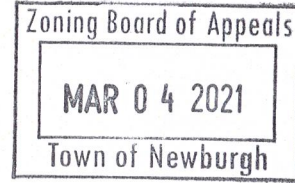




# TOWN OF NEWBURGH

*Crossroads of the Northeast*

ZONING BOARD OF APPEALS  
21 Hudson Valley Professional Plaza  
Newburgh, NY 12550



OFFICE OF ZONING BOARD  
TELEPHONE 845-566-4901  
FAX LINE 845-564-7802

## APPLICATION

DATED: 3 March 2021

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

I (WE) Jean Lubera and Frank Tirabosco PRESENTLY  
RESIDING AT NUMBER P.O. Box 432, Pine Bush, NY 12564  
TELEPHONE NUMBER (518) 755-1477

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

- USE VARIANCE
- AREA VARIANCE (S)
- INTERPRETATION OF THE ORDINANCE
- SPECIAL PERMIT

### 1. LOCATION OF THE PROPERTY:

101-5-6 (TAX MAP DESIGNATION)  
71 Williams Ave. (STREET ADDRESS)  
Zone R2 (ZONING DISTRICT)

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 PROVISION OF THE ZONING LAW APPLICABLE, (INDICATE THE SECTION AND SUB-SECTION OF THE ZONING LAW APPLICABLE BY NUMBER; DO NOT QUOTE THE LAW).

- (1) Bulk-table Schedule 4 - Requires 125' Minimum lot Depth
- (2) Bulk-table Schedule 4 - Requires minimum 40' rear yard Setback

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:  
February 18, 2021
- 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 for lot depth and rear yard setback to build 1 family residence.

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:

The adjacent homes have similar or the same lot depth and width. Adjacent homes also have the same or similar setbacks as our request.

- 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:

No other land available on Williams Ave and this is a pre-existing nonconforming lot.

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

It conforms to the other homes in the neighborhood.

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

The home was designed by a licensed architect with the character of the neighborhood in mind.

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

This is a preexisting, nonconforming lot. The original intent of the lot at the time the subdivision was approved was for a single family home prior to current zoning.

7. ADDITIONAL REASONS (IF PERTINENT):

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

*Jean Dubera*  
PETITIONER (S) SIGNATURE

STATE OF NEW YORK: COUNTY OF ORANGE:

SWORN TO THIS 15<sup>th</sup> DAY OF March 20 21

*Kimberly A. Doviak*  
NOTARY PUBLIC

Kimberly A. Doviak  
Notary Public, State of New York  
ID # 01DO6044348  
Commission Expires July 3rd, 2022

~~Kimberly A. Doviak  
Notary Public, State of New York  
ID # 01DO6044348  
Commission Expires July 3rd, 2022~~

E: NYS GML Section 239-m (3) for proposed actions that are within 500 feet of the properties or thresholds listed in the statute the  
g Board of Appeals is required to send a copy of the complete application to the Orange County Department of Planning to be  
wed prior to Zoning Board of Appeals decision. And also NYS GML Section 239-NN requires notification for any proposed action  
Municipal Clerk, within 500 feet of the Border of that adjoining County, Town or City.  
MATERIALS REGARDING THE APPLICATION MUST BE SUBMITTED TO THE ZONING BOARD OFFICE FOR  
IEW NO LATER THAN 10 DAYS PRIOR TO THE HEARING DATE OR THEY MAY NOT BE CONSIDERED THE  
IT OF THE MEETING).

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

# 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: Lubera-Tirabosco New Residence				
Project Location (describe, and attach a location map): 71 Williams Avenue, Newburgh, New York 12550				
Brief Description of Proposed Action: New construction of 2,045 SF two story single-family residential dwelling with attached two-car garage (780 SF). New waste water treatment system.				
Name of Applicant or Sponsor: Jean Lubera		Telephone: 518-755-1477 E-Mail: jalubera@gmail.com		
Address: PO Box 432				
City/PO: Pine Bush		State: New York	Zip Code: 12566	
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: Zoning Board of Appeals			NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>
3. a. Total acreage of the site of the proposed action?		0.42 +/- acres		
b. Total acreage to be physically disturbed?		0.25 +/- acres		
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		0.42 +/- 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				

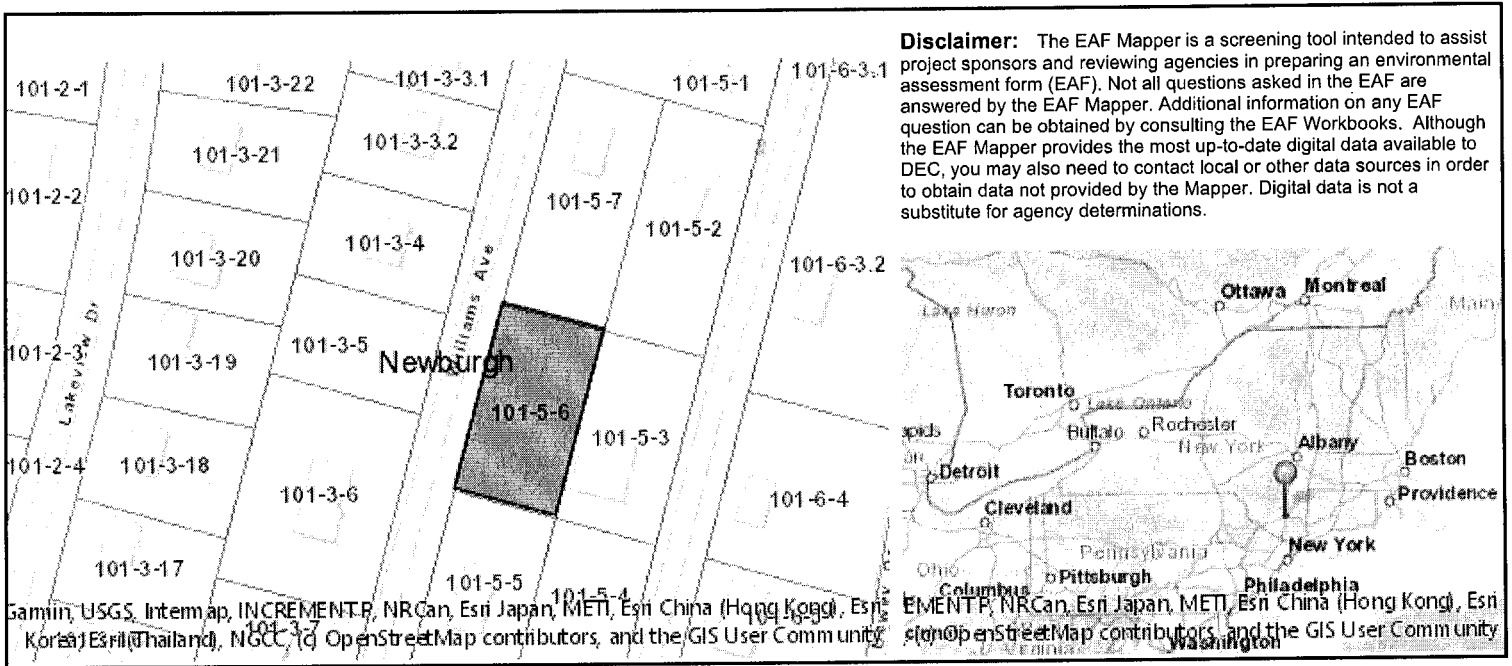
5. Is the proposed action,	NO	YES	N/A
a. A permitted use under the zoning regulations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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? 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 <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	YES <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 <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: _____ _____	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____ Private 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 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	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? If Yes, a. Will storm water discharges flow to adjacent properties? b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: _____	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>
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)? If Yes, explain the purpose and size of the impoundment: _____	NO	YES
	<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? If Yes, describe: _____	NO	YES
	<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? If Yes, describe: _____	NO	YES
	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The Hudson River PCB Sediments. The Site Code is 546031.		

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

Applicant/sponsor/name: Jean Lubera Frank Tirabasso Date: 3 March 2021

Signature: Jean Lubera Frank Tirabasso Title: Owner



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]	No
Part 1 / Question 15 [Threatened or Endangered Animal]	No
Part 1 / Question 16 [100 Year Flood Plain]	No
Part 1 / Question 20 [Remediation Site]	Yes



71 Williams Ave.

HW 60304

**EXECUTOR'S DEED (INDIVIDUAL OR CORPORATION)**

**FORM 8005-A (short version), FORM 8010 (long version)**

CAUTION: THIS AGREEMENT SHOULD BE PREPARED BY AN ATTORNEY AND REVIEWED BY ATTORNEYS FOR SELLER AND PURCHASER BEFORE SIGNING.

FEB 11 2021

Signature

**THIS INDENTURE**, made the December 10<sup>th</sup>, 2020,

between **JOHANNA M. VANDERMARK, EXECUTRIX**, of the LAST WILL AND TESTAMENT OF THOMAS ALLEN VANDERMARK (deceased) and **AS TRUSTEE OF THE VANDERMARK TRUST DATED MAY 18TH 1999**, of 4617 Lightkeepers Way, Unit 9H, Little River, SC 29566,

party of the first part, and

**FRANK TIRABOSCO AND JEAN LUBERA** of 54 Williams Avenue, Newburgh, New York 12550,   
 husband + wife

party of the second part;

**WITNESSETH**, that the party of the first part, to whom letters testamentary were issued by the Surrogate's Court, Orange County, New York on July 7, 2005, and by virtue of the power and authority given in and by said last will and testament, and/or by Article 11 of the Estates, Powers and Trusts Law, and in consideration of Forty-Two Thousand Dollars and No Cents (\$42,000.00) and other valuable consideration 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 Town of Newburgh, County of Orange and State of New York, more particularly described in Schedule A attached hereto and made a part hereof.

**BEING AND INTENDED TO BE** the same premises conveyed to Johanna M. Vandermark, Executrix of the Last Will & Testament of Thomas Allen Vandermark by deed from Stephen V. Juracek Jr and Patricia Ann Fitzgerald dated April 8th 1978 and recorded April 10th 1978 in the Orange County Clerk's Office in Liber 2096 at page 127.;

**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** with 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 individually, or by virtue of said will or otherwise;

**TO HAVE AND TO HOLD** the premises herein granted unto the party of the second part, the heirs or successors and assigns 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.

**AND** the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the costs of the

Section: 101, Block: 5, Lot: 6

## Schedule A Description

Title Number HN 68304

Page 1

ALL that certain plot, piece or parcel of land with the buildings and improvements thereon erected, situate, lying and being in the Town of Newburgh, Orange County, New York, being known and designated as Lot #2 on map entitled "Lands of Edgar and Bessie Williams, Town of Newburgh, Orange County, N.Y." made by Theodore Jargstorf, licensed surveyor, and filed in the Orange County Clerk's Office April 3, 1959, said lot being 100 feet deep and 185 feet front and rear.

improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

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 duly executed this deed the day and year first above written.

Johanna M. Vandermark  
By: Johanna M. Vandermark, Executrix AND TRUSTEE

**Acknowledgment by a Person Outside New York State (RPL § 309-b)**

STATE OF SOUTH CAROLINA )  
 ) ss.:  
COUNTY OF Horry )

On the 10<sup>th</sup> day of December in the year 2020, before me, the undersigned, personally appeared Johanna M. Vandermark, 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, and that such individual made such appearance before the undersigned in

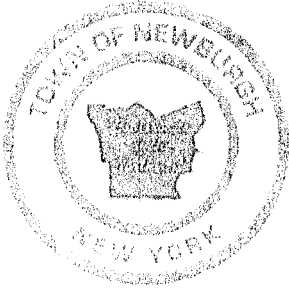
Longs, SC  
(City, State)

Stacey Strickland  
(signature and office of individual taking acknowledgment)

STACEY STRICKLAND  
Notary Public, State of South Carolina  
My Commission Expires 4/6/2021

R+R  
John Revella, Esq  
16 Church St.  
Walden ny 12586

Section: 101, Block: 5, Lot: 6



## 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

# 2898-21

### NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

Date: 02/18/2021

Application No. 21-0015

To: Jean Lubera  
P.O. Box 432  
Pine Bush, NY 12566

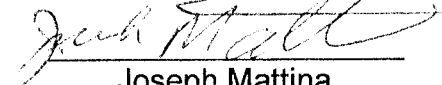
SBL: 101-5-6  
ADDRESS: 71 Williams Ave

ZONE: R2

PLEASE TAKE NOTICE that your application dated 01/08/2021 for permit to build a single Family residence: 2 story, 3 bedrooms, 2.5 bath with attached 2 car garage. on the premises located at 71 Williams Ave is returned herewith and disapproved on the following grounds:

Town of Newburgh Municipal Code Sections:

- 1) Bulk table schedule 4: Requires a lot depth of 125' minimum
- 2) Bulk table schedule 4: 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:** \_\_\_\_\_ **Application #**      21-0015

**ADDRESS:**      71 WILLIAMS AVE NEWBURGH NY 12550

**PROJECT INFORMATION:**      **AREA VARIANCE**      USE VARIANCE

**TYPE OF STRUCTURE:**      SINGLE FAMILY

**SBL:**      101-5-6      **ZONE:**      R-2      **ZBA Application #** \_\_\_\_\_

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

	MINIMUM	EXISTING	PROPOSED	VARIANCE	VARIANCE PERCENTAGE
LOT AREA					
LOT WIDTH					
LOT DEPTH	125'	100'		25'	20.00%
FRONT YARD					
REAR YARD	40'		16.08'	23.92'	59.80%
SIDE YARD					
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:**

**REVIEWED BY:**      Joseph Mattina      **DATE:**      13-Jan-21





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

STATE OF NEW YORK: COUNTY OF ORANGE:

I Frank Tirabosco, being duly sworn, depose and say that I did on or before  
March 11, 2021, post and will thereafter maintain at  
71 Williams Ave 101-5-6 R2 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 5<sup>th</sup>

day of March, 2021.

  
\_\_\_\_\_  