

NOTICE TO ALL APPLICANTS

By law, all business entities other than a sole proprietorship must be represented by an attorney when appearing before the Planning Board or Zoning Board at a hearing. This, for example, includes all corporations, partnerships, and limited liability companies (LLC's). No applicant required by law to have an attorney will be allowed to proceed with an application for development without a New Jersey licensed attorney present at the hearing to present the application.

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MIDDLESEX COUNTY SUBMISSION PROCEDURE

All applications involving Subdividers or Site Plans adjacent to County roads require submission to the Middlesex County Planning Board for review. Applications for County approval must be submitted in person along with the required plats to the Middlesex County Planning Board at 40 Livingston Avenue, New Brunswick.

THE TOWNSHIP OF EAST BRUNSWICK NO LONGER FORWARDS PLATS TO THE COUNTY FOR THEIR REVIEW

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All representations, commitments and agreements made by the applicant or his representatives at the hearing or contained in any document, plat or submission delivered to the Planning Board or Zoning Board at any time prior to the time of approval, including notes contained on any original or revised development plans shall be considered as conditions of approval of the application for development.

DEPARTMENT OF PLANNING AND ENGINEERING  
EAST BRUNSWICK DEVELOPMENT APPLICATION

TYPE OF APPLICATION \_\_\_\_\_  
(If additional space is required, attach a rider)

FEES \$

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1. Applicant's Full Name Ahmed Khan & Salma Chand Phone # \_\_\_\_\_

2. Applicant's Mailing Address 8 Gates Avenue, East Brunswick

2a. Email Address chand.salma@gmail.com; jamal003@gmail.com

3. Is Applicant a \_\_\_\_\_ Corporation \_\_\_\_\_ Partnership  Individual

3a. If Applicant is a Corporation or a Partnership, set forth the names and addresses of all stockholders having a 10% interest or more:

(name) \_\_\_\_\_

(address) \_\_\_\_\_

4. Does Applicant own all this property? Yes  No \_\_\_\_\_ (Consent attached)

5. If not, set forth names and addresses of owners of any property covered by this Application which are not owned by Applicant: \_\_\_\_\_

6. As to all property described in answer to question #5, set forth, in detail, the nature and source of the local or beneficial right by which you claim right to prosecute this application.

7. Location(street address) 8 Gates Avenue, East Brunswick

Block(s) 827 Lot(s) 5 Zone(s) R-3 Size 0.918 acres

8. Present Use of Property Residential

9. Proposed Use of Property Applicant proposes to subdivide the property into two separate parcels.

10. Description of proposed structures or changes in existing structures

The existing dwelling on proposed Lot 5.02 shall remain. A new dwelling is proposed on the new lot 5.02.

11. Was this tract formerly subdivided? No  Yes \_\_\_\_\_ When \_\_\_\_\_

12. Area of entire tract 0.918 acres, or 40000 square feet

13. Applicant plans to develop property by:  
 Selling Lots Only  
 Constructing Houses to Sell At \$ TBD  
 Other \_\_\_\_\_
14. Does site adjoin any county road No state highway No
15. Location of nearest sanitary sewer Gates Avenue  
(Sewerage system must be approved by the East Brunswick Sewerage Authority and/or Director of Health before Planning Board will review application.)
16. Location of nearest water utility line Gates Avenue
17. Are exterior utility systems to be installed on this site?  
\_\_\_\_\_ Propane Tanks \_\_\_\_\_ Transformers X Air Conditioning Units
18. Are there new streets, extension of municipal facilities or utilities involved in this development?  
Yes X No \_\_\_\_\_
19. If any variances are required, circle those sections of municipal land use law the variance comes under - A, B, C, or D.
20. Describe variance requested Applicant requests bulk C variance from the requirements for building sideyard setback (combined) for the minor subdivision.
21. Section(s) of Zoning Ordinance from which variance(s) is requested  
Section 228-30 -Minimum sideyard setback
22. Reasons for requesting variance(s) See attached.
23. Have there been any previous Board of Adjustment or Planning Board hearings involving this property?  
Yes \_\_\_\_\_ No X
24. If the answer to #23 is the affirmative, state the date of the hearing, nature and disposition.  
\_\_\_\_\_
25. Applicant's Attorney (All business entities other than a sole proprietorship must be represented by a licensed New Jersey attorney).  
Name David B. Himelman, Esq. Phone# 732-659-6130  
Address 190 Route 18 North, Suite 205 East Brunswick, New Jersey Zip 08816  
Firm David B. Himelman, Attorney at Law, LLC Email Address davidh@dbhattorney.com

26. A Tax and Assessment Payment Report indicating all taxes and/or assessments required to be paid attached to this application Yes
27. Are any easements or special covenants by deed involved in this site?  
 Yes X No \_\_\_\_\_ (If yes, attach copy)
28. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to Punishment.

Sworn to and subscribed before me on this 11 day of May 2020

Abdul Khan  
Signature of Applicant

David B. Himelman  
Attorney At Law  
Notary Public State of New Jersey

Abdul Khan  
Signature of Owner

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AUTHORIZATION OF SIGNATURE (if Applicant is a Limited Liability Company (LLC) or Corporation)

This will certify that \_\_\_\_\_ Title \_\_\_\_\_  
 of (Corporation of LLC name and address) \_\_\_\_\_

who subscribed to the above application for development in the Township of East Brunswick has been authorized by this business entity to do so.

ATTEST \_\_\_\_\_  
 \_\_\_\_\_ 20\_\_\_\_

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29. Address all correspondence concerning this Application to:

( ) Applicant ( ) Owner ( X ) Attorney

Name David B. Himelman, Esq.

Address 190 Route 18 North, Suite 205 East Brunswick, New Jersey

Firm David B. Himelman, Attorney at Law, LLC

Telephone # 732-659-6130

Email Address davidh@dbhattorney.com

Question 22- Justification for the requested “C” variance:

Pursuant to the NJ Municipal Land Use Law (“MLUL”), the relief sought by the Applicant is a C-2 Bulk variance. Under the MLUL at NJSA 40:55D-70 c (2) the statute provides in part, **“where in an application or appeal relating to a specific piece of property the purposes of this act or the purposes of the "Educational Facilities Construction and Financing Act," P.L.2000, c.72 (C.18A:7G-1 et al.), would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment, grant a variance to allow departure from regulations pursuant to article 8 of this act”;**

The c (2) variance, is also known as a “flexible C variance”. This application involves showing the board that granting the variance will benefit the community. In order to show this, one must demonstrate that:

1. The variance is needed for a specific piece of property;
2. The proposed variance advances the purposes of the Municipal Land Use Law (positive criteria); and
3. The benefits of the deviation from the local zoning ordinance resulting from granting the variance would substantially outweigh any detriment. The variance will not substantially impair the intent and purpose of the zone plan and Zoning Ordinance. (Negative criteria).

#### **Justification for “C” Bulk Variance Relief**

The applicant will testify that the Board has the authority to grant all bulk relief pursuant to the flexible c balancing test and the benefits of the application as a whole substantially outweigh the detriments.

#### **Positive Criteria**

The Applicant will testify that the proposed minor subdivision is appropriate given that it is a better zoning alternative and thus will benefit the community at large.

#### **Negative Criteria**

The applicant will testify that the benefits of the deviation from the zoning ordinance resulting from granting of the variances will substantially outweigh any detriment. As to the variance relief sought, the following rationale will be outlined in testimony. Specifically, the Applicant will testify that the existing lot is oversized for the neighborhood and thus proposed lots to be created from the subdivision will more be uniform with the other properties while also satisfying the minimum lot area requirements in the R-3. Zone. Moreover, the Applicant will testify that while the side yard setback variance sought of 9.23 ft. does not comply with the 10 ft. setback requirements in the R-3 Zone by only .77 ft., such variance is necessary to effectuate the improved zoning and planning that will benefit the community.