

Schwanewede / Hals Engineering

9 Post Road
Suite M11
Oakland, New Jersey 07436
E-Mail: staff@halsengineering.com

Professional Engineering and Land Surveying
(201) 337-0053
Fax (201) 337-0173

May 4, 2022

Planning Board
Borough of Ramsey
33 Central Avenue
Ramsey, NJ 07446

Re: Variance Application - Brian Gutterman
160 Forest Avenue
Block 3510 – Lot 13.01
Ramsey, NJ

Dear Board Members:

I have reviewed the following:

- a) Variance Application.
- b) Plan entitled “Location/Zone Plan for Brian Gutterman, #160 Forest Avenue, Lot 13.01, Block 3510 – Borough of Ramsey” prepared by Peter C. Kirch, PLS, dated November 15, 2021, last revised February 22, 2022.

The application is **complete**. My comments on the application are as follows:

1. Owners/Applicant:
Brian Gutterman & Shannon Stevens
160 Forest Avenue
Ramsey, NJ 07446
2. This property was part a 2010 subdivision application that was approved by the Planning Board. As part of that approval the Planning Board retained jurisdiction of the review of the proposed home on this property because lot is located in both Ramsey and Mahwah. In 2019, an application was made to construct a home on the Ramsey portion of the lot. The Planning Board by resolution dated January 7, 2020 accepted the location of the proposed dwelling conditioned upon the home being constructed without the need of variances.

A new 2-story dwelling has been recently constructed on the property. The home was constructed in accordance with a plan that was reviewed by the Planning Board, except a chimney was added to the easterly or left side of the home. The chimney encroaches into the side yard setback and a variance is required.

3. The property is located on the southerly side of Forest Avenue. The property is commonly known as 160 Forest Avenue and is Lot 13.01 in Block 3510 on sheet 35 of the Borough tax map.
4. The property is located in the R-3 Residence District.
5. The bulk requirements for a lot that is 10,000 SF and more in the R-3 zone (per §34-15.2) are as follows:

	Required	Existing	Proposed
Minimum Lot Area	14,000 SF	56,557 SF	56,557 SF
Minimum Lot Frontage	75'	83.16'	83.16'
Minimum Front Yard	40'	50'	50'
Minimum Side Yard	10'	10.4'/12.6' - 8.3'***	10.4'/12.6' - 8.3'***
Minimum Rear Yard	25'	332'	332'
Max Building Coverage	15%	3.6%	3.6%
Max Impervious Coverage	35%	5.4%	5.4%

***Indicates a variance is required*

6. The following variances are required:
 - Side Yard Setback (Chapter 34-15.2.c)
 - 10' required
 - 8.3' proposed (constructed)

The applicant is requesting “C” variances with the proposal and is required to address the requirements of the Municipal Land Use Law (MLUL) N.J.S.A. 40:55D-70(c), commonly known as ‘c’ variance requirements. The statute provides two approaches by which a variance can be granted from the bulk requirements of a zoning ordinance.

The first approach is the c(1) or hardship reasons caused by:

- a) exceptional narrowness, shallowness or shape of a specific piece of property; or
- b) or exceptional topographic conditions or physical features uniquely affecting a specific piece of property; or
- c) extraordinary and exceptional situation uniquely affecting a specific piece of property.

The second approach involves the so-called flexible “c” or c(2) variances where:

- a) the granting of the variance will advance the intents and purposes of the Municipal Land Use Law;
- b) the benefits of granting the variance substantially outweigh any potential detriments. The benefits are required to be public benefits rather than a benefit that simply accrues to the property owner.

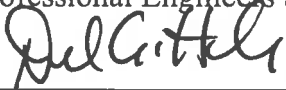
Variance Application - Brian Gutterman
160 Forest Avenue
Ramsey, New Jersey
May 4, 2022

In addition, the applicant must also address the Negative Criteria to bulk variances. The variances can be granted:

- a) without substantial detriment to the public good;
- b) will not substantially impair the intent and the purpose of the zone plan and zoning ordinance.

Very truly yours,

SCHWANEWEDE/HALS ENGINEERING
Professional Engineers and Land Surveyors



David A. Hals, P.E., L.S., P.P. & C.M.E.
Planning Board Engineer

**PLANNING BOARD
APPLICATION FOR VARIANCE**

Application # V- _____

Name of Applicant: Brian Gutterman and Shannon Stevens

Address: 160 Forest Avenue, Ramsey, New Jersey 07446

Lot & Block of Property in Question: Block 3510, Lot 13.01

PLEASE TAKE NOTICE that the undersigned hereby requests the Planning Board of the Borough of Ramsey to grant the following variances:

		<u>No. of Variances Requested</u>
_____	Lot Area	_____
_____	Lot Dimension	_____
Side Yard - 10' / 8.3' proposed	Setback	1
_____	Yard Requirements	_____

Please give a brief description of relief requested and ordinance section from which variance(s) is sought (please use an additional sheet of paper if space provided below is not sufficient):

See attached Addendum.

This variance is requested in conjunction with an application before the Planning Board for:

Location Plan ~~X~~ ~~X~~ ~~X~~
 Subdivision Conditional Use

APPLICANT'S SIGNATURE: Brian Gutterman

APPLICANT'S NAME (PLEASE PRINT): Brian Gutterman

CONSENT OF OWNER (IF DIFFERENT THAN APPLICANT)

I hereby consent to the submission of this application:

OWNER'S SIGNATURE: Brian Gutterman DATE: 3/29/2022

OWNER'S NAME (PLEASE PRINT): Brian Gutterman

**BOROUGH OF RAMSEY
PLANNING BOARD
33 NORTH CENTRAL AVENUE
BERGEN COUNTY NEW JERSEY 07446**

Applicant	_____
Application No.	_____
Fee(s) Paid	_____
Date Received	_____

APPLICATION FOR:

SITE PLAN PROPOSAL **SUBDIVISION PROPOSAL**
 AMENDED SITE ~~PLAN~~ PROPOSAL LOCATION PLAN AND VARIANCE

APPLICATION FOR CONSTRUCTION OR CHANGE OF USE IN:

<input type="checkbox"/> B-1 Central Business District	<input type="checkbox"/> B-3 Highway Commercial District	<input type="checkbox"/> R-5 Garden Apartments
<input type="checkbox"/> B-1A Central Business District	<input type="checkbox"/> I.P. Industrial Park	<input type="checkbox"/> R-5A Townhouses
<input type="checkbox"/> B-2 Turnpike District	<input type="checkbox"/> L.O. Laboratory Office	<input type="checkbox"/> T-3 Townhouses
		<input type="checkbox"/> T-6 Townhouses

A. PROPERTY

Street Locations: 160 Forest Avenue, Ramsey, New Jersey 07446 Block: 3510 Lot: 13.01
Owner: Brian Gutterman and Shannon Stevens Tele #: 845-641-3191
Address: 160 Forest Avenue, Ramsey, New Jersey 07446
Proof of ownership or contractual interest (set forth in deed or other legal document by which sufficient interest in property is claimed to justify this application.)
Applicant's Name (if other than owner): _____ Tele #: _____
Address: _____
Federal Tax ID#: _____
Name and Address of person presenting application:
Name: Robert E. Landel, Esq. Profession: Attorney
Address: Landel, Bernstein & Kalosieh, LLP, 279 Franklin Avenue, Wyckoff, New Jersey 07481 Tele #: 201-891-6955, ext. 209

B. PROPERTY DESCRIPTION

Zone: R-3 Lot Size: 56,557 sq. ft. or 1.298 Acres
Size of building in square feet: 2000 Stories: 2

C. YARD DIMENSIONS – PROPOSED DEVELOPMENT APPLICATION

Minimum requirements:
Area (sq.ft.) 56,557 Frontage: 83.16 feet Depth: 419.18 feet
Proposed yard dimensions: Principal Building:
Front: 50.0 feet Rear: _____
Side: One 12.6 feet / 8.3 feet Both: 20.9
Accessory Building:
Rear: N/A Side: N/A
Maximum building height: Stories: 2 Feet: 27.6
Minimum habitable area per dwelling unit 1,100 Maximum lot coverage 20%
Principal building % 3.6% Principal and accessory building % _____

D. PROPOSED SUBDIVISION APPLICATION

Location of subdivision: N/A
(neighborhood or section name)

(street)
Block: _____ Lot(s): _____
Number of proposed lots: _____
Area of proposed lots: _____

Area of entire tract: _____
Area of portion subdivided or sold: _____
Development plans:
(a) Sell lots only? (Yes or No) _____
(b) Construct houses for sale? (Yes or No) _____
(c) Other _____

E. If application is for waiver, modification or amendment of an existing site plan, explain request:
See attached Addendum.

F. Proposed Land Use:
Residential
Previous uses (if change of use) _____
No. of parking spaces required _____ No. provided on lot* _____
Buffer requirements: _____ Buffer provided _____
Area of and proposed uses on each floor _____
Number of actual or estimated employees on each floor _____
Area and location of storage _____
(*If building has multiple tenants, list all other existing tenant uses.)

G. Description of proposed operation, including days and hours of operation N/A - Residential

H. Estimated cost of construction N/A

I. Are any deed restrictions applicable to the proposed use known or contemplated?
Yes No If yes, attach a copy.

J. Location on Municipal Street (name) 160 Forest Avenue, Ramsey, New Jersey 07446
County Road _____ State Highway _____

K. Has the subject property received previous approval or denial of any development application; i.e. site Plan or variance request? Yes _____ If so, state date and type of action and application number:
See attached Addendum.

L. Does this development plan include or require a simultaneous application for another municipality approval? Yes No If yes, state type of additional approval being sought: _____

M. Does this application meet all Borough of Ramsey development ordinances? If not, explain discrepancies: Requires side yard setback variance, where 10 feet minimum is required and 8.3 feet is proposed from chimney.

N. List of maps and other material accompanying the application and the number of each item:
Location/Zone Plan prepared by Peter C. Kirch, P.L.S. of SurTech.

I or we, the undersigned, being duly sworn, upon my or our oath(s), depose and say that the statements herein are true to the best of our knowledge, information and belief.
Signature of Applicant: [Signature]
Signature of Owner (s): [Signature]
Date of Application: 3/29/2022

**ADDENDUM TO BRIAN GUTTERMAN AND SHANNON STEVEN'S
PLANNING BOARD APPLICATION FOR SIDE YARD VARIANCE
FROM THE REQUIREMENTS OF THE ZONING ORDINANCE OF
THE BOROUGH OF RAMSEY – BLOCK 3510, LOT 13.01**

Applicants Brian Gutterman and Shannon Stevens (“Applicants”) are the owners of the property located at 160 Forest Avenue, Ramsey, New Jersey (the “Property”). The Property is located in the R3 – Residential Zone. The Property is partially in the Borough of Ramsey and partially in the Township of Mahwah.

As a means of a historical summary, the Property was the subject of a previous subdivision application that was approved by the Ramsey Planning Board and adopted Resolution dated December 7, 2010. As a condition of approval in the 2010 Resolution, the Planning Board retained jurisdiction over the construction of the home on Lot 13.01 and the right to review and approve the site plan for that home. It is the Applicants’ understanding that the above condition was included over concerns that the house may be built on the Mahwah portion of the Property but then connect Forest Avenue for ingress and egress, creating fire safety concerns, school concerns, and other issues raised during the subdivision hearing.

In December 2019, the Applicants submitted a request to the Planning Board for relief from the above condition. Specifically, the Applicants explained that they proposed to build a single-family home on only the Ramsey portion of the Property. Applicants argued that by placing the home exclusively within the Ramsey portion of the Property, it would alleviate all concerns the Planning Board had with respect to the subdivision at that time. As part of the December 2019 application, Applicants expressed that the proposed home would fit within the building envelope and meet the setbacks and coverage requirements of the Ramsey Zoning Ordinance for the R-3 Zone. The Ramsey Planning Board approved the Applicants’ request but stipulated that the construction of the home be variance free. See Resolution of Planning Board attached hereto.

Accordingly, the Applicants proceeded with obtaining building permits and construction on the home. To date, the Applicants' Soil Movement Application and Shade Tree Review have been completed and approved. Further, the Applicants have obtained all building permits required to date.

During the construction process, it was believed that the proposed chimney on the home was not included in the measurement of setbacks as is the case with some municipalities. However, when the Ramsey Construction Official completed an as-built inspection, it was determined that the construction of a chimney on the home, located at the southern corner of the house would require a side yard variance as same was located 8.3 feet from the eastern property line, where 10 feet is required. Unfortunately, at the time this was discovered, the foundation had been completed. Had the Applicants known the location of the chimney would have triggered a variance, they would have moved the footprint of the home to the west, prior to construction.

The Ramsey Building Department allowed the Applicants to proceed with the remaining construction of the home as every other aspect of the home was located within the required setbacks and did not require any relief from the Ramsey Zoning Ordinance.

Accordingly, the Applicants submit this Application requesting that the Planning Board grant the Applicants' request for a side yard setback variance pursuant to N.J.S.A. 40:55D-70c(1) and (2), where 10 feet is required and 8.3 feet is proposed, so that they may construct the chimney.

The Applicants anticipate calling two (2) witnesses to testify at the hearing for this Application: Applicant, Brian Gutterman, and Peter C. Kirch, P.L.S., the Applicants' professional surveyor.

N.J.S.A. 40:55D-70c Variance ("c Variance") Required

The Applicants request a variance pursuant to both N.J.S.A. 40:55D-70c(1) and (2) for the proposed side yard setback.

c(1) and c(2) Variance Standards

In order to grant a variance pursuant to c(1), the applicant should demonstrate that there are peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the applicant arising out of (a) the exceptional narrowness, shallowness or shape of the specific piece of property, (b) by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or (c) by reason of an extraordinary and exceptional situation uniquely affecting the specific piece of property or the structures lawfully existing thereon.

In order to receive a variance pursuant to c(2), the applicant must demonstrate that the purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirements and that the benefits of the deviation would substantially outweigh any detriment imposed by such deviation. The statutory purposes of the Municipal Land Use Law are codified at N.J.S.A. 40:55D-2 et seq. and the following purposes are applicable to this Application:

- a. To encourage municipal action to guide the appropriate use or development of all lands in this State, in a manner which will promote the public health, safety, morals, and general welfare;
- ...
- e. To promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions and preservation of the environment;
- ...
- i. To promote a desirable visual environment through creative development techniques and good civic design and arrangement;

N.J.S.A. 40:55D-2 et seq.

Side Yard Setback Analysis

The Applicants are requesting one (1) variance for side yard setback where 10 feet is required, and 8.3 feet is proposed to the chimney (10.4 feet to the foundation of the home).

Considering c(1) analysis, the subject Property is an irregular, flag shaped lot, with a narrow portion in Ramsey, and the larger, wider portion in Mahwah. However, the Applicants seek to have the entire single-family home in the Ramsey portion of the Property as they want to be Ramsey residents and have their future children attend Ramsey schools. As a result, the single-family home was placed in the narrow area on the lot. While the foundation of the home was placed within the building envelope, meeting the front, rear and side yard setbacks, the proposed chimney near the southern corner of the house protrudes into the required side yard setback by 1.7 feet. Given the overall unique shape and narrowness of the Property, the requested variance is warranted under c(1) analysis, since a hardship exists.

Under the c(2) analysis, the proposed addition will promote the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-2, subsections (a), (e) and (i). With regard to Subsection (a), approving the necessary variance for side yard setback will promote the proper development of the use within the zone, thereby promoting the general welfare of the public. Looking to Subsection (e), by approving the Applicants' proposal, the Board would be further promoting single-family homes in the R-1 Single-Family Residence District while permitting the Applicants to create a home that is comfortable for their growing family, including a fireplace. The fireplace represents a reasonable amenity for modern single-family purposes. Finally, with regard to Subsection (i), the proposed addition will also improve the overall look and civic design of the R-1 Single-Family Residence District by adding the fireplace.

Granting the variance will promote the Municipal Land Use Law without causing any harm to the surrounding neighborhood. The overwhelming majority of the home meets the side yard requirement of 10 feet, where the foundation is 10.4 feet from the side yard property line. It is only the small chimney bump out that encroaches on the side yard setback. Same will impose no detriment on the neighbors to the south and will undoubtedly be outweighed by the benefits in promoting the purposes of the Municipal Land Use Law as stated above. Accordingly, there will be no negative impact on the surrounding neighborhood, and the variance can be granted without a substantial detriment to the public good and without impairing the intent and purpose of the zoning plan and zoning ordinance of Ramsey.

BOROUGH OF RAMSEY

**IN THE MATTER OF THE APPLICATION OF
BRIAN GUTTERMAN and SHANNON STEVENS**

RESOLUTION

WHEREAS, BRIAN GUTTERMAN and SHANNON STEVENS, (hereinafter referred to as the "Applicant") have made application seeking a waiver to have a public hearing for the construction of a single family home at 160 Forest Avenue, Ramsey, New Jersey and shown on the Tax Map of the Borough of Ramsey as Block 3510, Lot 13.01 (hereinafter referred to as the "Property"); and

WHEREAS, the Planning Board has reviewed the documentation submitted by the Applicant, and has reviewed the report of the Planning Board Engineer; and

WHEREAS, the Planning Board has made the following findings of fact:

1. The Owner of the Property is the Estate of Wiersma. The Applicant is a Contract Purchaser of the Property.
2. The Applicant is proposing to construct a single family home on the Property which is in the R-3 Residence District. The Plan proposed by the Applicant is entitled: "Site Scheme Gutterman Residence, 160 Forest Avenue, Ramsey, New Jersey" prepared by Thomas V. Ashbahian, Architect, Engineer, Planner dated December 10, 2019.
3. The prior Resolution of approval for the construction of the single family home contemplated the home being constructed in Mahwah. The

Applicant is proposing a new home to be constructed entirely in the Ramsey portion of the Property.

4. The Planning Board Engineer has confirmed that the Applicant can comply with all of the bulk requirements for the R-3 Residence District. The location of the proposed home as shown on the Plan does not meet the front yard setback requirements. The front yard setback must be based on the average setback of the homes within 500 feet of the Property. It has been determined that the average setback is greater than 50 feet, so the home must be set at least at 50 feet from the street. The Applicant has stipulated that they can conform with this requirement, and the Plan will be modified so that the front yard setback will be compliant with the Code.
5. The Applicant has confirmed that a Soil Movement Permit will be submitted for the construction of the home.
6. The Board has determined that based upon the fact that the home is now going to be located in Ramsey, and can and shall be fully compliant with the R-3 Residence District Zoning requirements as set forth in pertinent Ramsey Ordinances, there is no requirement for a public hearing to be held relative to this Application. The Board is approving this Plan with the following stipulations which the Applicant has agreed to:
 - A. This approval is for this Applicant only.
 - B. The Plan that will be modified shall be variance free.
 - C. There shall be no further subdivision of the Property.

D. No further development of the Property shall occur in either Ramsey or Mahwah, New Jersey without further review and approval by the Ramsey Planning Board.

E. No sprinkler system is required for this dwelling unit.

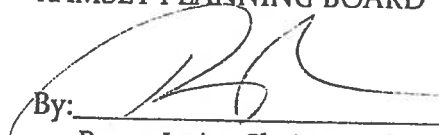
NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Ramsey on this 7th day of January 2020, that the request for a waiver of public hearing to permit the construction of a single family home on the Property that will be fully compliant from a Zoning perspective with the Borough of Ramsey Ordinances, is hereby GRANTED subject to the following conditions:

1. The Applicant shall develop the site in accordance with the Plans submitted entitled: "Site Scheme Gutterman Residence, 160 Forest Avenue, Ramsey, New Jersey" prepared by Thomas V. Ashbahian, Architect, Engineer, Planner dated December 10, 2019, which shall be further modified to provide for a conforming front yard setback from Forest Avenue.
2. The Board is approving this Plan with the following stipulations which the Applicant has agreed to:
 - A. This approval is for this Applicant only.
 - B. The Plan that will be modified shall be variance free.
 - C. There shall be no further subdivision of the Property.
 - D. No further development of the Property shall occur in either Ramsey or Mahwah, New Jersey without further review and approval by the Ramsey Planning Board.

3. Applicant shall post appropriate fees and payment of any escrows required.

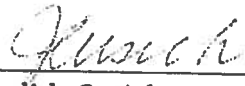
Approved:

RAMSEY PLANNING BOARD

By: 

Roger Iorio, Chairman

Attest:

By: 

Judith Cusick, Secretary

BEW:cbp
(Ramsey PB.Gutterman.Stevens)

BOROUGH OF RAMSEY

PROOF OF PAYMENT OF TAXES

PLANNING BOARD

BOARD OF ADJUSTMENT

Statute 40:55-1.14-Regulation of Subdivisions

"Any such ordinance may require as a condition for local municipal approval the submission of proof that no taxes or assessments for local improvements are due or delinquent on the property for which any subdivision application is made."

Block 3510 Lot 13.01 Qualifier _____

Name Gutterman, Brian & Stevens, Shannon

Property Taxes are: _____ X current _____ Delinquent

Municipal Water/Sewer are: _____ current _____ Delinquent

Date: 4/1/2022

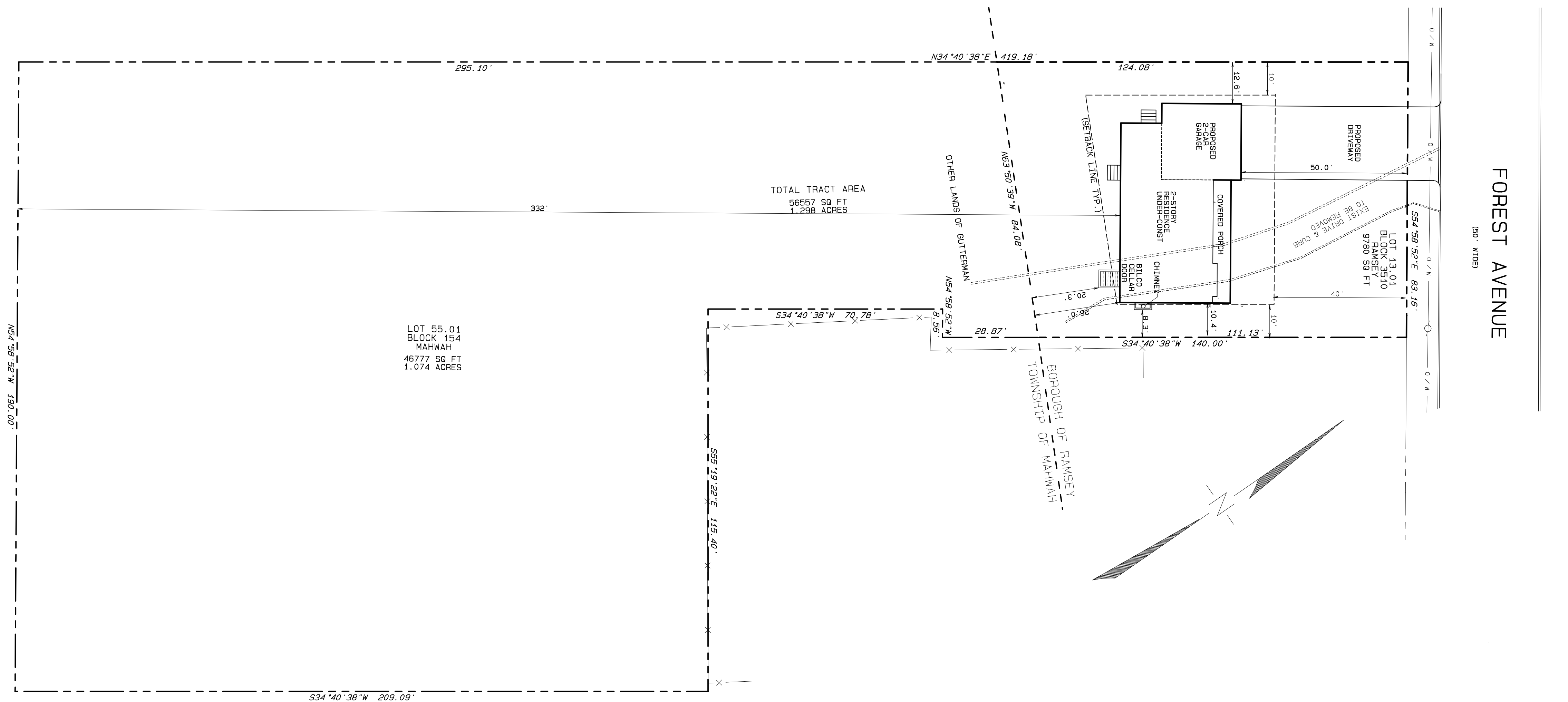
Richard Busa

Tax Collector's Office/Clerk

This form must be submitted together with all pertinent forms for your application to be considered.

The Tax Collector's Office is located on the first floor in the Municipal Building.

No.	DATE	REVISION	DSGN BY	DRWN BY	CHKD BY
1)	02/22/22	ZONE TABLE		PCK	



LOCATION / ZONE PLAN

FOR
BRIAN GUTTERMAN
 #160 FOREST AVENUE
 LOT 13.01, BLOCK 3510 - BOROUGH OF RAMSEY
 LOT 55.01, BLOCK 154 - TOWNSHIP OF MAHWAH
 BERGEN COUNTY NEW JERSEY
 SCALE 1" = 20' NOVEMBER 15, 2021

ZONING SCHEDULE: ZONE R-3 (RAMSEY)

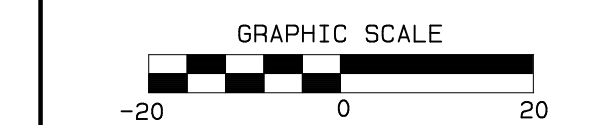
	MINIMUM AREA REQUIREMENTS			MAXIMUM BULK REQUIREMENTS			MINIMUM YARD REQUIREMENTS			
	LOT AREA SQ FT	LOT WIDTH FT	LOT DEPTH FT	IMPROVED LOT COVERAGE	LOT COVERAGE	BLDG. HTG. FT	FRONT YARD FT	SIDE YARD FT	REAR YARD FT.	
REQUIRED	14000	75	-	40%	20%	35	2 1/2	40	10	25
PROPOSED	56,557 *	83.16	117.6	5.4% *	3.6% *	27.6	2	50.0	10.4 **	332 *

* INCL AREA OF LOT 55.01 IN MAHWAH
 ** TO SIDE OF BUILDING FOUNDATION
 *** TO SIDE OF CHIMNEY

NOTES:

1. COPIES OF THIS MAP NOT HAVING THE EMBOSSED SEAL OF THE LAND SURVEYOR SHALL NOT BE VALID.
2. FIELD WORK PERFORMED THROUGH 06/15/21.
3. IMPROVEMENTS ON OR UNDER THE LANDS AND NOT VISIBLE MAY NOT BE SHOWN.
4. BUILDING OFFSETS SHOWN HEREON NOT TO BE USED TO ESTABLISH PROPERTY LINE LOCATIONS.

PETER C. KIRCH
 PROFESSIONAL LAND SURVEYOR
 NJPLS NO. 23130 NYLS NO. 49208
 PA NO. SU-22853-E OH NO. S-6388



SURTECH
 SURVEYING TECHNOLOGIES, INC.

43 SPRING STREET
 RAMSEY, NEW JERSEY 07446
 (201) 236-0033
 WWW.SURTECH.COM

NJ CERTIFICATE OF AUTHORIZATION
 No. 24G28151200