



**Fox Rothschild** LLP  
ATTORNEYS AT LAW

Mail: P. O. Box 5231, Princeton, NJ 08543-5231

Princeton Pike Corporate Center  
997 Lenox Drive  
Building 3  
Lawrenceville, NJ 08648-2311  
Tel (609) 896-3600 Fax (609) 896-1469  
www.foxrothschild.com

Gerard P. Norton  
Office Managing Partner

KIMBERLY BENNETT  
Direct No: 609.895.3323  
Email: KBennett@FoxRothschild.com

July 8, 2019

**Via Federal Express**

Mr. Michael Proietti  
Township of North Brunswick  
Zoning Board of Adjustment  
710 Hermann Road  
North Brunswick, NJ 08902

**Re: East Ridge Development, LLC – Bifurcated Use Variance Application  
Route 130 and Nimitz Place a/k/a Block 230, Lot 15**

Dear Mr. Proietti:

On behalf of East Ridge Development, LLC, I am submitting the enclosed application for Bifurcated “D” Use Variance approval. In support of the application, I am enclosing the following:

1. Fifteen (15) copies of the signed Complete Application Form including executed request for Tax and Assessment Payment Report, Application Rider, Affidavit of Ownership/Consent to Develop, and Google map images of the Property.
2. Fifteen (15) copies of the Completed Township of North Brunswick Bifurcated D Variance Checklist;
3. Fifteen (15) signed and sealed sets of the Use Variance Plans prepared by Bohler Engineering, dated June 14, 2019;
4. Fifteen (15) reduced size (11x17) sets of the Use Variance Plans prepared by Bohler Engineering, dated June 14, 2019;

A Pennsylvania Limited Liability Partnership

California	Colorado	Connecticut	Delaware	District of Columbia	Florida	Illinois
Minnesota	Nevada	New Jersey	New York	Pennsylvania	Texas	Washington



July 8, 2019

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5. Fifteen (15) reduced size (11x17) sets of the ALTA/NSPS Land Title Survey prepared by Control Point Associates, Inc., dated September 13, 2018, last revised April 15, 2019;
6. Fifteen (15) signed and sealed copies of the ALTA/NSPS Land Title Survey prepared by Control Point Associates, Inc., dated September 13, 2018, last revised April 15, 2019
7. Fifteen (15) copies of the Sanitary Sewer & Water Will Serve Requested prepared by CME Associates, dated January 15, 2018;
8. Fifteen (15) copies of the Gas and Electric Will Serve letter prepared by PSE&G, dated January 12, 2018;
10. Fifteen (15) copies of the 200' Property Owners' List; and
11. Payment of the Required Application Fee: One (1) check in the amount of \$500.00, and two (2) copies of the Completed Form W-9. ***Please advise of required escrow fee and payment of same shall be submitted accordingly.***

Please note that ***architectural drawings and traffic impact assessment*** shall be submitted under separate cover. Please advise as to any additional submission required by the Zoning Board in order to deem this application complete and schedule the public hearing.

Very truly yours,

Kimberly Bennett

KB:jfp

Encl.

cc: East Ridge Development, LLC  
Bohler Engineering  
Dolan and Dean  
GK+A Architects



For Office Use Only  
 Date Filed: \_\_\_\_\_ Appl. #: \_\_\_\_\_  
 Appl. Fee: \$ \_\_\_\_\_ Escrow Fee: \$ \_\_\_\_\_

**TOWNSHIP OF NORTH BRUNSWICK**  
Land Use Application

Fifteen (15) complete sets of the application, documents and maps must be filed with the Secretary of the appropriate Board twenty-one (21) days prior to the regular meeting of the Board. New applications are first reviewed for completeness only prior to being scheduled for a hearing. All applications must be accompanied by appropriate fees together with a written explanation of fee calculations. Separate application and escrow checks must be provided.

**CHECK ONE:**

- Zoning Board of Adjustment
- Planning Board

Block 230 Lot 15 Zone R-2  
 Property Location Route 130 and Nimitz Place  
 Size of Property 3.511 acres

**TYPE OF APPROVAL REQUESTED (Check all that apply):**

- Site Plan:**
- Concept Site Plan
  - Minor Site Plan
  - Preliminary Site Plan
  - Amended Preliminary Site Plan
  - Final Site Plan
  - Amended Final Site Plan

- Subdivision:**
- Concept
  - Minor Subdivision
  - Preliminary Subdivision
  - Amended Preliminary Subdivision
  - Final Subdivision
  - Amended Final Subdivision

- Variances:**
- Use (D)** \*Bifurcated Use Variance, Site Plan Appl. to follow if approved.
  - Bulk (C)**
  - Appeal**
  - Interpretation**
  - Conditional Use**

Other/Explain: \_\_\_\_\_

**Applicant:** East Ridge Development, LLC  
**Address:** 24 Market Street Ridgefield, CT 06877  
**Telephone:** 571-426-3094 **Fax:** 203-438-2279 **Email:** LHarder@eastridgedev.com  
**Owner's:** Joanne LaBarbera  
**Address:** 101 Cricket Hill Circle Princeton, NJ 08540  
**Telephone:** \_\_\_\_\_ **Fax:** \_\_\_\_\_ **Email:** \_\_\_\_\_  
**Engineer:** Tung-To Lam, P.E.  
**Address:** Bohler Engineering 35 Technology Drive, 2nd Floor, Warren, NJ 07059  
**Telephone:** 908-668-8300 **Fax:** \_\_\_\_\_ **Email:** TLam@bohlereng.com  
**Attorney:** Henry L. Kent-Smith, Esq.  
**Address:** Fox Rothschild, LLP 997 Lenox Drive Building Three Lawrenceville, NJ 08648  
**Telephone:** 609-896-4584 **Fax:** 609-896-1469 **Email:** HKent-Smith@foxrothschild.com

**Present Use:**  Residential  Non-Residential  N/A **Proposed Use:**  Residential  Non-Residential  
**Describe Proposed Development/Request (Continue on separate sheet if necessary):** \_\_\_\_\_

\*\*PLEASE SEE ATTACHED RIDER\*\*

Is applicant:  Corporation  Partnership  Individual  Other/Explain \_\_\_\_\_

Has there been any previous appeal, request, or application to this or any other Township Board or the Construction Official, involving these premises?

If yes, state the nature, date and disposition of said matter: 2016 Zoning Board application for self-storage facility. Denied.

Development Plans: Sell Lots only N/A Construct New Homes for Sale N/A

How will water service be supplied? To be determined, likely off Nimitz Place

Proposed method of sewage disposal: Will connect into public system.

Are deed restrictions contemplated? Yes \_\_\_ No X (if yes, describe on separate sheet)

List proposed improvements and utilities and state intention to post performance bond, certified check or to install improvement prior to approval of final plat:

<u>Improvement</u>	<u>Intention</u>
To be determined with site plan application.	To be determined with site plan application.
_____	_____
_____	_____
_____	_____

Total area of existing lots(s): 3.511 acres

Total number of new lots created (including the remainder): N/A, no subdivision proposed.

Average new lot size: N/A, no subdivision proposed.

Variance Only:

1. Explain the exceptional conditions which would create undue hardship on the applicant if required to comply with the zoning ordinance. State the special reasons which support the granting of the variance. (NOTE: The above questions MUST be answered in detail. Attach statement to this application). \*\*PLEASE SEE ATTACHED RIDER\*\*

2. Supply a statement of facts showing why relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinances. (NOTE: The above question MUST be answered. Attach statement to this application). \*\*PLEASE SEE ATTACHED RIDER\*\*

The undersigned has submitted the accompanied plans, applications (public notice documents can be submitted under separate cover) and other necessary supporting data, and hereby certifies that all information submitted is accurate and complete.

Applicant's Signature: Lawrence R Harder

State of New Jersey, County of Mercer

Sworn to before me, this 8 day of July 2019

X Benets  
A Notary Public of New Jersey Attorney at Law, State of NJ

**STATUS OF TAXES**

Submit to Bd. Secretary at least fifteen (15) days prior to the date of submission of application to the Planning and Land Use Office. Submit the certification of taxes paid along with the application.

**SITE INSPECTION AUTHORIZATION FORM**

I hereby give permission for NOJ BRUNSWICK Municipal Agencies and their agents to come upon and inspect these premises with respect to this application for Use Variance on Block 230, Lot 15.

Applicant's Signature: Lawrence R Harder Date: 6-28-19

**AFFIDAVIT OF OWNERSHIP**

**STATE OF NEW JERSEY**  
**COUNTY OF \_\_\_\_\_**

\_\_\_\_\_ of full age, being duly sworn according to law on oath deposes and says, that the deponent resides at \_\_\_\_\_ in the municipality of \_\_\_\_\_, in the County of \_\_\_\_\_ and the State of \_\_\_\_\_ that \_\_\_\_\_ is the owner in fee of all that certain lot, piece or parcel of land situated, lying, and being in the municipality aforesaid, and known and designated as Block \_\_\_\_\_, Lot \_\_\_\_\_.

Owner's Signature: \*\*Please see attached Affidavit of Ownership/Consent to Develop.

Sworn to and subscribed, before me, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
A Notary Public of New Jersey

**AUTHORIZATION**

If anyone other than the above owner is making this application, the following authorization must be executed:

\_\_\_\_\_ is hereby authorized to make the within application.  
Dated: \_\_\_\_\_ Owner's Signature: Please see attached Affidavit of Ownership/Consent to Develop.

**CORPORATION OR PARTNERSHIP FORM**

Applications before the Planning Board/Zoning Board of Adjustment by a Corporation or Partnership for a subdivision of 6 or more lots or 25 or more family units for approval of a site plan or approval of lands for commercial purposes shall list below the names and addresses of all stockholders or individual partners owning at least 10% of its stock of any class or at least 10% of the interest in the partnership, as the case may be, as required by N.J.S.A. 40:55D-48.1.

Name	Lawrence R. Harder	Address	24 Market Street Ridgefield, CT 06877
Name	_____	Address	_____
Name	_____	Address	_____
Name	_____	Address	_____
Name	_____	Address	_____
Name	_____	Address	_____
Name	_____	Address	_____
Name	_____	Address	_____

Please note: "No Planning Board, Board of Adjustment or Municipal Governing Body shall approve the application of any corporation or partnership which does not comply with the Act" as per N.J.S.A. 40:55D-48.1 et seq. P.L. 1977, Chapter 336, Section 3.

TAX AND ASSESSMENT PAYMENT REPORT

PLANNING BOARD/ZONING BOARD OF ADJUSTMENT

TOWNSHIP OF NORTH BRUNSWICK

APPLICATION # \_\_\_\_\_

RECEIVED \_\_\_\_\_

Under provision of New Jersey Statutes, N.J.S.A. 40:55D-39a and N.J.S.A. 40:55D-65h, an applicant for development of land must submit proof that no taxes or assessments for local improvements or municipal are due or delinquent on the property stated below.

Applicant will complete Section I of this form in quadruplicate and submit them with his application for development. The Code Enforcer will forward three forms to the Tax Collector for verification that no delinquent taxes or assessments are due. One signed copy of this form will be returned to the applicant by the Code Enforcer, one copy retained by Tax Collector and two copies placed in the applicant's file.

Developers are cautioned that additional assessments may be levied where a structure is present.

\*\*\*\*\*

SECTION I (to be completed by Applicant)

I Lawrence Harder of East Ridge Development, LLC, 24 Market Street Ridgefield, CT 06877  
(Name) (Address)

am making application to the Planning Board/Zoning Board of

Adjustment for the development of Lot(s) 15

Block(s) 230 in the R2 Zone, located

at Route 130 and Nimitz Place whose owner of record is  
(street) (s)

Joanne LaBarbera of 101 Cricket Hill Circle Princeton, NJ 08540  
(name) (address)

This tract was formerly subdivided on N/A

Original Lot(s) No. \_\_\_\_\_ Block \_\_\_\_\_

I acquired interest in this property on \_\_\_\_\_  
(date)

I request the Tax Collector determine whether there are any delinquent and/or assessments due.

DATE: 6/28/19

East Ridge Development, LLC

Lawrence R Harder

(Applicant's signature)

Managing Member

\*\*\*\*\*

SECTION II (to be completed by Tax Collector)

- I find that:  All taxes due have been paid.  
 All assessments due have been paid.  
 The following are delinquent and past due.

DATE \_\_\_\_\_

\_\_\_\_\_  
(Tax Collector)

**RIDER TO APPLICATION  
EAST RIDGE NJ LLC  
TOWNSHIP OF NORTH BRUNSWICK ZONING BOARD OF ADJUSTMENT  
BLOCK 230, LOT 15**

**BACKGROUND**

East Ridge NJ LLC (the "**Applicant**") submits this use variance application under N.J.S.A. 40:55d-70(d) for a proposed Quick Chek retail convenience store and ancillary gasoline station (collectively, the "**Project**"). The Project will be located on Route 130 in the Township of North Brunswick, Middlesex County, New Jersey on property known and identified as Block 230, Lot 15 on the North Brunswick Township tax map (the "**Property**"). The Property is approximately 3.511 +/- acres in area and is currently vacant and undeveloped. The Property is located at the corner of Nimitz Place and Route 130.

The Project will consist of a 5,670 s.f. Quick Chek food/convenience store with eleven (11) indoor seats and eight (8) outdoor seats; a canopy to host eight (8) multi-product fuel dispensers; associated parking/circulation aisles; a storm water management system; and a 100' buffer in the rear of the property which borders single family homes. The Property is located within the R-2 Single Family Residential Zone, which does not permit retail stores or motor vehicle service stations. Relief is also required for two principal uses on one lot.

The Applicant respectfully requests that the Zoning Board act on the application in a bifurcated manner. Should the Zoning Board grant the Applicant's use variance under N.J.S.A. 40:55D-70(d), the Applicant will present a fully-engineered site plan and seek preliminary and final site plan approval under a separate application. The Applicant is submitting a use variance site plan, and associated plan details to provide the Zoning Board with sufficient information to act on the use variance application.

**LEGAL ANALYSIS**

**I. Use Variance**

N.J.S.A. 40:55D-70(d) states that the board of adjustment shall have the power to, "in particular cases for special reasons, grant a variance to allow departure from regulations pursuant to article 8 of this act to permit: (1) a use or principal structure in a district restricted against such use or principal structure . . . [provided that] no variance or other relief may be granted. . . without a showing that such variance or relief can be granted without substantial detriment to the public good and will not substantially impair the intent and the purpose of the zone plan and zoning ordinance." Where the use variance is commercial, "the applicant must prove and the board must specifically find that the use promotes the general welfare because the proposed site is particularly suitable for the proposed use." Medici v. BPR Company, 107 N.J. 1 (1987).

In the present matter, the Project satisfies the positive criteria for a use variance as it is particularly suited to this location for the following reasons:

1. A need in the general community exists as the proposed use provides the immediate area with a modern, full service convenience store including gasoline service. The present Route 130 corridor in the vicinity of the Property lacks a modern convenience store and retail gas use.
2. The Property is particularly well-suited and situated as it fronts on Route 130 and will be located among other commercial uses fronting on Route 130, but is in close proximity so that it can serve the surrounding residential developments. The proposed Quick Chek will provide local residents and employees with access to the company's fresh offerings including sandwiches, soups, fresh produce, grocery items, ATM service and gasoline. The combination of these uses provides a "one-stop" convenience store experience, which is an efficient land use.
3. The shape and location of the Property is uniquely suited for the Applicant's use for the following reasons:
  - a. The Applicant is proposing to align the main access driveway on Route 130 with the existing traffic signal at Washington Place, creating a four way signalized intersection to accommodate site traffic in a controlled fashion, thereby enhancing public safety. This is one of the few remaining traffic signal controlled intersections large enough to accommodate the use and available for connection into the signal.
  - b. The Property is of a sufficient size to accommodate the proposed use and still provide a generous 100' natural buffer to the residents living directly behind this store. The Applicant proposes a modern facility with generous landscaping, in furtherance of N.J.S.A. 40:55D-2(i)

The Applicant satisfies the negative criteria because the Project will not be substantially detrimental to the public good, and will not substantially impair the intent and purpose of the zone plan and zoning ordinance for the following reasons:

1. The Project is designed to function in a cohesive manner with the surrounding uses and will present little or no detriment to the public good. The Project will be well landscaped, appropriately lighted, and will function in a safe and efficient manner. Additionally, the Project will contribute to the public good by providing a needed use to an underserved market.
2. The Project will not substantially impair the intent and purpose of the zone plan and zoning ordinance as it is consistent with uses permitted in the surrounding Neighborhood Commercial C-1 Zone such as eating and drinking establishments, grocery stores, and retail stores, which zone is located directly across Route 130 from the Property.
3. The Project will not cause a substantial detriment to the residential use to the rear of the Property as the Applicant will provide a 100' residential buffer.



4. This proposal will allow for site egress movements to be accommodated through a traffic signal. The Applicant will upgrade the traffic signal to create the four way intersection, at Applicant's expense, so as to safely allow for ingress and egress movements.

For the reasons set forth above, along with the supplemental testimony to be submitted by the Applicant at the hearing, the Applicant submits that a use variance under N.J.S.A. 40:55d-70(d) is justified.

AFFIDAVIT OF OWNERSHIP  
AND CONSENT OF OWNER

The undersigned, being of full age, upon his oath, deposes and says:

1. I am a co-owner ("Owner") of the property designated as Block 230, Lot 15 on the Township of North Brunswick's tax map, Route 130 in the Township of North Brunswick (the "Property"). Following the death of my father, Santo LaBarbera, I was appointed as Administratrix CTA with full power of sale of the Property.

2. The Owner hereby consents to East Ridge NJ, LLC, or a related entity, ("Applicant") submitting applications for development, including Preliminary and Final Site Plan applications, as well as any applications requiring use variance relief pursuant to N.J.S.A. 40:55D-70(d), and/or bulk variance relief pursuant to N.J.S.A. 40:55D-70(c), which applications include the Property.

Date: June 28, 2019

By: Joanne LaBarbera  
Joanne LaBarbera

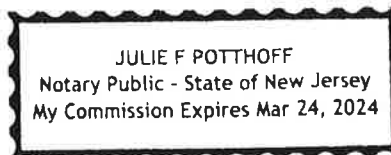
STATE OF NEW JERSEY)

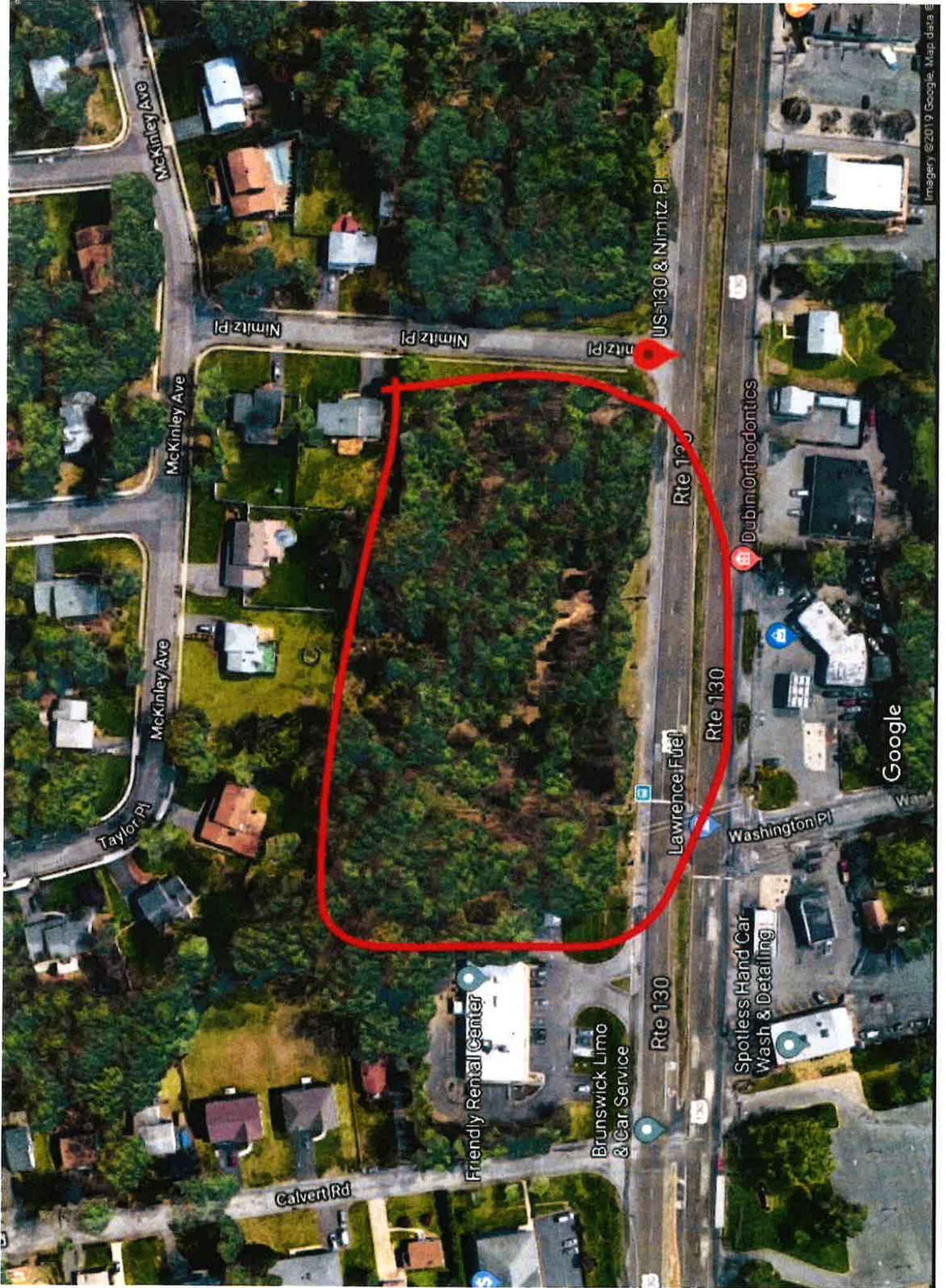
COUNTY OF Mercer :SS

On this 28<sup>th</sup> day of June 2019, before me, the undersigned notary public in and for the State and County aforesaid, personally appeared **Joanne LaBarbera** who deposes and states that she is the owner of the property designated as Block 230, Lot 15 and that she executed the foregoing Affidavit of Ownership and Consent of Owner.

I am duly authorized by the laws of the State aforesaid to administer oaths in said State.

Julie F Potthoff (Notary)

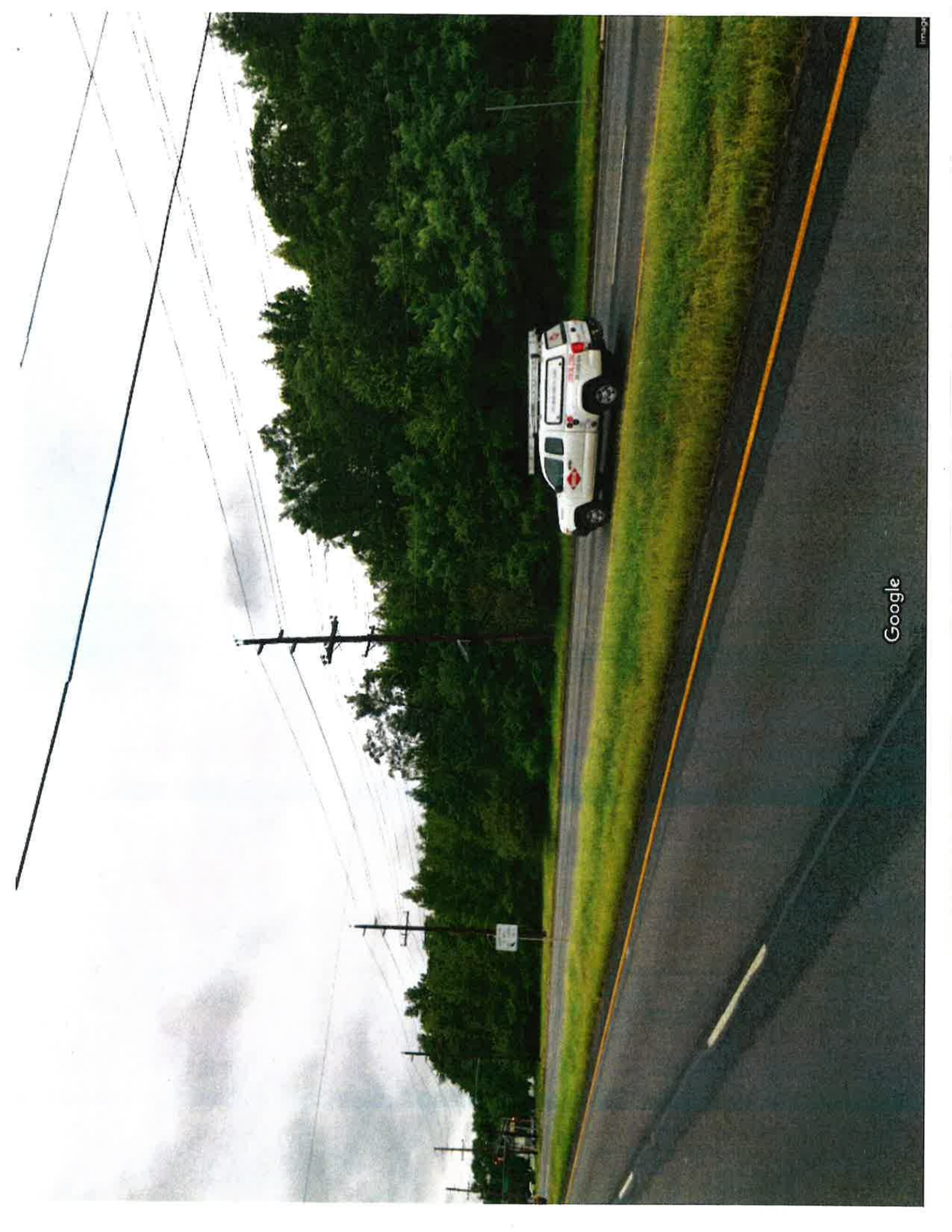






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LAND USE

205 Attachment 5

Township of North Brunswick

**Appendix E  
Bifurcated D Variance Checklist  
(To be completed by applicant)**

Application for Approval of Variance Requested Pursuant to N.J.S.A. 40:55D-70d Where No Site Plan or Subdivision Application Accompanies the Variance Application

	<b>Submitted</b>	<b>Waiver Requested</b>	<b>N/A</b>	
1.	<u>X</u>	_____	_____	Plot plan or survey accurately depicting the property in question and all structures appurtenant.
2.	<u>X</u>	_____	_____	Sketch of proposed improvements on the plot plan, including accurate measurements of distance to all property lines.
3.	<u>X</u>	_____	_____	Show all required yard setbacks as per Land Development Zoning Ordinance and yard setbacks proposed.
4.	<u>X</u>	_____	_____	Computation of percentage of lot coverage, existing and proposed.
5.	<u>X</u>	_____	_____	Additional information on plans pertaining directly to on-site parking, if required, and any required landscaping or buffering.
6.	<u>Attorney</u>	_____	_____	Clear statement of reasons for need of variance.
7.	<u>X</u>	_____	_____	Sections of Zoning Ordinance involved.
8.	<u>Attorney</u>	_____	_____	Completion of application form.
9.	<u>X</u>	_____	_____	Payment of all fees.
10.	<u>X</u>	_____	_____	Satisfaction of all notice and publication requirements.
11.	<u>Attorney</u>	_____	_____	Photos of the property in the location of the proposed improvements.
12.	<u>Architect</u>	_____	_____	Architectural sketches of proposed improvements.

Site Plan information as follows: (Note: For details of all submissions, see Article VII. Applicant shall check off all items as: submitted, not applicable or waiver requested.)

Scale:

NORTH BRUNSWICK CODE

	Submitted	Waiver Requested	N/A	
13.	<u>X</u>	<u>      </u>	<u>      </u>	1 inch = 50 feet (40 or fewer acres).
14.	<u>      </u>	<u>      </u>	<u>X</u>	1 inch = 100 feet (over 40 acres).
Size:				
15.	<u>      </u>	<u>      </u>	<u>X</u>	8 1/2 inch x 14 inch.
16.	<u>      </u>	<u>      </u>	<u>X</u>	15 inch x 21 inch.
17.	<u>X</u>	<u>      </u>	<u>      </u>	24 inch x 36 inch.
18.	<u>      </u>	<u>      </u>	<u>X</u>	30 inch x 42 inch.
Drawings submitted:				
19.	<u>X</u>	<u>      </u>	<u>      </u>	Title sheet.
20.	<u>X</u>	<u>      </u>	<u>      </u>	Site survey and layout plan.
21.	<u>X</u>	<u>      </u>	<u>      </u>	Drainage plan.
22.	<u>X</u>	<u>      </u>	<u>      </u>	Landscape plan.
23.	<u>X</u>	<u>      </u>	<u>      </u>	Lighting plan.
Key map.				
Title block.				
24.	<u>X</u>	<u>      </u>	<u>      </u>	Name of development, municipality and county.
25.	<u>X</u>	<u>      </u>	<u>      </u>	Name and address of developer.
26.	<u>X</u>	<u>      </u>	<u>      </u>	Scale.
27.	<u>X</u>	<u>      </u>	<u>      </u>	Date of preparation.
28.	<u>X</u>	<u>      </u>	<u>      </u>	Name, address, signature and license number of the professional engineer and other professionals who prepared the drawing.
29.	<u>X</u>	<u>      </u>	<u>      </u>	Graphic scale and North arrow.
30.	<u>X</u>	<u>      </u>	<u>      </u>	Revision box.
31.	<u>X</u>	<u>      </u>	<u>      </u>	All existing tract boundary or lot lines.



LAND USE

	Submitted	Waiver Requested	N/A	
32.	<u>X</u>	<u>      </u>	<u>      </u>	Existing block and lot number(s) of the lot(s) to be developed as they appear on the municipal tax map.
33.	<u>X</u>	<u>      </u>	<u>      </u>	Name and addresses of the owner or owners of record and the names and addresses of all property owners within 200 feet of the extreme limits of the tract.
34.	<u>X</u>	<u>      </u>	<u>      </u>	Lot and block number of each bordering lot.
35.	<u>      </u>	<u>      </u>	<u>N/A</u>	Municipal boundaries within 200 feet of the tract and the names of the adjoining municipalities.
36.	<u>X</u>	<u>      </u>	<u>      </u>	Zoning district boundaries affecting the tract.
37.	<u>X</u>	<u>      </u>	<u>      </u>	The location of any portion which is to be developed in relation to the entire tract.
38.	<u>X</u>	<u>      </u>	<u>      </u>	Acreage of the tract to be developed to the nearest tenth of an acre.
39.	<u>X</u>	<u>      </u>	<u>      </u>	Locations of all existing structures showing front, rear and side yard setback distances.
40.	<u>X</u>	<u>      </u>	<u>      </u>	Indication of whether existing structures and uses will be retained or removed.
41.	<u>X</u>	<u>      </u>	<u>      </u>	The location of all existing utility rights-of-way and easements.
42.	<u>X</u>	<u>      </u>	<u>      </u>	The names, exact location and width along the property line of all existing streets, recorded streets, or streets shown on an official map or Master Plan of the Township within the tract and within 200 feet of it.
43.	<u>X</u>	<u>      </u>	<u>      </u>	All existing watercourses, including lakes and ponds, and drainage right-of-way within the tract or within 200 feet thereof.
44.	<u>X</u>	<u>      </u>	<u>      </u>	Unique natural features or historic sites or structures within the tract and within 200 feet thereof.
45.	<u>X</u>	<u>      </u>	<u>      </u>	A sketch of the proposed layout or disposition of remaining land, if any.

NORTH BRUNSWICK CODE

	Submitted	Waiver Requested	N/A	
46.	<u>X</u>	<u>      </u>	<u>      </u>	The location of all proposed buildings, structures, signs and lighting facilities, together with all dimensions necessary to confirm conformity to this chapter.
47.	<u>X</u>	<u>      </u>	<u>      </u>	The location and design of any off-street parking areas or loading areas, showing size and location of bays, aisles and barriers.
48.	<u>X</u>	<u>      </u>	<u>      </u>	All means of vehicular access and egress to and from the tract or site onto public streets, showing the size and location of driveways, curb cuts, traffic signs, signals, channelization, acceleration and deceleration lanes.
49.	<u>X</u>	<u>      </u>	<u>      </u>	Letters from private utility company(ies) stating that service will be available for proposed use.
50.	<u>      </u>	<u>X</u>	<u>      </u>	Environmental impact assessment.
51.	<u>Traffic Engineer</u>	<u>      </u>	<u>      </u>	Traffic impact report.