



# TOWN OF NEWBURGH

*Crossroads of the Northeast*

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

2836-20

## APPLICATION

OFFICE OF ZONING BOARD  
(845) 566-4901

DATED: 05/02/2020

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

I (WE) FRANCIS J. SPINELLI PRESENTLY  
RESIDING AT NUMBER 506 EAST MOUNTAIN ROAD NORTH, COLD SPRING, NY 10516

TELEPHONE NUMBER 914-494-5974  
INSTRUCTOR.FJSPINELLI@GMAIL.COM

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:

20-4-3.2 (TAX MAP DESIGNATION)  
64 HOLMES ROAD, NEWBURGH (STREET ADDRESS)  
AR (AG DISTRICT 1) (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 PROVISION OF THE ZONING LAW APPLICABLE, (INDICATE THE SECTION AND SUBSECTION OF THE ZONING LAW APPLICABLE BY NUMBER; DO NOT QUOTE THE LAW).

BULK TABLE SCHEDULE 2, COLUMN A -  
PRIVATE GARAGE NOT MORE THAN 4 VEHICLES





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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: 04/14/2020
- 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: RELIEF FROM BULK TABLE SCHEDULE 2, COLUMN A - NO MORE THAN 4 VEHICLES - ISSUANCE OF BUILDING PERMIT

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:

PLEASE 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:

PLEASE SEE ATTACHED  
\_\_\_\_\_  
\_\_\_\_\_

c) THE REQUESTED AREA VARIANCE IS NOT SUBSTANTIAL BECAUSE:

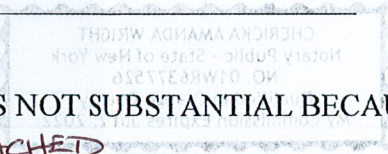
PLEASE SEE ATTACHED  
\_\_\_\_\_  
\_\_\_\_\_

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

PLEASE SEE ATTACHED  
\_\_\_\_\_  
\_\_\_\_\_

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

PLEASE SEE ATTACHED  
\_\_\_\_\_  
\_\_\_\_\_



6. IF AN AREA VARIANCE IS REQUESTED:

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

Our proposed single family residence is located in the center portion of our 23.5 acre tree farm and will be a minimum of 156' from any lot line, minimizing any visual impact on neighboring properties. The private garage is intended for the interior storage of our large 5<sup>th</sup> wheel RV and three personal vehicles, which is intended by the Code. The interior storage would not produce any undesirable change in the character of the neighborhood, and will also reduce the visual impact on adjoining properties.

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:

The applicant is seeking to protect from the weather and maintain a large 5<sup>th</sup> wheel RV, farm tractors, implements, and three personal vehicles. A separate building to facilitate such would be allowed by zoning, but is not economically feasible or energy efficient. A separate building would also more likely have an undesirable change to the neighborhood character.

c) THE REQUESTED AREA VARIANCE IS NOT SUBSTANTIAL BECAUSE:

We are seeking to store only four vehicles in the private garage, which is expressly permitted under the code. One of these vehicles is larger than the typical automobile. Even if it is determined that a variance is required, it is *de minimis*.

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 site of our proposed single family residence is in an AR zone, in Agricultural District 1. The proposed residence is shielded by existing trees, meets or exceeds current energy code requirements, and will ultimately have a smaller carbon footprint than the average older single family residence.

e) THE HARDSHIP HAS NOT BEEN SELF CREATED BECAUSE:

We designed a structure which, in our interpretation, did not require a variance. In a notice dated April 14, 2020, Joseph Mattina denied our permit and referred us to the Zoning Board of Appeals. In any case, according to Section 267-b(3)(b)(5), whether the difficulty is self-created shall not preclude the granting of the variance.





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OFFICE OF ZONING BOARD  
(845) 566-4901

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

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

*[Handwritten Signature]*  
\_\_\_\_\_  
PETITIONER(S) SIGNATURE

STATE OF NEW YORK: COUNTY OF ORANGE:

SWORN TO THIS 19 DAY OF May 2020

*Chericka Amanda Wright*  
\_\_\_\_\_  
NOTARY PUBLIC

CHERICKA AMANDA WRIGHT  
Notary Public - State of New York  
NO. 01WR6377526  
Qualified in Orange County  
My Commission Expires Jul 2, 2022

NOTE: NYS GML Section 239-m (3) for proposed actions that are within 500 feet of the properties or thresholds listed in the statute the Zoning Board of Appeals is required to send a copy of the complete application to the Orange County Department of Planning to be reviewed prior to Zoning Board of Appeals decision. And also NYS GML Section 239-NN requires notification for any proposed actions, to the Municipal Clerk, within 500 feet of the Border of that adjoining County, Town or City.  
**(ALL MATERIALS REGARDING THE APPLICATION MUST BE SUBMITTED TO THE ZONING BOARD OFFICE FOR REVIEW NO LATER THAN 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)

# 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: Single Family Residence of Francis J. and Kathleen L. Spinelli			
Project Location (describe, and attach a location map): Orange County, Town of Newburgh, 20 - 4 - 3.2; also known as 64 Holmes Road, Newburgh, NY 12550			
Brief Description of Proposed Action: Construction of a Single Family Residence with attached accessory garage and septic system (SDS).			
Name of Applicant or Sponsor: Francis J. Spinelli		Telephone: 914 - 494 - 5974	
		E-Mail: instructor.fjspinelli@gmail.com	
Address: 506 East Mountain Road North			
City/PO: Cold Spring		State: New York	Zip Code: 10516
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 checked="" 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: T/O Newburgh Code Compliance Department (Building Permit)			NO <input type="checkbox"/>
			YES <input checked="" type="checkbox"/>
3. a. Total acreage of the site of the proposed action?		23.6 acres	
b. Total acreage to be physically disturbed?		3 acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		23.6 acres	
4. Check all land uses that occur on, are adjoining or near the proposed action:			
<input type="checkbox"/> Urban <input checked="" 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 checked="" type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other(Specify):			
<input type="checkbox"/> Parkland			



5. Is the proposed action, a. A permitted use under the zoning regulations?	NO	YES	N/A
	<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	YES	
	<input type="checkbox"/>	<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	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels? b. Are public transportation services available at or near the site of the proposed action? c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	<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	YES	
	<input type="checkbox"/>	<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: _____ Private well being drilled on site	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?  b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency? b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	





Project:

Date:

**Short Environmental Assessment Form  
Part 2 - Impact Assessment**

**Part 2 is to be completed by the Lead Agency.**

Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept “Have my responses been reasonable considering the scale and context of the proposed action?”

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing:	<input type="checkbox"/>	<input type="checkbox"/>
a. public / private water supplies?	<input type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input type="checkbox"/>	<input type="checkbox"/>
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input type="checkbox"/>	<input type="checkbox"/>



## TOWN OF NEWBURGH

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### CODE COMPLIANCE DEPARTMENT

308 GARDNERTOWN ROAD  
NEWBURGH, NEW YORK 12550

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

# 2836-20

### NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

Date: 04/14/2020

Application No. 19-0745

To: Francis Spinelli  
506 East Mountain Road North  
Cold Spring, NY 10516

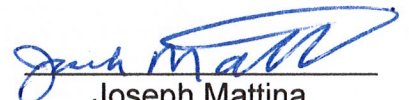
SBL: 20-4-3.2  
ADDRESS: 64 Holmes Rd

ZONE: AR

PLEASE TAKE NOTICE that your application dated 07/16/2019 for permit to build a single family dwelling with a 80' x 60' / 4800 square foot 4 plus car garage. on the premises located at 64 Holmes Rd is returned herewith and disapproved on the following grounds:

Town of Newburgh Municipal Code:

1) Bulk table schedule 2 column A/ Private garages not more than 4 vehicles

  
Joseph Mattina

Cc: Town Clerk & Assessor (500')  
File



# Town of Newburgh Code Compliance

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

**NAME:** Francis Spinelli      **Building permit #** 19-0745

**ADDRESS:** 506 East Mountain Rd. North Cold Spring NY 10516

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

**TYPE OF STRUCTURE:** 4800 sf garage @ 64 Holmes Rd.

**SBL:** 20-4-3.2      **ZONE:** AR      **ZBA Application #** 2836-20

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

	MINIMUM	EXISTING	PROPOSED	VARIANCE	VARIANCE PERCENTAGE
Storage of vehicles	4.00	80' x 60' = 4800 sf / Capable of more than 4 vehicles			
LOT WIDTH					
LOT DEPTH					
FRONT YARD					
REAR YARD					
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:** Building a 2520 sf single family dwelling with a 4800 sf garage

**VARIANCE(S) REQUIRED:**

- 1 Bulk table schedule 2 column A / Private garage not more than 4 vehicles
- 2 \_\_\_\_\_
- 3 \_\_\_\_\_
- 4 \_\_\_\_\_

**REVIEWED BY:** Joseph Mattina      **DATE:** 14-Apr-20























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

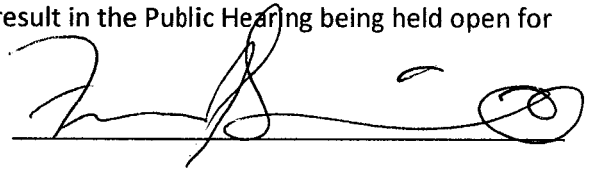
STATE OF NEW YORK: COUNTY OF ORANGE:

I FRANCIS J. SPINELLI, being duly sworn, depose and say that I did on or before

June 11, 2020, post and will thereafter maintain at

64 Holmes Rd 20-4-3.2 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 4

day of June, 2020.

*Chericka Amanda Wright*  
*Notary Public*

