



# TOWN OF NEWBURGH

*Crossroads of the Northeast*

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

OFFICE OF ZONING BOARD  
DARRIN SCALZO, CHAIRMAN  
SIOBHAN JABLESNIK, SECRETARY

TELEPHONE 845-566-4901  
FAX LINE 845-564-7802



## APPLICATION

DATED: Sept 30, 2024

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

I (WE) Kurt E. Johnson PRESENTLY

RESIDING AT NUMBER 331 Mountain Road, Bloomingburg, N. Y. 12721

TELEPHONE NUMBER (845)-208-2250

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:

52-1-7 (TAX MAP DESIGNATION)  
40 Old South Plank Road (STREET ADDRESS)  
Current R1 (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 PROVISION OF THE ZONING LAW APPLICABLE, (INDICATE THE SECTION AND SUB-SECTION OF THE ZONING LAW APPLICABLE BY NUMBER; DO NOT QUOTE THE LAW).

185-48.3  
 \_\_\_\_\_  
 \_\_\_\_\_

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:

\_\_\_\_\_

4. DESCRIPTION OF VARIANCE SOUGHT: \_\_\_\_\_

\_\_\_\_\_

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:

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- 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:

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

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

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

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7. ADDITIONAL REASONS (IF PERTINENT)

Interpretation Requested. I was constructing a dock and given a stop work order for constructing a deck without a permit.

See 7(a) attached.

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

STATE OF NEW YORK: COUNTY OF ORANGE:

SWORN TO THIS 30<sup>th</sup> DAY OF SEPTEMBER 2024

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

**WORTUNATO PAGLIARO**  
*Notary Public, State of New York*  
No. 01PA6044676  
*Qualifies in Rockland County*  
Commission expires July 10, 2026

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 13 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)



7 (a). I believe there is no requirement for a permit as I am building a dock not a deck. Virtually every house on the lake has a dock which is defined in the code as a “structure, whether affixed or floating [and] includes crib docks”.

Section 71-4 captioned “Building permits required” applies to “any work which must conform to the Uniform Code and/or the Energy Code”. I do not understand either of those codes to be applicable to a dock.

N. Y. Building Code §105.10 requires a Building Permit for construction of a building on structure.

Chapter 185-48.3 addresses “lakefront access lots”. Sub division I provides that docks may be constructed on lakefront lots (my lot) or Lakefront Access Lots. It then specifies 1) maximum size (2) 10’ front set back, 3) non- interference, 4) use of treated lumber and 5) such dock shall also comply with all other applicable Town laws and Ordinances. Section I is directly applicable to my project does not specify a building permit requirement.]

*Short Environmental Assessment Form*  
*Part 1 - Project Information*

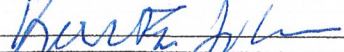
Instructions for Completing

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			
Kurt E. Johnson			
Name of Action or Project:			
Construction of a Dock			
Project Location (describe, and attach a location map):			
40 Old South Plank Road see attached			
Brief Description of Proposed Action:			
Construction of a dock in front of residence			
Name of Applicant or Sponsor:		Telephone:	
Kurt E. Johnson			
		E-Mail:	
Address:			
331 Mountain Road			
City/PO:		State: -	Zip Code:
Bloomingburg		New York	12721
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation?			NO
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.			YES
			<input checked="" type="checkbox"/>
			<input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other governmental Agency?			NO
If Yes, list agency(s) name and permit or approval:			YES
			<input type="checkbox"/>
			<input checked="" type="checkbox"/>
3.a. Total acreage of the site of the proposed action?		_____ 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?		_____ acres	
4. Check all land uses that occur on, adjoining and near the proposed action.			
<input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input 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, 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?	NO	YES	N/A
	<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	
_____ Waterfront Lot on Orange Lake	<input type="checkbox"/>	<input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Are public transportation service(s) available at or near the site of the proposed action?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?	NO	YES	
	<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	
_____ N/A	<input type="checkbox"/>	<input type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply? _____	NO	YES	
_____ N/A If No, describe method for providing potable water: _____	<input type="checkbox"/>	<input type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities? _____	NO	YES	
_____ N/A If No, describe method for providing wastewater treatment: _____	<input type="checkbox"/>	<input type="checkbox"/>	
12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Is the proposed action located in an archeological sensitive area?	NO	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?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
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	
_____ Dock would extend approximately 10 ft. _____ over the waters of Orange Lake	<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 checked="" 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 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	
_____ N/A	<input type="checkbox"/>	<input type="checkbox"/>	
16. Is the project site located in the 100 year flood plain? _____	NO	YES	
_____ N/A	<input type="checkbox"/>	<input type="checkbox"/>	
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes,	NO	YES	
a. Will storm water discharges flow to adjacent properties? <input type="checkbox"/> NO <input type="checkbox"/> YES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: _____	NO	YES	
_____ <input type="checkbox"/> NO <input type="checkbox"/> YES	<input type="checkbox"/>	<input type="checkbox"/>	

18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: _____ _____ _____	NO   <input checked="" type="checkbox"/>	YES   <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   <input checked="" type="checkbox"/>	YES   <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   <input checked="" type="checkbox"/>	YES   <input type="checkbox"/>
I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE		
Applicant/sponsor name: Kurt E. Johnson,		Date: September 30, 2024
Signature: 		

DEED

THIS INDENTURE, made this 6<sup>TH</sup> day of December, 2017

CERTIFIED TO BE A TRUE AND ACCURATE COPY BY

Between

COUNTY OF ORANGE, a municipal corporation organized and existing under the laws of the State of New York, with offices located at 255 Main Street, Goshen, New York, party of the first part, and

Kurt E. Johnson, residing at 331 Mtn Rd, Bloomingburg, NY 12721 party of the second part.

*[Signature]*  
**FORTUNATO PAGLIARO**  
Notary Public, State of New York  
No. 01PA6044676  
Qualified in Rockland County  
Commission Expires July 10, 2026

WITNESSETH that the party of the first part, in consideration of the sum of \$60,000.00 DOLLARS, and other valuable consideration paid by the party of the second part, does hereby remise, release and quitclaim unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

All these certain plots, pieces or parcels of land, with the buildings and improvements thereon erected, situate, lying and being in the

Town of Newburgh, designated on the Orange County Tax Map as: 52-1-7.

BEING the same premises conveyed to County of Orange by deed recorded in the Orange County Clerk's Office on 8/25/2017 in Liber 14280 of Deeds at page 1060. Said premises being formerly owned by County of Orange.

TOGETHER, with all right, title and interest, if any, of the party of the first part of, in and to any streets and roads abutting the above-described premises to the centerlines thereof, exclusive of County streets and roads.

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 or successors and assigns of the party of the second part forever.

The word "party" shall be construed as if it reads "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF the party of the first part has caused these presents to be signed by its duly authorized officer.

IN PRESENCE OF:

COUNTY OF ORANGE

By *[Signature]*  
Steven M. Neuhaus  
County Executive

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

On the 6<sup>TH</sup> day of December, 2017, before me, the undersigned, a Notary Public in and for said State, personally appeared Steven M. Neuhaus, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which individual acted, executed the instrument.

*[Signature]*  
Signature of Notary

NOTICE: An alteration in the description of the parcel conveyed or in the name of the grantee may affect the validity of this Deed.

Kurt E. Johnson  
331 Mtn Rd  
Bloomingburg, NY 12721

DOREEN HAMEL  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01HA6175975  
Qualified in Orange County  
My Commission Expires October 22, 2019



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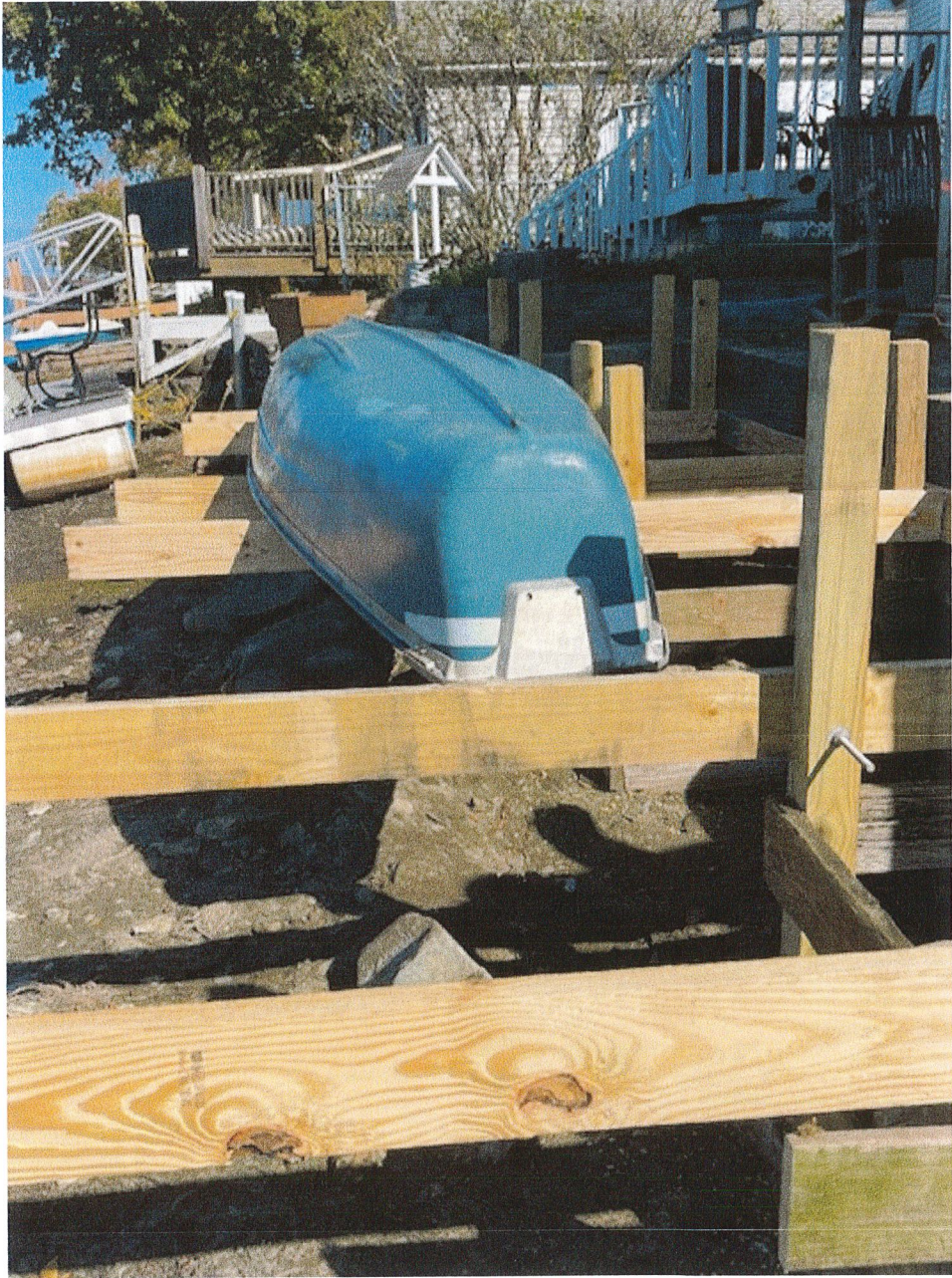
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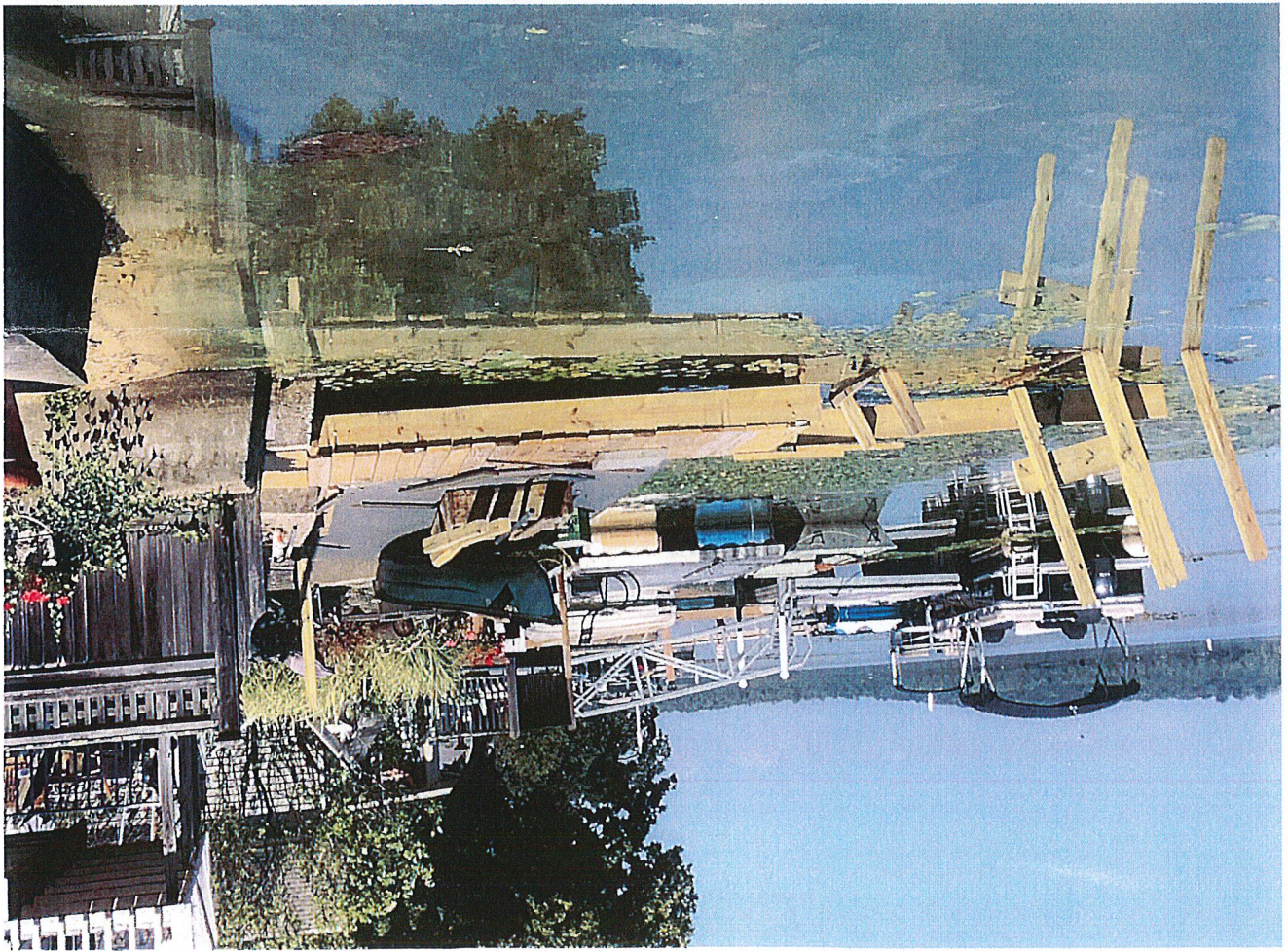
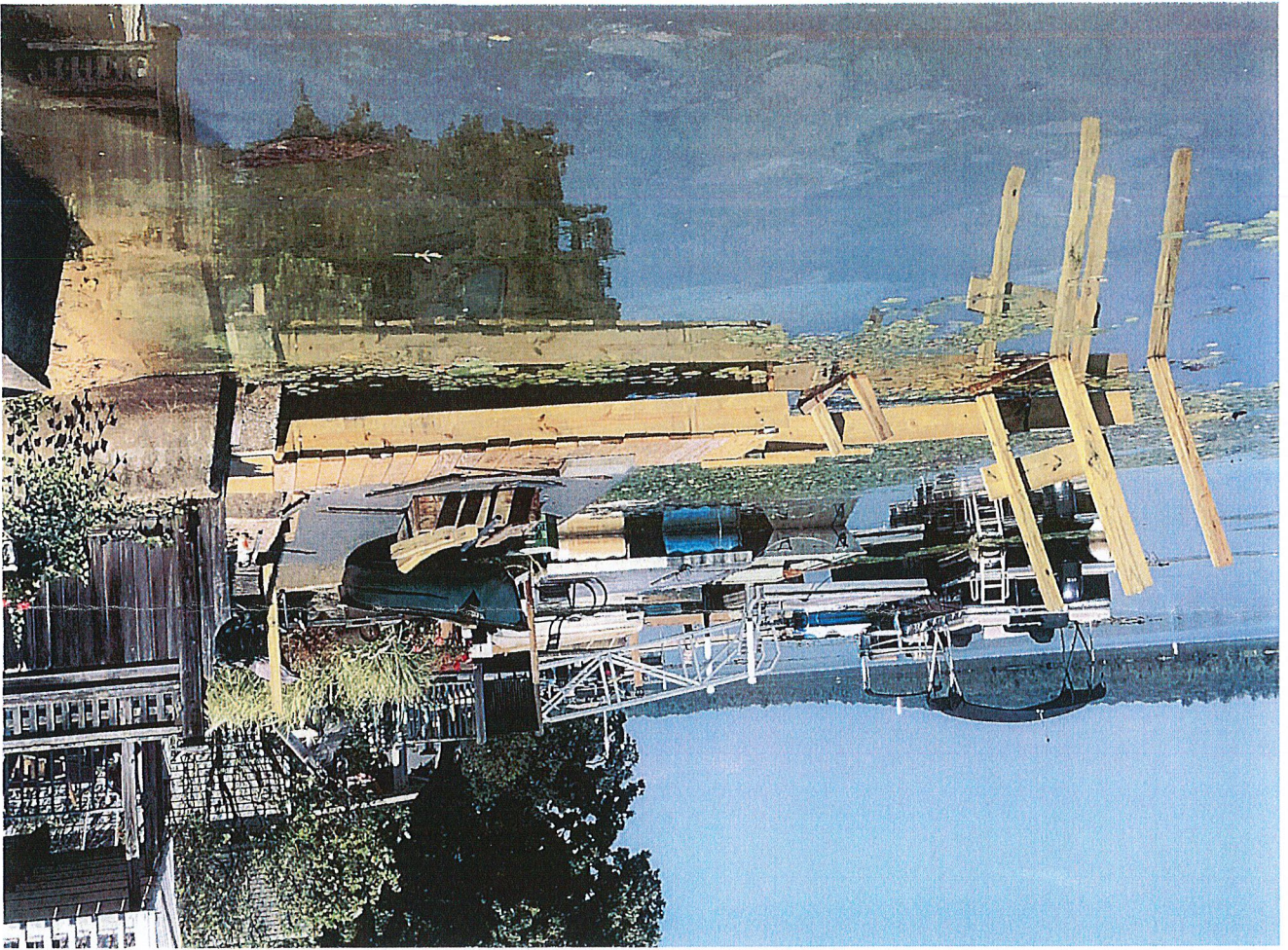














# TOWN OF NEWBURGH

*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

## NOTICE OF COMPLAINT AND VIOLATION, ORDER TO REMEDY

DATE: 08/27/2024

TO: Kurt Johnson  
331 Mountain Rd  
Bloomingburg, NY 12721

SEC-BLK-LOT: 52-1-7  
LOCATION: 40 Old S Plank Rd. Newburgh, NY 12550  
COMPLAINT NO 24-0201

**PLEASE TAKE NOTICE, that there exist violations of the 2020 Building Code of the New York State and Town of Newburgh Municipal Code based on observations by the undersigned Code Compliance Officer on August 27, 2024 at the location described above. This property's Tax Identifier on Old S Plank Rd. is 52-1-7 and the owner of record is Kurt Johnson. The violations observed on that parcel are as follows; It was observed on 08/27/2024 that work is in progress without the required building permit and no application was submitted. The work being performed was rebuilding a deck adjoined to a new dock being built over the water. Besides local and state codes governing construction permits, approval from the NYS D.E.C, Town Zoning Board and an engineer's design may be required.**

- A.) Working without a permit, performing complete interior renovation including framing, plumbing, electrical and other work, in violation 2020 Building Code of NY State. Section 105 statute 105.2 Building Permits.
- B.) Working without a permit, performing complete interior renovation including framing, plumbing, electrical and other work, in violation of Town of Newburgh Municipal Code Article 3 Section 71-8-A

You are also referred to the annexed Order(s) to Remedy

**A[NY] 105.2 Building permits.** No person or entity shall commence, perform, or continue any work that must conform with the *Uniform Code* and/or *Energy Code* unless:

1. Such person or entity has applied to the *authority having jurisdiction* for a *building permit*,
2. The *authority having jurisdiction* has issued a *building permit* authorizing such work,
3. Such *building permit* has not been revoked or suspended,

and

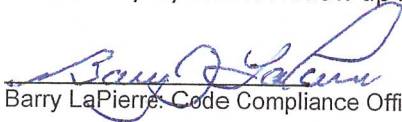
4. Such *building permit* has not expired.

B.) Town of Newburgh Municipal Code\Chapter 71 - Building Construction\Article III - Building Permits and Certificates of Occupancy \71-8 When Required\71-8(A) **Which provides as follows:** A. Improvements or demolition. No person shall commence the construction, alteration, conversion, repair, removal or demolition of any building, structure, sign or sanitary facilities thereto, excepting agricultural equipment in existing farm structures, without first obtaining a building permit from the Building Inspector. No permit shall be required for ordinary nonstructural repairs.

YOU ARE THEREFORE DIRECTED AND ORDERED to comply with the law and to remedy the condition above mentioned forthwith on or before 09/30/2024.

YOU ARE THEREFORE DIRECTED AND ORDERED to comply with the law and to remedy the condition above mentioned forthwith on or before 09/30/2024.

Fines/Penalties: Please take further notice that the Town of Newburgh Zoning Code, section 185-52, imposes civil penalties and fines up to \$350 for the first violation; between \$350 and \$700 for a second violation within a five-year period; and \$700 to \$1,000 for a third violation within a period of five years, and that each week's continued violation constitutes a separate additional violation. Pursuant to the New York State Executive Law, section 382.2, violations of the Property Maintenance Code can result in fines of up to \$1,000 per day. The commencement date for the penalties shall be 04/19/2023. A follow up inspection for compliance of the violations within will be conducted on 05/18/2023.



Barry LaPierre, Code Compliance Officer / Building Inspector

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

STATE OF NEW YORK: COUNTY OF ORANGE:

I Randie Earlinghouse, being duly sworn, depose and say that I did on or before

October 10, 2024, post and will thereafter maintain at

40 Old S Plank Rd 52-1-7 R 1 Zone in the Town of Newburgh, New York, at or near the front

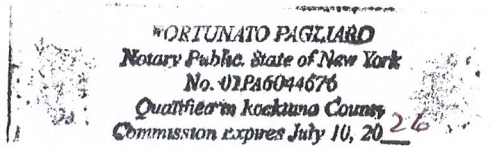
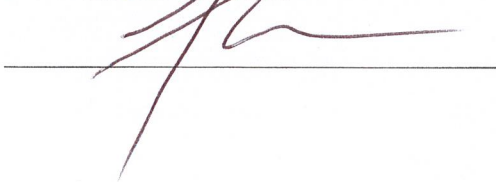
property line(s) and within view of each fronting street a copy(ies) of the Notice of Public Hearing, which notice was in the form attached hereto.

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 9<sup>th</sup>

day of October, 2024.







TOWN OF NEWBURGH  
TOWN CLERK  
111 Hudson Street  
Newburgh, NY 12551

NOTICE TO PROPERTY OWNERS OF PROPERTY  
IN THE TOWN OF NEWBURGH  
RE: ZONING BOARD OF APPEALS

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN THAT PROPOSED ZONING BOARD OF APPEALS  
HEARING WILL BE HELD ON THE 15th DAY OF APRIL 2018 AT 7:00 P.M. AT THE  
TOWN CLERK'S OFFICE, 111 HUDSON STREET, NEWBURGH, NY 12551. THE  
MATTER TO BE HEARD IS THE APPEAL OF THE ZONING BOARD OF APPEALS  
DECISION DATED 12/15/17 IN MATTER OF: [Name Redacted] 2017-0018.

THE TOWN OF NEWBURGH ZONING BOARD OF APPEALS IS COMPOSED OF THE  
MEMBERS LISTED AT: [Name Redacted] 2017-0018.

IF YOU HAVE ANY QUESTIONS REGARDING THIS MATTER, PLEASE CONTACT THE  
TOWN CLERK AT: [Name Redacted] 2017-0018.

2018

*[Signature]*