

# 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: 2/14/13

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

I (WE) JAMES KIRBY III PRESENTLY  
RESIDING AT NUMBER 133 HEATHER CIRCLE  
TELEPHONE NUMBER (845) 566-0076

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:

115-2-26 79 (TAX MAP DESIGNATION)  
133 HEATHER CIR. (STREET ADDRESS)  
(115-2-26) 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 PROVISION OF THE ZONING LAW APPLICABLE, (INDICATE THE SECTION AND SUBSECTION OF THE ZONING LAW APPLICABLE BY NUMBER; DO NOT QUOTE THE LAW).

71-8 SUB. A  
BULK TABLE SCHEDULE 4

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: 4/30/08
- 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: AREA VARIANCE

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:

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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:

NO, REPLACED CONTRACTOR DECK +  
ADDING A POOL

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:

SIZE + SHAPE OF PROPERTY

c) THE REQUESTED AREA VARIANCE IS NOT SUBSTANTIAL BECAUSE:

NO, ASKING FOR 1 (ONE) VARIANCE  
A SMALL PERCENTAGE OF LAND  
TO BE CHANGED

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

EXPANDING A PREEXISTING DECK; AND  
(IF OR WHEN) POOL IS REMOVE THE LAND-  
SCAPE WILL BECOME A LAWN AGAIN

e) THE HARDSHIP HAS NOT BEEN SELF CREATED BECAUSE:

NO, BECAUSE OF THE SIZE + SHAPE  
OF THE PROPERTY

7. ADDITIONAL REASONS (IF PERTINENT):

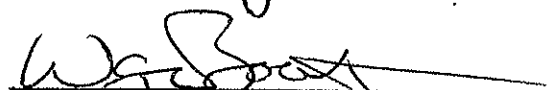
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

  
PETITIONER (S) SIGNATURE

STATE OF NEW YORK: COUNTY OR ORANGE:

SWORN TO THIS 14<sup>th</sup> DAY OF February 20 13

WAYNE C. BOOTH  
Notary Public, State of New York  
Registration No. 01806047166  
Qualified in Orange County  
Commission Expires August 28, 20 13

  
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.

617.20  
Appendix C  
State Environmental Quality Review  
**SHORT ENVIRONMENTAL ASSESSMENT FORM**  
For UNLISTED ACTIONS Only

**PART I - PROJECT INFORMATION (To be completed by Applicant or Project Sponsor)**

1. APPLICANT/SPONSOR <p style="text-align: center; font-size: 1.2em;"><i>JAMES KIRBY III</i></p>	2. PROJECT NAME
3. PROJECT LOCATION: Municipality _____ County <u>ORANGE</u>	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) <p style="text-align: center; font-size: 1.2em;"><i>133 HEATHER CIRCLE &amp; TEAL CT.</i></p>	
5. PROPOSED ACTION IS: <input type="checkbox"/> New <input type="checkbox"/> Expansion <input checked="" type="checkbox"/> Modification/alteration	
6. DESCRIBE PROJECT BRIEFLY: <i>REPLACED THE ORIGINAL CONTRACTOR DECK (10x10) w/ 18x12 DECK AND 21 FOOT ROUND ABOVEGROUND POOL w/ 14' POOL DECK.</i>	
7. AMOUNT OF LAND AFFECTED: Initially <u>0.53</u> acres    Ultimately <u>.009</u> acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No    If No, describe briefly	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open Space <input type="checkbox"/> Other Describe: _____	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No    If Yes, list agency(s) name and permit/approvals:	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No    If Yes, list agency(s) name and permit/approvals:	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor name: <u>JAMES KIRBY III</u> Date: _____ Signature: <i>[Signature]</i>	

**If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment**



**PART II - IMPACT ASSESSMENT (To be completed by Lead Agency)**

A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.4?  Yes  No If yes, coordinate the review process and use the FULL EAF.

B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? If No, a negative declaration may be superseded by another involved agency.  Yes  No

C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible)

C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly:

C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly:

C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly:

C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly:

C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly:

C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly:

C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly:

D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CRITICAL ENVIRONMENTAL AREA (CEA)?  Yes  No If Yes, explain briefly:

E. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS?  Yes  No If Yes, explain briefly:

**PART III - DETERMINATION OF SIGNIFICANCE (To be completed by Agency)**

**INSTRUCTIONS:** For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed. If question D of Part II was checked yes, the determination of significance must evaluate the potential impact of the proposed action on the environmental characteristics of the CEA.

- Check this box if you have identified one or more potentially large or significant adverse impacts which MAY occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.
- 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 AND provide, on attachments as necessary, the reasons supporting this determination.

\_\_\_\_\_  
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)



TOWN OF NEWBURGH

Crossroads of the Northeast  
OLD TOWN HALL  
308 GARDNERTOWN ROAD  
NEWBURGH, NEW YORK 12550  
(845)564-7801

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

File No. 1997-08 *Resent Application 12/18/12* Date: April 30, 2008

To: JAMES KIRBY III SBL 115-2-26  
133 HEATHER CIRCLE ADD: 133 HEATHER CIRCLE  
NEWBURGH, NY 12550 ZONE R-2

PLEASE TAKE NOTICE that your application dated April 15,  
20 08 for permit to build two decks and an above ground pool  
*PRIOR Built*

At the premises located at 133 Heather Circle  
Built without permit OTR 12-279

Is returned herewith and disapproved on the following grounds:

BULK TABLE - SCHEDULE 4 - REQUIRES A 40 FT REAR YARD SETBACK.

*Joseph Mattina*  
JOSEPH MATTINA

Cc: Town Clerk  
File

*12/18/12*

1997-08

# Town of Newburgh Code Compliance

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

NAME: JAMES KIRBY III

ADDRESS: 133 HEATHER CIR. NEWBURGH N.Y. 12550

PROJECT INFORMATION: Built without Permit

TYPE OF STRUCTURE: TWO DECKS AND A POOL

SBL: 115-2-26 ZONE: R/2

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

	ALLOWANCE	EXISTING	PROPOSED	VARIANCE	PERCENTAGE
LOT AREA					
LOT WIDTH					
LOT DEPTH					
FRONT YARD					
REAR YARD	40'	72'	29'	11'	27.5%
SIDE YARD					
MAX. BUILDING HEIGHT					
LOT BUILDING COVERAGE					
LOT 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  
 SIDE OR 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: HAS 72' REAR YD. (2) DECKS 12' & 10' DEEP AND 21' POOL WILL LEAVE A TOTAL REAR YARD SET BACK OF 29'

**VARIANCE(S) REQUIRED:**

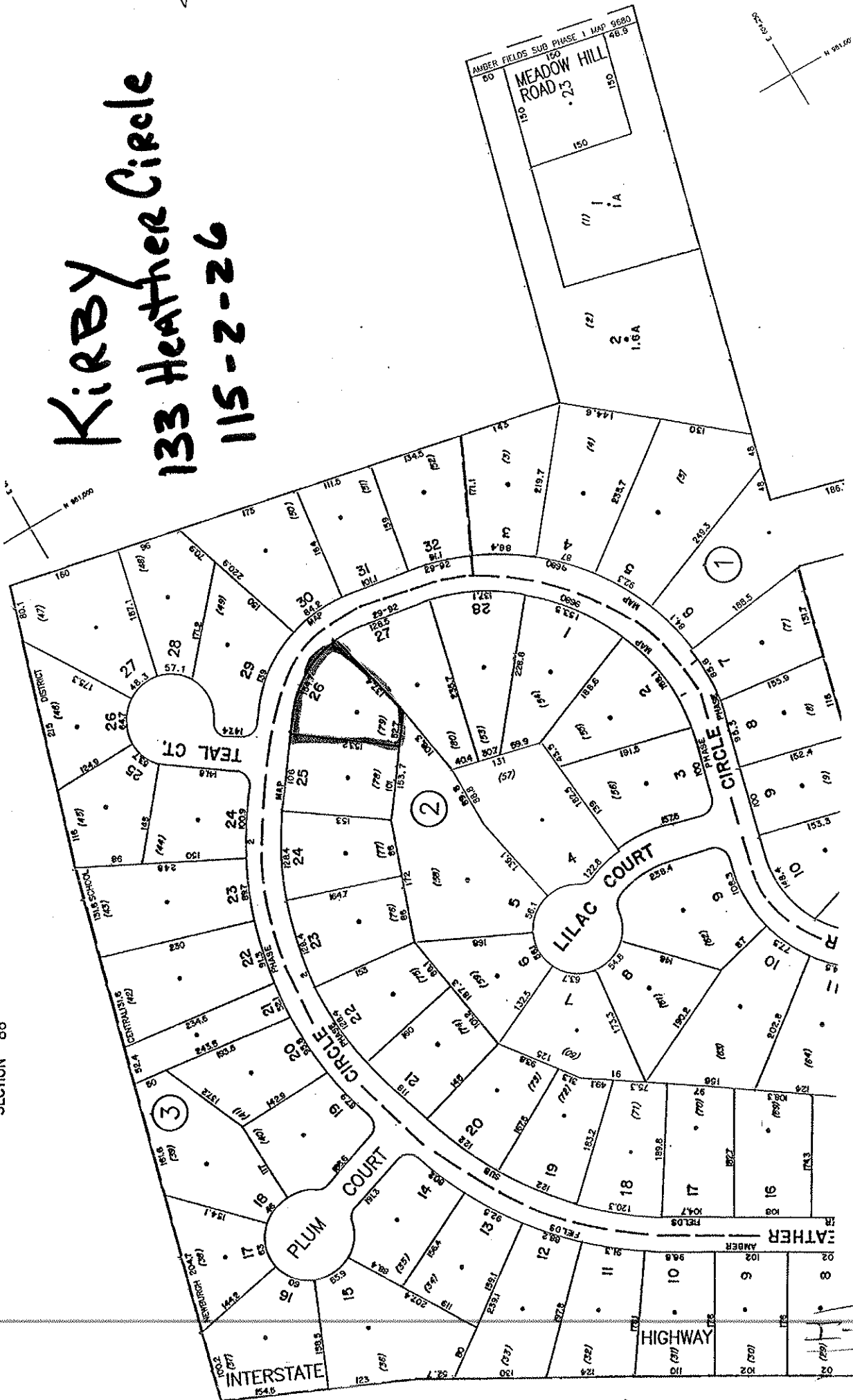
- 1 BULK TABLE SCHEDULE 4 REQUIRES 40' REAR YARD SETBACK.
- 2 \_\_\_\_\_
- 3 \_\_\_\_\_
- 4 \_\_\_\_\_

REVIEWED BY: JOSEPH MATTINA DATE: 30-Apr-08



KIRBY  
133 Heather Circle  
115-2-26

SECTION 86



115-2-26