce)</u> Date: <u>September 14, 2020</u> Signature: <u></u> Title: <u>PE</u>		





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]	No
Part 1 / Question 13a [Wetlands or Other Regulated Waterbodies]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
Part 1 / Question 15 [Threatened or Endangered Animal]	No
Part 1 / Question 16 [100 Year Flood Plain]	No
Part 1 / Question 20 [Remediation Site]	No

## Addendum

### 4. DESCRIPTION OF VARIANCE SOUGHT:

The applicant proposes a two-lot residential subdivision of a 42.2-acre +/- parcel located at 275 Pressler Drive. The parcel is located in the AR Zoning District. The parcel is Lot No. 5 of a previously approved subdivision filed in the Orange County Clerk's office as Map No. 333-09. The 42.2-acre lot has an existing building that will be renovated as a 4-bedroom home. The existing building will be subdivided from the 42.2-acre parcel creating a 2.24-acre lot and the residual 39.96-acre parcel. No development will be allowed on the 39.96-acre parcel until an additional application is made to and reviewed by the planning board. During the previous subdivisions approval process, in March 2009 the existing building received an area variance from the ZBA for front yard setback. The existing building has a 10-foot front yard setback and 50 feet is required. The Town of Newburgh Planning Board is requesting a reissuance or reaffirmation of the previously granted variance.

### 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:

The building presently exists; therefore, there will be no change to the neighborhood. The applicant plans to renovate the existing building thereby improving the neighborhood.

- 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:

There is no land available along Pressler Road to provide the required front yard setback. The portion of the existing building that the applicant plans to renovate is the portion setback 10 feet from the Pressler Road boundary.

- c. THE REQUESTED AREA VARIANCES ARE NOT SUBSTANTIAL BECAUSE:

The front yard exists and predates the zoning code. A variance for the front yard setback of 10 feet was granted in 2009. The front yard setback of 10 feet will remain unchanged.

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

The building already exists so it will not have an adverse effect on the neighborhood. The building is proposed to be renovated and will enhance the neighborhood. Therefore, it will not visually affect the neighborhood. A properly engineered septic system will be provided.

- e. **THE HARDSHIP HAS NOT BEEN SELF CREATED BECAUSE:**

The building is preexisting and predates zoning. The 10-yard setback will remain 10 feet so this nonconformity will remain unchanged.

ORANGE COUNTY CLERK'S OFFICE RECORDING PAGE

THIS PAGE IS PART OF THE INSTRUMENT - DO NOT REMOVE

TYPE IN BLACK INK:  
NAME(S) OF PARTY(S) TO DOCUMENT



STANLEY ZYLOWSKI AND ROBERT  
ZYLOWSKI, AS ADM. OF THE ESTATE  
OF STANLEY E. ZYLOWSKI  
TO  
JAN KADNAR

SECTION 6 BLOCK 1 LOT 10-1

RECORD AND RETURN TO: 10-2  
(name and address)

LISA J. FELICISSIMO, ESQ.  
109 STAGE ROAD  
MONROE, NEW YORK 10950

THIS IS PAGE ONE OF THE RECORDING

ATTACH THIS SHEET TO THE FIRST PAGE OF EACH  
RECORDED INSTRUMENT ONLY

DO NOT WRITE BELOW THIS LINE

01 207116

INSTRUMENT TYPE: DEED  MORTGAGE  SATISFACTION  ASSIGNMENT  OTHER

PROPERTY LOCATION

2089 BLOOMING GROVE (TN)	4289 MONTGOMERY (TN)	NO PAGES <u>4</u> CROSS REF. _____
2001 WASHINGTONVILLE (VLG)	4201 MAYBROOK (VLG)	CERT. COPY <input type="checkbox"/> ADD'L X-REF. _____
2289 CHESTER (TN)	4203 MONTGOMERY (VLG)	MAP# _____ PGS. _____
2201 CHESTER (VLG)	4205 WALDEN (VLG)	
2489 CORNWALL (TN)	4489 MOUNT HOPE (TN)	PAYMENT TYPE: CHECK <input checked="" type="checkbox"/>
2401 CORNWALL (VLG)	4401 OTISVILLE (VLG)	CASH <input type="checkbox"/>
2600 CRAWFORD (TN)	4600 NEWBURGH (TN)	CHARGE _____
2800 DEERPARK (TN)	4800 NEW WINDSOR (TN)	NO FEE _____
3089 GOSHEN (TN)	5089 TUXEDO (TN)	Taxable
3001 GOSHEN (VLG)	5001 TUXEDO PARK (VLG)	CONSIDERATION \$ <u>605,000</u>
3003 FLORIDA (VLG)	5200 WALKKILL (TN)	TAX EXEMPT _____
3005 CHESTER (VLG)	5489 WARWICK (TN)	Taxable
3200 GREENVILLE (TN)	5401 FLORIDA (VLG)	MORTGAGE AMT. \$ _____
3489 HAMPTONBURGH (TN)	5403 GREENWOOD LAKE (VLG)	DATE _____
3401 MAYBROOK (VLG)	5405 WARWICK (VLG)	
3689 HIGHLANDS (TN)	5600 WAWAYANDA (TN)	MORTGAGE TAX TYPE:
3601 HIGHLAND FALLS (VLG)	5889 WOODBURY (TN)	___ (A) COMMERCIAL/FULL 1%
3889 MINISINK (TN)	5801 HARRIMAN (VLG)	___ (B) 1 OR 2 FAMILY
3801 UNIONVILLE (VLG)		___ (C) UNDER \$10,000
4089 MONROE (TN)		___ (E) EXEMPT
4001 MONROE (VLG)	CITIES	___ (F) 3 TO 6 UNITS
4003 HARRIMAN (VLG)	0900 MIDDLETOWN	___ (I) NAT.PERSON/CR. UNION
4005 KIRYAS JOEL (VLG)	1100 NEWBURGH	___ (J) NAT.PER-CR.UN/1 OR 2
	1300 PORT JERVIS	___ (K) CONDO
	9999 HOLD	

*Donna L. Benson*  
DONNA L. BENSON  
ORANGE COUNTY CLERK

RECEIVED FROM: *Ali*

STATE OF NEW YORK (COUNTY OF ORANGE) SS:  
I ANN G. RABBITT, COUNTY CLERK AND CLERK OF THE SUPREME AND COUNTY COURTS,  
ORANGE COUNTY, DO HEREBY CERTIFY THAT I HAVE COMPARED THIS COPY WITH THE  
ORIGINAL THEREOF FILED OR RECORDED IN MY OFFICE ON June 13, 2007  
AND THE SAME IS A CORRECT TRANSCRIPT THEREOF.  
IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED MY OFFICIAL SEAL

*September 15, 2007*  
*Ann G. Rabbitt*

COUNTY CLERK & CLERK OF THE SUPREME COUNTY COURTS, ORANGE COUNTY

RECORDED/FILED  
06/13/2007/ 14:59:34  
DONNA L. BENSON  
County Clerk  
ORANGE COUNTY, NY  
FILE # 20070067195  
DEED R / BK 12466 PG 0257  
RECORDING FEES 117.00  
TTX# 009290 T TAX 2,420.00  
Receipt#749275 juls



NY 016 - Administrator's Deed (Single Sheet) (NYBTU 8005)

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT - THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY

THIS INDENTURE, made the 1st day of June, in the year 2007  
BETWEEN  
Stanley Zylowski, residing at 30 Tomahawk Drive, ~~Coweta, GA~~ <sup>Shawshbury</sup> 30277 and  
Robert Zylowski, residing at 206 Fairfield Lane, Hillsborough, NJ 08844

as administrator (trix) of the Estate of Stanley E. Zylowski  
late of Town of Newburgh, Orange County, New York  
Who died intestate on the 4th day of June, in the year 2006  
party of the first part, and

Jan Kadnar, residing at 501 Stage Road, Monroe, NY 10950

party of the second part,

WITNESSETH, that whereas letters of administration were issued to the party of the first part by the  
Surrogate's Court Orange County, New York on 11/15/2006 and by virtue  
of the power and authority given by Article 11 of the Estates, Powers and Trusts Law, and in consideration of

Six Hundred and Five Thousand (\$605,000.00) dollars,  
paid by the party of the second part, does hereby grant and release unto the party of the second part, the distributees or  
successors and assigns of the party of the second part forever.


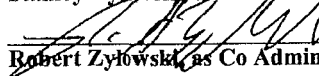
ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and  
being in the

SEE ATTACHED SCHEDULE A

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the  
above described premises to the center lines thereof; TOGETHER the appurtenances, and also all the estate which the said  
decedent had at the time of decedent's death in said premises, and also the estate therein, which the party of the first part has or  
has power to convey or dispose of, whether individual or otherwise; TO HAVE AND TO HOLD the premises herein  
granted unto the part of the second part, the distributees or successors ad assignees of the party of the second part forever.

AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said  
premises have been encumbered in any way whatever, except as aforesaid.  
subject to the trust fund provisions of section thirteen of the Lien Law.  
the word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.  
IN WITNESS WHEREOF, the party of the first part has executed this release the day and year first above written.

IN PRESENCE OF:

  
Stanley Zylowski as Administrator  
  
Robert Zylowski as Co Administrator

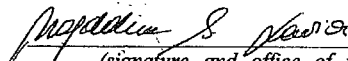
State of ~~Georgia~~ County of ~~Coweta~~ ) ss:

On the 5<sup>th</sup> day of June 2007 before me, the undersigned, a Notary Public in and for said State, personally appeared Stanley Zylowski personally known to me or proved to me on the basis of satisfactory evidence to be the individuals whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their capacity, and that by their signature on the instrument, the individuals, or the person upon behalf of which the individuals acted, executed the instrument.

  
\_\_\_\_\_  
NOTARY PUBLIC

State of N.J. County of Middlesex ss:

On 5<sup>th</sup> of June, 2007 before me, the undersigned, a Notary Public in and for said State, personally appeared Robert Zylowski personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

  
\_\_\_\_\_  
(signature and office of person taking  
acknowledgement)  
MARGARET S. LEWIS  
NOTARY PUBLIC OF NEW JERSEY  
MY COMMISSION EXPIRES MAY 21, 2008

ADMINISTRATOR'S DEED

ZYLOWSKI

TO

KADNAR

State of \_\_\_\_\_ County of \_\_\_\_\_ ) ss:

On \_\_\_\_\_ before me, the undersigned, a Notary Public in and for said State, personally appeared \_\_\_\_\_ the subscribing witness(es) to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he/she/they reside(s) in (if the place of residence is a city, include the street and street number, if any, thereof:)

that he/she/they know(s)

to be the individual(s) described in and who executed the foregoing instrument; that said subscribing witness(es) was (were) present and saw said

execute the same; and that said witness(es) at the same time subscribed his/her/their name(s) as a witness(es) thereto.

\_\_\_\_\_  
(signature and office of person taking  
acknowledgement)

SECTION 6

BLOCK 1

LOT 10.-1 & 10.-2

COUNTY OR TOWN County of Orange / Newburgh

RETURN BY MAIL TO:

Lisa Felicissimo, Esq.  
107 Stage Road  
Monroe, NY 10950

Reserve this space for use  
of Recording Office.

James R. Loeb  
Richard J. Drake, *retired*  
Glen L. Heller\*  
Marianna R. Kennedy  
Gary J. Gogerty  
Stephen J. Gaba  
Adam L. Rodd  
Dominic Cordisco  
Ralph L. Pugliette, Jr.  
Nicholas A. Pascale

Alana R. Bartley  
Aaron C. Fitch  
Judith A. Waye  
Michael Martens

Jennifer L. Schneider  
Managing Attorney

\*LL.M. in Taxation

September 3, 2020

BY EMAIL ONLY

Darrin J. Scalzo, Chairman  
Zoning Board of Appeals  
Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, New York 12550

Re: Lands of Jan Kadnar Subdivision; Planning Board Project No. 20-09

Dear Chairman Scalzo and Board Members:

At the Planning Board's August 6, 2020 meeting, the Planning Board resolved to refer this application to the Zoning Board of Appeals for its consideration of the following area variance that is required for this project.

In particular, the applicant seeks a new subdivision approval from the Planning Board. This property received an area variance from the ZBA previously in 2009. In particular, proposed Lot #5 required a front yard setback variance which was granted in 2009, but a residence on this lot was never built. As a result, the current subdivision application requires a reissuance or reaffirmation of the previously granted front yard setback variance. A copy of the ZBA's 2009 decision is enclosed for your convenience.

The Planning Board has not declared its intent to serve as lead agency so that the Zoning Board of Appeals may consider and process this application without the need to wait for the Planning Board to conclude its SEQRA review.

Thank you for your consideration of this matter.

Very Truly Yours,



Dominic Cordisco

cc:

David A. Donovan, Esq., Attorney for the ZBA  
Town of Newburgh Planning Board  
Patrick J. Hines, Planning Board Consulting Engineer







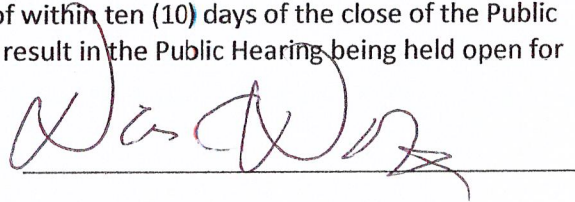


**AFFIDAVIT OF POSTING(S) OF  
NOTICE OF PUBLIC HEARING  
AT THE PROPERTY**

STATE OF NEW YORK: COUNTY OF ORANGE:

I DARREN C. DOCE, being duly sworn, depose and say that I did on or before  
October 8, 2020, post and will thereafter maintain at  
275 Pressler Rd 6-1-10.5 AR 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.

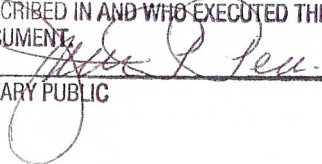


Sworn to before me this 30  
day of September, 2020.

JOSEPH P. PEDI NOTARY PUBLIC, STATE OF NEW YORK Registration No. 01PE6370913 Qualified in Orange County Commission Expires February 12, 2022
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STATE OF NEW YORK  
COUNTY OF ORANGE  
ON THIS 30 DAY OF September, 2020  
BEFORE ME PERSONALLY APPEARED

Darren C. Doce  
TO ME PERSONALLY KNOWN TO BE THE PERSON  
DESCRIBED IN AND WHO EXECUTED THE FOREGOING  
DOCUMENT.  
Joseph P. PEDI  
NOTARY PUBLIC





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3-26-09

Section 6, Block 1, Lot 10

TOWN OF NEWBURGH: COUNTY OF ORANGE  
ZONING BOARD OF APPEALS

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*In the Matter of the Application of*

JAN KADNAR

**DECISION**

*For area variances as follows:*

- *Grant of a variance allowing a front yard setback of 10 feet where 50 feet is required;*
- *Grant of a variance allowing a front yard setback of 21.7 feet where 50 feet is required;*
- *Grant of a variance allowing a habitable floor area of 624 square feet where 900 square feet is required.*

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**Introduction**

Jan Kadnar has heretofore made application to the Town Planning Board seeking to subdivide the property hereinafter described into five (5) residential building lots. The property presently is improved by structures which do not comply with current zoning but are permitted as pre-existing, nonconforming, structures. As is subsequently set forth herein, the protection afforded these structures is lost as a result of the subdivision application presently before the planning board. As a result, the applicant requires area variances as follows: (1) a variance allowing a front yard setback of 10 feet where 50 feet is required; (2) a variance allowing a front yard setback of 21.7 feet where 50 feet is required and (3) a variance allowing a habitable floor area of 624 square feet where 900

square feet is required.<sup>1</sup>

The property is located at 275 Pressler Road in the AR Zoning District and is identified on the Town of Newburgh tax maps as Section 6, Block 1, Lot 10.

A public hearing was held on March 26, 2009, notice of which was published in *The Mid-Hudson Times* and *The Sentinel* and mailed to adjoining property owners as required by Code.

### Law

Section 185-11 of the Code of Ordinances of the Town of Newburgh [Zoning], entitled "Utilization of Bulk Table," requires compliance with the bulk regulations set forth in the bulk and use schedules set forth within the zoning ordinance.

These schedules require a front yard setback of 50 feet and a habitable floor area of 900 square feet.

Section 185-19 of the Zoning Code [Nonconforming buildings and uses] provides that nonconforming "buildings... existing on the effective date of this chapter [that]... do not conform to the requirements set forth in this chapter... may continue indefinitely, subject to [certain limitations]."

However, this Board has previously, consistently and on numerous occasions held that the protection afforded nonconforming buildings is lost when an application is made to the Town Planning Board for a subdivision of the premises previously protected in view of the fact that the degree of the nonconformity is increased by virtue of the fact that the existing nonconformities will be located upon a much smaller lot, and thus have a greater magnitude, as a result of the subdivision.

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<sup>1</sup> The first variance relates to proposed lot # 5, hereinafter the "Villa Lot"; the second and third variances relate to proposed lot # 4, hereinafter the "Cottage Lot."

**Background**

After receiving all the materials presented by the applicant and hearing the testimony of the applicant, at the public hearing held before the Zoning Board of Appeals on March 26, 2009, the Board makes the following findings of fact:

1. The applicant is the owner of a 46.8 +/- acre lot (tax parcel 6-1-10) located at 275 Pressler Road.
2. The lot is improved by an old villa and a two-bedroom cottage as well as several accessory structures.
3. The applicant proposes to subdivide the property into five residential lots. The old villa is located on one lot (proposed lot # 5) and the two-bedroom is located on another lot (proposed lot #4.) The remaining three lots will be vacant and are intended as separate building lots.
4. The applicant's proposal is set forth on a preliminary sketch plat prepared by Heritage Land Surveying, P.C., dated May 27, 2008. That plat is hereby incorporated into this decision and a set shall remain in the zoning board's file in this matter.
5. The required, existing and proposed dimensions (in feet) and the extent of the variances requested are as follows:

Bulk Requirement	Allowance	Existing	Proposed	Variance	Percentage
Front Yard Setback	50'	10'	10'	40'	80%
Front Yard Setback	50'	21.7'	21.7'	28.3'	56.6%

Habitable Floor Area	900 S.F.	624 S.F.	624 S.F.	276 S.F.	30.7%
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6. Members of the public were heard during the hearing. They were concerned about drainage and the impact that the new buildings would have upon their existing, nearby residential homes. Drainage is an issue to be addressed by the Town Planning Board during the subdivision approval process. However, the Board finds that the concerns raised by the adjoining neighbors are legitimate and therefore highlights this issue so that the legitimate concerns raised by the neighbors may be appropriately and properly addressed by the Town Planning Board.
  
7. This application was referred to the Zoning Board of Appeals by the Town of Newburgh Planning Board by letter from their counsel dated August 25, 2008.

After hearing the testimony at the public hearing and considering the materials received by the Board and after viewing the subject site, the Board decided as follows:

**SEQRA**

This matter constitutes a Type II action under the State Environmental Quality Review Act inasmuch as it involves the granting of an area variance(s) for a single-family, two-family or three-family residence [6 NYCRR §617.5(c)( 13)]. As such, this project is not subject to review under the State Environmental Quality Review Act.



## **GML 239 Referral**

This application is not required to be referred to the Orange County Planning Department for review.

### **Findings**

In reviewing the facts presented for the requested area variances, the Board considered the five standards for determining whether the applicant has sustained its burden of proof as required by Town Law Section 267-b (3). Each factor has been considered relevant to the decision of the board of appeals, but no single one is viewed as precluding the granting of the variances.

#### ***(1) Undesirable Change—Detriment to Nearby Properties***

No undesirable change in the character of this neighborhood or detriment to the neighbors in that neighborhood will result if the requested variances are granted. The structures for which the variances are sought already exist and their location is not being altered. The degree of dimensional noncompliance with setback is not being decreased; it will remain the same as before the subdivision. And, while the character of the neighborhood might change as a result of construction of the new residences that subdivision approval would allow, that impact is not one flowing from this grant of variance.

Therefore, a grant of a variance here will not result in a serious, undesirable detriment to surrounding property owners.

#### ***(2) Need for Variance***

If the existing villa and cottage are to be preserved, variances will be re-

quired. The said structures pre-date zoning and do not comply with current zoning requirements. They cannot be kept in their present location without the issuance of a variance. Moreover, preservation of those structures will help preserve the existing character of the neighborhood.

Accordingly, and based upon the testimony and evidence received by the Board, it appears that the relief sought by the applicant may only be obtained by the variances sought herein.

### **(3) Substantial Nature of Variances Requested**

The variances requested are substantial. However, the request for this variances must be viewed in the context of (a) the existing non-conformity of the residence on the lot and (b) the extent of the *variation* from that existing condition. Because the focus of the inquiry of the examination by the Zoning Board of Appeals is upon the character of the neighborhood in question, we believe, under the circumstances presented here, that the substantial nature of the variances requested does not prohibit us from granting the application because there will be no variation from the existing footprint resulting from this grant of a variance.

### **(4) Adverse Physical & Environmental Effects**

No testimony or evidence was received by the Board indicating that the requested *variances* would cause any adverse physical or environmental effects. However, as noted hereinabove, several neighbors raised drainage concerns which this Board found to be legitimate. Remediation of those concerns is beyond the purview of this Board. However, these variances are granted with the understanding that the Planning Board will properly and appropriately address these drainage concerns to ameliorate to the greatest extent practicable any ad-

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verse impact upon the neighbors.

Accordingly, based upon the evidence and testimony received, The Board finds that the variances requested will not adversely impact the physical or environmental conditions in this neighborhood.

***(5) Self-Created Difficulty***

The need for the variances are clearly self-created in the sense that the applicant purchased this property charged with the knowledge of the existing nonconformity and while aware of the need to obtain variances in order to subdivide his property.

However, because it is not feasible to preserve the existing buildings without variances of some kind, the board believes, under the circumstances presented, that the self-created nature of the need for the variances requested do not preclude granting the application. Moreover, as noted earlier, no undesirable change in the character of the neighborhood will occur as the result of the granting of these variances.

**Decision**

In employing the balancing tests set forth in Town Law Section 267-b (3), the Board hereby determines that the applicant has satisfied the requisites of Section 267-b and grants the requested variances as requested.

1. The variances hereby granted are granted for the purpose of authorizing construction of what is shown on the plans or described within the application materials only. No construction other than as shown or described (architectural refinements aside) is authorized by this decision.

2. This approval is not issued in a vacuum but is rather one of two independent yet interconnected discretionary approvals (the other being within the jurisdiction of the Town of Newburgh Planning Board). As such, this grant of variance is conditioned upon approval of the application now pending before the planning board. This approval of the ZBA is intended to do no more than vary the specified strict limitation provisions of the Code identified; it is not intended to authorize construction of a particular building nor approve the footprint, size, volume or style thereof. The planning board remains possessed of all of its power and authority to review, limit, request modifications to, and to ultimately approve (absolutely or conditionally) any application in reference to this project as may come before it. Should the planning board require changes in the size, location or configuration from what is shown on the plans before the ZBA that require greater or different variances, the applicant must return to the ZBA for further review and approval.
  
3. Section 185-55 [Procedure; construal of provisions; conflict with state law] of the Code of Ordinances of the Town of Newburgh provides, in subdivision "D," that this grant of variance shall become null and void at the expiration of six months from issuance, unless extended by this board for one additional six-month period. As noted above, this application is not decided in a vacuum but is rather tied to a specific application for approval pending before the Town of Newburgh Planning Board and this approval is conditioned upon the applicant diligently pursuing his application before that board. Provided that the applicant shall report to this board

monthly on the progress of the application pending before the planning board, and provided that such reports demonstrate a diligent pursual of that application, the time period within which the planning board application is processed shall not be included within the initial six-month limitation of Section 185-55 D.

4. Drainage is an issue to be addressed by the Town Planning Board during the subdivision approval process. However, the Board finds that the concerns raised by the adjoining neighbors are legitimate and therefore highlights this issue so that the legitimate concerns raised by the neighbors may be appropriately and properly addressed by the Town Planning Board.
  
5. Given the extremely small size of the existing cottage, the Board wishes to make clear that this approval allows the cottage to be used as the primary use on proposed lot #4. This approval does *not* extend any further and shall not be construed to allow the cottage to be utilized as any type of accessory structure in the future. If a home is proposed to be constructed upon the new lot that is being created for the cottage (Lot #4 of the proposed subdivision), the Board specifically finds that the cottage must be demolished and removed from the premises and said demolition and removal must be accomplished pursuant to all necessary approvals from the Town Building Department.

Dated: March 26, 2009



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Grace Cardone, Chair  
Town of Newburgh ZBA

*By roll call a motion to adopt the decision was voted as follows:*

AYES:       Chair Grace Cardone  
              Member Brenda Drake  
              Member Ronald Hughes  
              Member John McKelvey  
              Member Ruth Eaton  
              Member Michael Maher

ABSENT:     Member James Manley

NAYS:       None

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STATE OF NEW YORK    )  
                                  )ss:  
COUNTY OF ORANGE    )

I, BETTY GENNARELLI, Secretary to the Zoning Board of Appeals of the Town of Newburgh, do hereby certify that the foregoing is a true and exact copy of a Resolution maintained in the office of the Town of Newburgh Zoning Board of Appeals, said resulting from a vote having been taken by the Zoning Board at a meeting of said Board held on March 26, 2009.



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BETTY GENNARELLI, SECRETARY

TOWN OF NEWBURGH ZONING BOARD OF APPEALS

I, ANDREW J. ZARUTSKIE, Clerk of the Town of Newburgh, do hereby certify that the foregoing Decision was filed in the Office of the Town Clerk on  
JUN - 2 2009.



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ANDREW J. ZARUTSKIE, CLERK

TOWN OF NEWBURGH