

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: June, 2019

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

I (WE) Richard and Toni Roth / Peter and Leslie Scott PRESENTLY
(Owners) (Tenants)

RESIDING AT NUMBER 3032 Route 9W, New Windsor, NY 12553 / 160 Oak St., Newburgh, NY 12550

TELEPHONE NUMBER 845-913-5479

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:

9-3-28 (TAX MAP DESIGNATION)

160 Oak Street (STREET ADDRESS)

R3 (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 PROVISION OF THE ZONING LAW APPLICABLE, (INDICATE THE SECTION AND SUBSECTION OF THE ZONING LAW APPLICABLE BY NUMBER; DO NOT QUOTE THE LAW).

185-15-A-4

185-15-A-1

Bulk Table Schedule 5



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: 5-1-19
- b) OR DENIAL (REFERRAL) BY THE PLANNING BOARD OF THE TOWN OF NEWBURGH OF AN APPLICATION TO THE BOARD, SEE ACCOMPANYING NOTICE DATED: _____

4. DESCRIPTION OF VARIANCE SOUGHT: 40X60 X23-5

ACCESSORY BUILDING

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

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

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

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

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



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

-

6. IF AN AREA VARIANCE IS REQUESTED:

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

See attached.

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.

c) THE REQUESTED AREA VARIANCE IS NOT SUBSTANTIAL BECAUSE:
See attached.

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.

e) THE HARDSHIP HAS NOT BEEN SELF CREATED BECAUSE:
See attached.



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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 10th DAY OF June 20 19

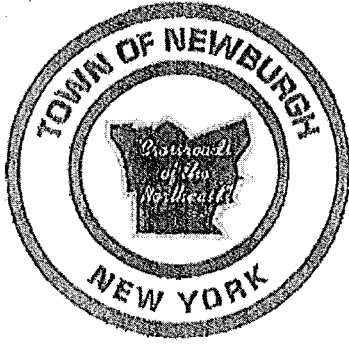
Dawn Lombardi
NOTARY PUBLIC

DAWN T LOMBARDI
Notary Public, State of New York
Reg. No. 01L06362369
Qualified in Orange County
Commission Expires 07/31/2021

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

PROXY

Richard Roth, DEPOSES AND SAYS THAT

HE/SHE RESIDES AT 3032 Route 9W, New Windsor

IN THE COUNTY OF Orange AND STATE OF New York

AND THAT HE/SHE IS THE OWNER IN FEE OF 160 Oak Street

Newburgh, New York 12550 (9-3-28)

WHICH IS THE PREMISES DESCRIBED IN THE FOREGOING APPLICA-
TION AND THAT HE/SHE HAS AUTHORIZED Drake Loeb PLLC by Stephen J, Gaba, Esq.
TO MAKE THE FOREGOING APPLICATION AS DESCRIBED THEREIN.

DATED: 6-10-19

OWNER'S SIGNATURE

[Handwritten Signature]

WITNESS' SIGNATURE

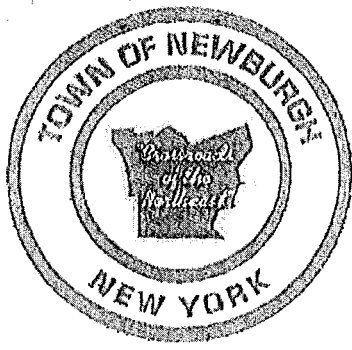
STATE OF NEW YORK: COUNTY OF ORANGE:

SWORN TO THIS 10th DAY OF June 20 19

[Handwritten Signature]

NOTARY PUBLIC

DAWN T LOMBARDI
Notary Public, State of New York
Reg. No. 01L06362369
Qualified in Orange County
Commission Expires 07/31/2021



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

PROXY

Toni Roth, DEPOSES AND SAYS THAT

HE/SHE RESIDES AT 3032 Route 9W, New Windsor

IN THE COUNTY OF Orange AND STATE OF New York

AND THAT HE/SHE IS THE OWNER IN FEE OF 160 Oak Street

Newburgh, New York 12550 (9-3-28)

WHICH IS THE PREMISES DESCRIBED IN THE FOREGOING APPLICA-
TION AND THAT HE/SHE HAS AUTHORIZED Drake Loeb PLLC by Stephen J, Gaba, Esq.
TO MAKE THE FOREGOING APPLICATION AS DESCRIBED THEREIN.

DATED: 6/10/19 Toni Roth

OWNER'S SIGNATURE

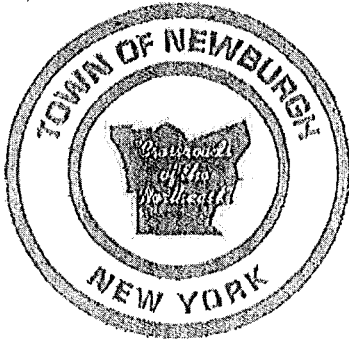
MJ Pj
WITNESS' SIGNATURE

STATE OF NEW YORK: COUNTY OF ORANGE:

SWORN TO THIS 10th DAY OF June 2019

Dawn Lombardi
NOTARY PUBLIC

DAWN T LOMBARDI
Notary Public, State of New York
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PROXY

Peter Scott, DEPOSES AND SAYS THAT

HE/SHE RESIDES AT 160 Oak Street, Newburgh

IN THE COUNTY OF Orange AND STATE OF New York

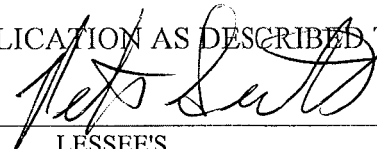
LESSEE

AND THAT HE/SHE IS THE OWNER IN FEE OF 160 Oak Street

Newburgh, New York 12550 (9-3-28)

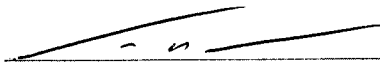
WHICH IS THE PREMISES DESCRIBED IN THE FOREGOING APPLICA-
TION AND THAT HE/SHE HAS AUTHORIZED Drake Loeb PLLC by Stephen J, Gaba, Esq.
TO MAKE THE FOREGOING APPLICATION AS DESCRIBED THEREIN.

DATED: 6-10-19



LESSEE'S

OWNER'S SIGNATURE

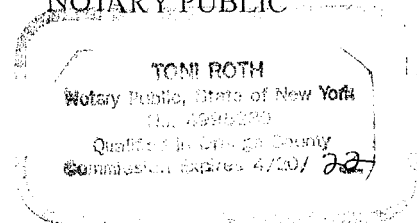


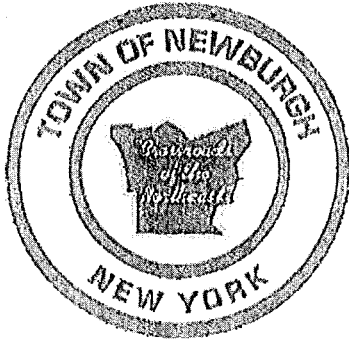
WITNESS' SIGNATURE

STATE OF NEW YORK: COUNTY OF ORANGE:

SWORN TO THIS 10th DAY OF June 2019


NOTARY PUBLIC





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OLD TOWN HALL
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NEWBURGH, NEW YORK 12550

PROXY

Leslie Scott, DEPOSES AND SAYS THAT

HE/SHE RESIDES AT 160 Oak Street, Newburgh

IN THE COUNTY OF Orange AND STATE OF New York

LESSEE

AND THAT HE/SHE IS THE OWNER IN FEE OF 160 Oak Street

Newburgh, New York 12550 (9-3-28)

WHICH IS THE PREMISES DESCRIBED IN THE FOREGOING APPLICA-
TION AND THAT HE/SHE HAS AUTHORIZED Drake Loeb PLLC by Stephen J, Gaba, Esq.
TO MAKE THE FOREGOING APPLICATION AS DESCRIBED THEREIN.

DATED: 6-10-19

Leslie Scott

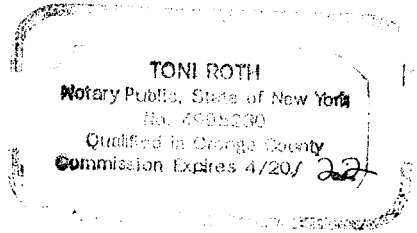
LESSEE'S
OWNER'S SIGNATURE

WITNESS' SIGNATURE

STATE OF NEW YORK: COUNTY OF ORANGE:

SWORN TO THIS 10th DAY OF June 2019

Toni Roth
NOTARY PUBLIC



Short Environmental Assessment Form

Part 1 - Project Information

Instructions for Completing

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

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

Part 1 – Project and Sponsor Information			
Name of Action or Project: Construction of Pole Building Garage			
Project Location (describe, and attach a location map): 160 Oak Street, Newburgh, New York 12550 (SBL: 9-3-28)			
Brief Description of Proposed Action: Construction of a pole building for use of a garage. Building to be 40' x 60' x 23' 5" in size.			
Name of Applicant or Sponsor: Richard Roth and Toni Roth		Telephone: 8459135479	
		E-Mail: tone1015@hotmail.com	
Address: 3032 Route 9W			
City/PO: New Windsor		State: NY	Zip Code: 12553
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 Code Compliance- permit, Town of Newburgh Zoning Board of Appeals- 3 area variances			NO <input type="checkbox"/>
			YES <input checked="" type="checkbox"/>
3. a. Total acreage of the site of the proposed action?		1.60 acres	
b. Total acreage to be physically disturbed?		0.055 acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		1.60 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?	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 checked="" type="checkbox"/>	YES <input type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____ _____	NO <input 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: _____ _____	NO <input type="checkbox"/>	YES <input checked="" 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?	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>	
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?	<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?	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>	
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____			

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply:
 Shoreline Forest Agricultural/grasslands Early mid-successional
 Wetland Urban 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? Indiana Bat	NO	YES
	<input type="checkbox"/>	<input checked="" 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 checked="" type="checkbox"/>	<input type="checkbox"/>
	<input checked="" 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"/>

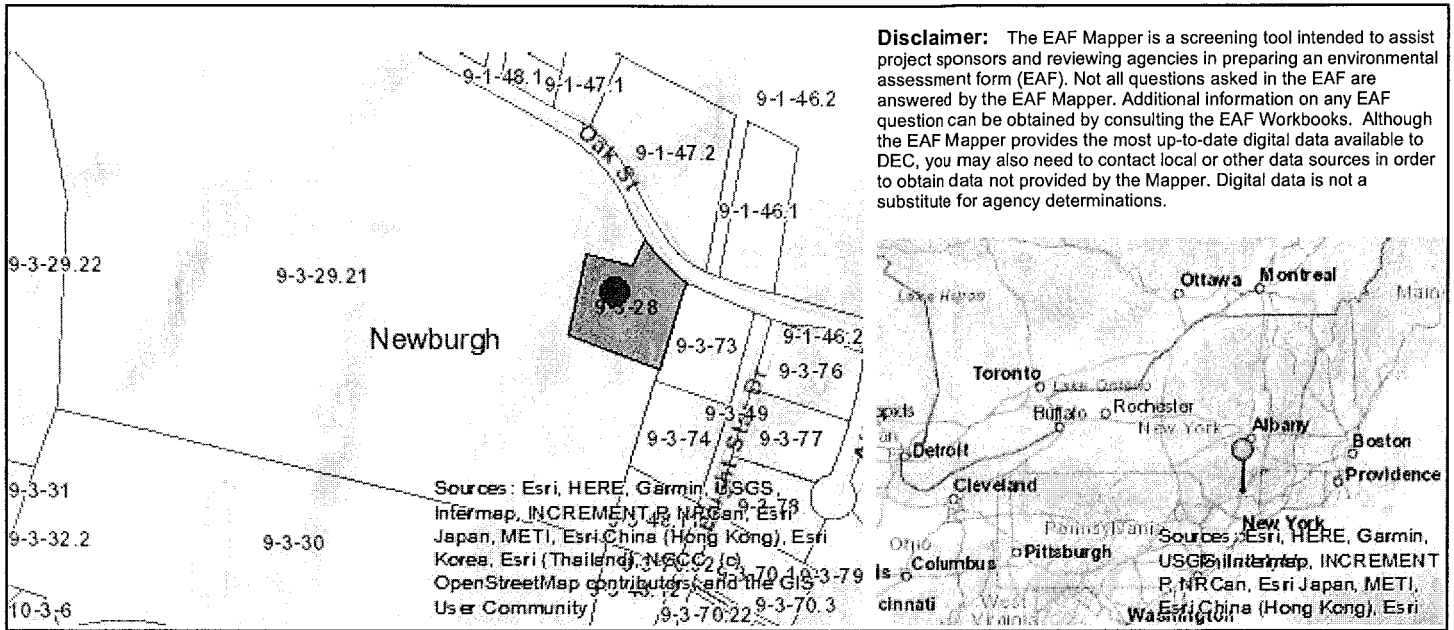
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____ _____	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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 checked="" type="checkbox"/>	<input type="checkbox"/>

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

Applicant/sponsor/name: Richard Roth Date: 6-10-19

Signature:  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]	Yes
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]	Yes
Part 1 / Question 15 [Threatened or Endangered Animal - Name]	Indiana Bat
Part 1 / Question 16 [100 Year Flood Plain]	No
Part 1 / Question 20 [Remediation Site]	No

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

Alana R. Bartley
Aaron C. Fitch
Emily R. Worden
Judith A. Waye

Jennifer L. Schneider
Managing Attorney

*LL.M. in Taxation

June 7, 2019

Town of Newburgh ZBA
308 Gardnertown Road
Newburgh, New York 12550

Re: Appeal of Richard and Toni Roth
160 Oak Street, Town of Newburgh
Our Matter ID: 15168-69616

Dear Chairman Scalzo and Board Members:

This office represents the owners of 160 Oak Street, Richard and Toni Roth, and their tenants, Pete and Leslie Scott, on the above-referenced application to the Town of Newburgh Zoning Board of Appeals ("ZBA"). Our clients are requesting area variances needed to construct an accessory building to be used as a private garage for three cars and a boat and for storage space for their personal property. The subject property is located in the "R3 Residential" ("R3") zoning district.

According to the Town's Building Department, in order to construct the proposed accessory building the applicants need the following variances:

(1) Maximum Square Footage for Accessory Structures:

Permitted	=	1,000 s.f.
Existing	=	1,132 s.f.
Proposed	=	2,595 s.f.

(2) Building Height (new construction)

Permitted	=	15'
Proposed	=	23' 5"

(3) maximum number of vehicle storage.

Permitted	=	4 vehicles
Proposed	=	3 cars and one boat

BRIEF SUMMARY OF THE FACTS

The subject property consists of approximately 1.60 acres fronting on the southerly side of Oak Street. It is improved by a two-story single family dwelling and four sheds which are sized, respectively, at 480 SF, 340 SF, 99 SF and 195 SF. A survey of the property is included with this application for variances.

Adjoining the property on the east is a comparably sized lot improved by a single family dwelling. This lot is screened from the subject property by a broad swath of mature trees.

To the north (i.e., directly across Oak Street) is a vacant wooded lot that slopes steeply downward away from Oak Street. Whether the lot is even susceptible of development is problematic but, if it ever is developed, it seems certain that any construction will be a substantially lower elevation than the subject property.

Adjoining the subject property on the west and in the south is vacant, heavily wooded, land.

Submitted herewith is a google earth satellite image of the subject property and the surrounding lands. The subject property appears in the center-left of the image just above the words "Oak St".

The applicants wish to construct the new accessory building at the 160 Oak Street property for the purpose of using it as a garage for their three (3) personal automobiles (classic cars) and a boat (i.e., a 32 foot Baha speed boat) and for storage of their personal possessions.

Last year, Mr. Roth submitted an application to the Town Building Inspector for a building permit to construct a "garage" at a size of 40' x 72' and 28' in height on the property. The Building Inspector denied the application, finding that the application exceeded the Town Zoning Code's requirements for maximum square footage for accessory structures (1,000 s.f. allowed and 4,012 s.f. proposed) and building height (15' allowed and 28' proposed). Additionally, even though Mr. Roth only proposed to store three (3) cars and one (1) boat in the "garage", the Building Inspector found that a variance was required from the Zoning Code's limit of a maximum of four (4) vehicles stored in a garage. While the Building Inspector did not explain why he felt this last variance was required, presumably it was merely because the size of the proposed building is sufficient to accommodate more than four vehicles.

In 2018, Roth applied to the Town's ZBA for variances from the Zoning Code provisions cited by the Building Inspector. The ZBA denied that application, and a copy of its decision is enclosed.

The parties have now substantially revised their building plans in regard to the proposed accessory building. They have decreased the size of the building to 40' x 60' x 23.5' and they propose to remove three of the four existing sheds on the property in order to minimize the size of the variance to accessory structure square footage they are seeking. Additionally, the applicants have changed the color scheme and added windows facing the roadway to give the accessory building a more residential appearance. Lastly, the applicants propose that a condition be imposed on any variance granted expressly limiting the number of vehicles which may be parked in the accessory building to four (4).

The Building Inspector has issued a denial, once again citing the Town Zoning Code's requirements for maximum square footage, building height and maximum vehicles storage. The applicants have now submitted this *substantially different application* to the ZBA for approval of the smaller accessory building subject to removal of the sheds and imposition of conditions limiting the number of vehicles stored/parked in the building to four (4) vehicles and requiring planting and maintenance of two white pines in the front yard area between the driveway to the accessory building and the road.

REQUEST FOR AN AREA VARIANCE

- (A) WHETHER GRANT OF THE REQUESTED VARIANCES WILL PRODUCE AN UNDESIRABLE CHANGE IN THE CHARACTER OF THE NEIGHBORHOOD OR BE A DETRIMENT TO NEARBY PROPERTIES?

Grant of the requested variances will have no impact whatsoever on nearby properties. As was discussed above, the subject property is secluded and extremely well screened from other properties in the neighborhood. The area in which the accessory building is proposed to be built will not be visible from other properties in the neighborhood. To the extent that the accessory building would have some limited visibility from Oak Street, the proposed planting of two white pines will screen the accessory building from such views as well. In short, the proposed new accessory building would be visible only from on the subject property and, in fact, there is a swath of trees on the property which will screen the accessory building from the house on the property.

Likewise, grant of the requested variances will not produce any change in the character of the neighborhood. Oak Street is an older neighborhood with an eclectic collection of buildings and structures. As will be discussed at the public hearing, there are several properties with multiple large buildings on them and/or garages that are large in proportion to the dwellings on the lot. While it may be somewhat unconventional to build an accessory building larger than the dwelling on a particular property, Oak Street is an unconventional neighborhood and the new accessory building proposed by the applicants will in no way produce an undesirable change in its character.

(B) WHETHER THE BENEFIT SOUGHT BY THE APPLICANT CAN BE ACHIEVED BY SOME METHOD, FEASIBLE FOR THE APPLICANT TO PURSUE, OTHER THAN AN AREA VARIANCE?

The benefit sought by the applicant is construction of an accessory building to house their cars and boat and for storage of personal items. The applicants' property already meets or exceeds the Zoning Code's maximum permitted square footage requirements and, therefore, the proposed accessory building cannot be built without a variance.

Equally important, the benefit sought by the applicant is not just an accessory building, but rather an accessory building with sufficient storage for three (3) cars, one (1) boat, and their personal possessions. As will be discussed at the public hearing, the space required to accomplish this is greater than the amount allowed by the Zoning Code and, therefore, a variance is necessary.

(C) WHETHER THE REQUESTED AREA VARIANCE IS SUBSTANTIAL?

From a mathematical standpoint, the requested variances are substantial. But there are mitigating factors to be considered on this point. In regard to maximum square footage, the applicants are removing three existing sheds to minimize the size of the variance requested. Likewise, in regard to maximum number of vehicles stored, to the extent that a variance is even required the applicants are willing to accept a condition expressly limiting the number of vehicles stored to four (4), which conforms with the Code's requirements. In regard to building height, it is less of a concern in our case because the property is so well screened that the accessory building will not be visible from other properties.

(D) WHETHER THE PROPOSED VARIANCE WILL NOT HAVE AN ADVERSE EFFECT OR IMPACT ON THE PHYSICAL OR ENVIRONMENTAL CONDITIONS IN THE NEIGHBORHOOD OR DISTRICT?


It seems clear that the requested variances, indeed the entire construction of the new accessory building, will not have any adverse physical or environmental impacts. The new accessory building will not have any visual impacts, drainage impacts, impacts to traffic, etc. Since the use of the accessory building is simply to store three cars and a boat and for storage of personal items, there are anticipated adverse impacts at all.

(E) WHETHER THE HARDSHIP HAS BEEN SELF CREATED?

Under New York State law the fact that a property owner purchased land with knowledge of applicable zoning restrictions renders any difficulty self-created. However, as will be discussed at the public hearing, this factor alone does not justify denial of the variances sought on this application.

We look forward to addressing the Zoning Board further on this matter at the public hearing.

Very truly yours,



STEPHEN J. GABA

SJG/ev/751709
Enclosures



TOWN OF NEWBURGH

~Crossroads of the Northeast~

**CODE COMPLIANCE DEPARTMENT
308 GARDNERTOWN ROAD
NEWBURGH, NEW YORK 12550**

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

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

Date: 05/01/2019

Application No. 19-0346

**To: Richard Roth
3032 Route 9W
New Windsor, NY 12553**

**SBL: 9-3-28
ADDRESS: 160 Oak St**

ZONE: R3

PLEASE TAKE NOTICE that your application dated 04/17/2019 for permit to build a 40' x 60' x 23'-5" accessory building on the premises located at 160 Oak St is returned herewith and disapproved on the following grounds:

Town of Newburgh Municipal Code Sections:

- 1) 185-15-A-4 / The maximum allowed square footage based on the formula is 1000 SF.
- 2) 185-15-A-1 / The maximum allowed height of an accessory building is 15'
- 3) Bulk table schedule 5 / No more than 4 vehicle storage.


Joseph Mattina

Cc: Town Clerk & Assessor (500')
File

Town of Newburgh Code Compliance

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

NAME: Richard Roth **Building Application #** **19-0346**

ADDRESS: 3032 Rt. 9W New Windsor NY 12553

PROJECT INFORMATION: **AREA VARIANCE** USE VARIANCE

TYPE OF STRUCTURE: **40' x 60' x 23'-5" @ 160 Oak Street**

SBL: 9-3-28 **ZONE:** R-3 **ZBA Application #** _____

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

	MINIMUM	EXISTING	PROPOSED	VARIANCE	VARIANCE PERCENTAGE
LOT AREA	1000 SF	1132 SF	3532 SF	2532 SF	253.20%
LOT WIDTH					
LOT DEPTH					
FRONT YARD					
REAR YARD					
SIDE YARD					
MAX. BUILDING HEIGHT	15'		23'-5"	8'-5"	57.33%
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: **There are 4 existing accessory buildings totaling 1132 square feet / Previously applied for a 40' x 72' accessory building in June 2018**

VARIANCE(S) REQUIRED:

- 1 185-15-A-4 / The maximum allowed square footage permitted is 1000 sf.
- 2 185-15-A-1 / The maximum allowed height of an accessory building is 15'
- 3 Bulk table schedule 5 / Storage of not more than 4 vehicles.
- 4 _____

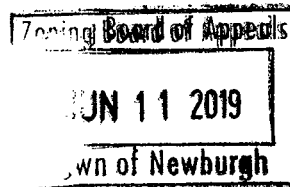
REVIEWED BY: Joseph Mattina **DATE:** 1-May-19

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT—THIS INSTRUMENT IS NOT VALID UNLESS SIGNED BY ALL PARTIES TO THE INSTRUMENT.
9-3-28

THIS INDENTURE, made the

1st day of October nineteen hundred and ninety-three

BETWEEN MARY ANN FARKAS, 17 Dogwood Lane, Newburgh, New York 12550



party of the first part, and RICHARD ROTH and TONI ROTH, husband and wife,
174 Route 9W South, Newburgh, New York 12550

orig
seen.

party of the second part,
WITNESSETH, that the party of the first part, in consideration of TEN AND
----- (\$10.00) ----- 00/100 dollars,

lawful money of the United States, and other good and valuable consideration paid
by the party of the second part, does hereby grant and release unto the party of the second part, the heirs, or
successors and assigns for 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, Orange County, New York bounded and
described as follows:

Beginning at a point marked by an iron rod set in the westerly
line of Oak Street, said point being in the division line between
lands now or formerly Blooming Grove Equipment Corporation on the
east L. 3542 P. 88 and lands to be conveyed to Richard and Toni
Roth on the west and running thence:

1. Along lands now or formerly Blooming Grove Equipment
Corporation and partially along a stone wall S. 25-23-09 W.

Mary K. Vitay as surviving tenant by the entirety. The said
Mary K. Vitay having died a resident of the Town of Newburgh
on April 17, 1993, leaving a Last Will and Testament which
was duly admitted to probate on the 16th day of August 1993.
By paragraph "SECOND" of said Last Will and Testament the
premises in question were devised to Mary Ann Farkas.

STATE OF NEW YORK, COUNTY OF Orange ss:

On the 1st day of October 19 93, before me personally came Mary Ann Farkas

to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that she executed the same.

David E. Lower

Notary Public
DAVID E. LOWER

Notary Public, State of New York
Residing in Newburgh, N. Y.

Commission Expires March 30, 19

STATE OF NEW YORK, COUNTY OF 1. 31.94 ss:

On the day of 19 , before me personally came

to me known, who, being by me duly sworn, did depose and say that he resides at No.

that he is the
of

, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

STATE OF NEW YORK, COUNTY OF ss:

On the day of 19 , before me personally came

to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that executed the same.

STATE OF NEW YORK, COUNTY OF ss:

On the day of 19 , before me personally came

the subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he resides at No.

; that he knows
to be the individual

described in and who executed the foregoing instrument; that he, said subscribing witness, was present and saw

execute the same; and that he, said witness, at the same time subscribed his name as witness thereto.

Bargain and Sale Deed

Covenant Against Grantor's Acts With

Title No. _____

MARY ANN FARKAS

SECTION

BLOCK

LOT

COUNTY OR TOWN

TOGETHER with all rights, 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 all the estate and rights of the party of the first part in and to said premises.

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









1000 KLS

7-01 11:55 AM Edit
nm
hour 28 minutes
7-01 12:22 PM Back Clear Close



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

STATE OF NEW YORK: COUNTY OF ORANGE:

I RICHARD ROTH, being duly sworn, depose and say that I did on or before

June 13, 2019, post and will thereafter maintain at

160 Oak St (9-3-28) 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.

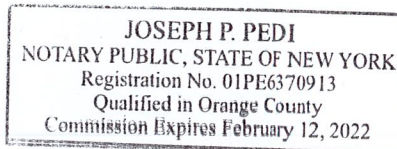
The applicant shall maintain and update notice(s) (with amended information if there is any change to the information contained in the original Notice of Hearing) until after the Public Hearing is closed. The Notice must then be removed and property disposed of within ten (10) days of the close of the 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 12

day of June, 2019.



Notary Public



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

Google Maps 160 Oak St



Imagery ©2019 Google, Map data ©2019 100 ft