



ZONING BOARD OF ADJUSTMENT
TOWNSHIP OF ELK

RECEIVED

JUL 16 2024

TOWNSHIP OF ELK
PLANNING BOARD

NOTICE OF APPEAL
(USE VARIANCE APPLICATION FORM)

DATE: 17-16-2024
APPEAL NO: ZB-24-04

Note: The application must be deemed administratively complete before it will be scheduled for a hearing. All requested information must be submitted for the application to be deemed complete.

Appeal is hereby made by the undersigned (check applicable item or items):

For a variance or special exception from the terms of the Zoning Ordinance of the Township of Elk

From the action or decision of the Zoning Administrative Officer

Parcel: Block/lot 34/7 Address: 900 AURA ROAD

Applicant: MATTHEW T. ROTKOWSKI

Address: [REDACTED]

Phone: [REDACTED] Email: _____

Property Owner: ESTATE OF VERNON C. NICHOLSON; CLAYTON NICHOLSON EXEC.

Address: 904 AURA ROAD, MONROEVILLE, NJ 08433

Attorney (if any) JOHN KOSYLO

Address: 151 FRIES MILL RD #503 TURKEYVILLE, NJ 08412

Phone: 806-228-9455 Email: jkos1@comcast.net

Professional preparing plans: _____

Address: _____

Phone: _____ Email: _____

Interest of appellant if not owner (agent, lessee, etc.) _____

1. Application relates to: (check applicable item or items)

Use Lot Area _____ Yards _____ Height _____

Existing Building _____ Proposed Building _____ Other _____

2. Brief description of real estate affected, location (Block & Lot, Tax Map No. Street address):

Block/Lot(s): _____ Address: _____ Tax Map Sheet No.: _____

See Attached

Lot size: _____

Present use: _____

Present zoning classification: C-1

Present improvements upon land: _____

3. If this is an appeal from action of the Zoning Administrative Officer, complete the following:

Date of determination made: MA

Your statement of alleged error: _____

4. Action desired by appellant: (Give a brief description of your proposed use, including the number of professionals and/or employees, the number of anticipated clients or customers per hour, anticipated days and hours of business and anticipated number of deliveries per day, if applicable.)

See Attached

5. Reasons appellant believes Board should approve desired action (Submit 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 ordinance).

See Attached

6. Has previous appeal been filed in connection with these premises? OK.

If "yes," state the nature, date and the disposition of said matter and attach copies of all prior resolutions of this or any other Land Development Board. _____

7. Plans signed and sealed by the appropriate professional at a scale of 1 inch to 50 feet or better, clearly showing the following information:
 - A. Existing Conditions Plan showing the existing conditions and structures on the property, based on a recent survey.
 - B. Proposed Conditions Plan showing the proposed improvements to the property.
The proposed conditions plan must include:
 1. Required Bulk and area regulations and the ability to meet;
 2. north arrow and scale;
 3. proposed buildings or additions;
 4. proposed parking;
 5. proposed access to parking and building;
 6. approximate dimensions of lot and existing and proposed buildings;
 7. approximate setbacks of existing and proposed structures and parking areas from property lines;
 8. names of owners of adjacent lots;
 9. approximate distance from your property line to existing buildings on adjacent lots;
 10. uses on lots adjacent to property;
 11. location of public and private roads adjoining the property;
 12. location of existing or proposed easements;
 13. location of wooded areas and limits of proposed clearing;
 14. location of any wetlands or other natural features;
 15. Photographs (minimum of 3) of the site taken from the opposite side of the street and to show any unusual physical aspects of the site and any other vantage that would be instructive.
 - C. Floor plan of the existing building and structures and any proposed buildings and structures showing dimensions of rooms, total square footages and proposed use of the rooms.

All of the above items must be submitted with the application or a waiver explicitly requested, in writing, stating why you feel the waiver should be granted. The application must be deemed complete before it will be scheduled for a hearing.

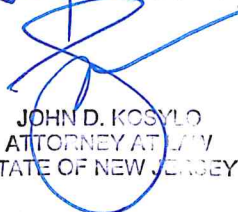
I hereby depose and say that all of the above statement and the statements contained in any papers or plans submitted herewith are true to the best of my knowledge and belief.



Signature of applicant

Signature of property owner

Sworn to and Subscribed
before me this 12 day
of July, 2024


JOHN D. KOSYLO
ATTORNEY AT LAW
STATE OF NEW JERSEY





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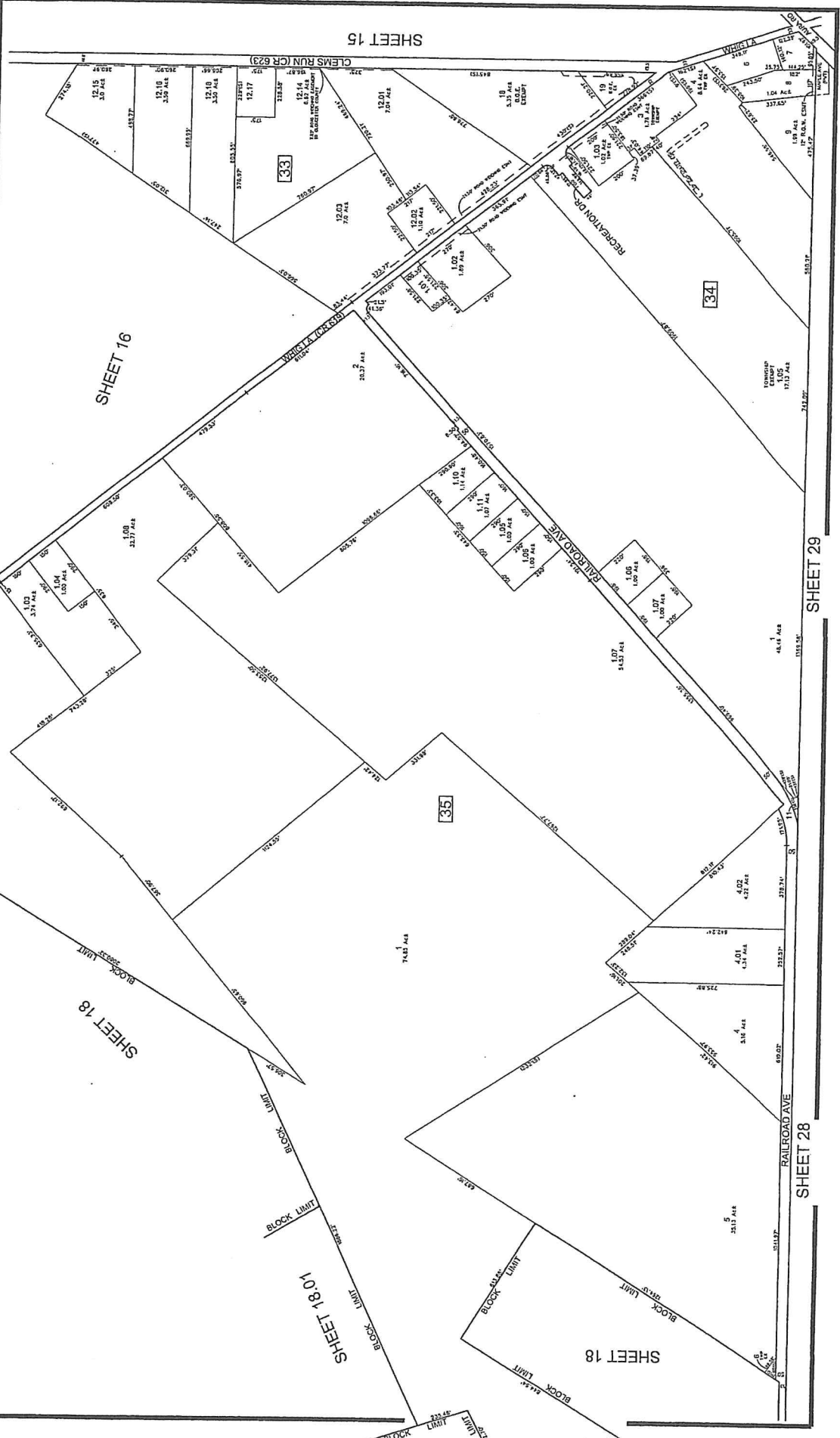


TAX MAP
TOWNSHIP OF ELK
 DATE RECEIVED 7/11
 CHARLES A. ATKINSON
 CIVIL ENGINEER
 1744 AVENUE NO. 200
 WASHINGTON STATE DEPARTMENT OF REVENUE
 COMPASSIONATE CARE

THIS MAP HAS BEEN GIVEN A
 FORMAL CERTIFICATION BY THE
 DIVISION OF TAXATION ON
 MARCH 16, 2012, SIGNED
 BY SUE DAVISON, CTA AND
 ASSIGNED SERIAL NUMBER 900

* THIS SHEET HAS BEEN DRAWN USING SURVEY AND DRAFTING/
 DESIGN (CAD/D) AND COORDINATE GEOMETRY (COGO).

DATE	BY	REVISIONS
07/11/11	CHARLES A. ATKINSON	LOT 101
07/11/11	CHARLES A. ATKINSON	LOT 102
07/11/11	CHARLES A. ATKINSON	LOT 103
07/11/11	CHARLES A. ATKINSON	LOT 104
07/11/11	CHARLES A. ATKINSON	LOT 105
07/11/11	CHARLES A. ATKINSON	LOT 106
07/11/11	CHARLES A. ATKINSON	LOT 107
07/11/11	CHARLES A. ATKINSON	LOT 108
07/11/11	CHARLES A. ATKINSON	LOT 109
07/11/11	CHARLES A. ATKINSON	LOT 110



AFFIDAVIT OF APPLICANT

STATE OF New Jersey }
COUNTY OF Gloucester } ss.

Marcus Porowski of full age being duly sworn according to law on oath deposes and says that all of the above statements and the statements contained in the papers submitted in connection with this application are true and correct.

[Signature]
(Signature of Applicant)

Sworn and subscribed before me this 12th day
of July, 2024.

Marcus Porowski
(Print name of Applicant)

[Signature]
(Notary)
JOHN D. KOSYLO
ATTORNEY AT LAW
STATE OF NEW JERSEY

AFFIDAVIT OF OWNERSHIP

STATE OF NJ }
COUNTY OF Gloucester } ss.

Curtis Nicholson of full age, being duly sworn according to law, on oath deposes and says, that deponent resides at 53 Longmere Ave Pitman (address) (City) in the County of Gloucester and State of New Jersey; and that I am the owner of all that certain lot, piece or parcel of land known as Block (s) 34 Lot(s) 7 on the Tax Map of Elk Township, which property is the subject of the foregoing application, and that said application is hereby authorized by me.



[Signature]
(Signature of Property Owner)

Curtis Nicholson
(Printed Name of Owner)

Sworn and subscribed before me this
of AUGUST 20

[Signature]
(Notary)

DISCLOSURE STATEMENT
PURSUANT TO L. 1977, C-336

A. Is this application to subdivide a parcel or parcels of land into six or more lots?

YES _____
NO x

B. Is this application for a variance to construct a multiple dwelling of 25 or more family units?

YES _____
NO y

C. Is this application for approval of a site or sites to be used for commercial purposes?

YES x
NO _____

IF ANY OF THE ABOVE ANSWERS WERE "YES" PROCEED TO "D".

D. Is the applicant a corporation or partnership?

YES _____
NO x

If yes:

1. List 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. (Use extra sheets if necessary.)

n/r



August 15, 2024

Elk Township Planning/Zoning Board
680 Whig Lane
Monroeville, NJ 08343

Attn: Ann Marie Weitzel, Board Secretary

Re: Use Variance and Site Plan Waiver Request
Matthew J. Rutkowski
Block 34, Lot 6
900 Aura Road
C-1 Commercial District
Elk Township Application ZB-24-03
Bach Associates Proj. # ETPB2024-12

Dear Chairman Afflerbach and Members of the Board:

We have received the following materials in support of the variance application:

1. Notice of Appeal (Use Variance Application) to the Zoning Board of Adjustment and supporting documents, dated July 16, 2024.
2. Cover letter prepared by the Law Office of John D. Kosylo, dated July 10, 2024.
3. Agreement of Sale prepared by Charles A. Fiore, Esq., dated April 8, 2024
4. Property description prepared by Al Floyd Surveying, LLC, dated June 24, 2024.
5. Photographs of the property.
6. Survey entitled "Survey of Premises No. 674 Whig Lane, Situate Township of Elk, Gloucester County, New Jersey", prepared by Al Floyd Surveying, LLC, dated 6-24-24, no revision.

PROJECT SUMMARY:

The application is for a "D(1)" use variance to permit a landscaping business in a zone where it is not permitted. The parcel is located on the southerly side of Whig Lane between Railroad Avenue and Aura Road. The approximately 1 acre lot contains an existing masonry & frame building, a second frame building, two stone drives and concrete walkways. The applicant is also requesting a site plan waiver at this time.

OWNER/APPLICANT:

Matthew J. Rutkowski
12 Randy Road
Glendora, NJ 08029
856-435-5799

Estate of Vernon C. Nicholson
904 Aura Road
Monroeville, NJ 08343
972-391-5505

ZONING ORDINANCE REQUIREMENTS:

1. The property is located in the Township's C-1 Neighborhood Commercial Zoning District.
2. Landscaping businesses are not a permitted use in the C-1 Neighborhood Commercial Zoning District. ***A variance is required.***
3. The property is bordered to its north and west by properties in the C-1 Zone, to the northeast by properties in the R Rural Residential Zone, and to its southeast by properties in the RE Rural Environmental Zone.
4. The adjacent uses include the Township municipal offices, residential, and agricultural uses.

Use Variance:

1. A landscaping business is not a permitted use in the C-1 zoning district. ***A D(1) use variance is required.***

Standard of Proof for "D" Variances

For "D" variances it is the applicant's obligation to present the "Positive" and "Negative" criteria to justify the variance. The applicant must prove to the satisfaction of the Board that there are "special reasons" for the Board to exercise its jurisdiction to grant the requested relief, demonstrating that the site is particularly suited to the proposed use and that the proposal will advance the purposes of Municipal Land Use Law (N.J.S.A. 40:55D-2) and the Township's Master Plan and Zoning ordinances (POSITIVE).

The applicant must also show that the variance can be granted without substantial detriment to the public good and that the variance will not substantially impair the intent and purpose of the zone plan and zoning ordinance (NEGATIVE). The applicant should provide testimony demonstrating that the proposal will meet the variance criteria.

Bulk Variances:

1. Minimum Lot Depth §96-76D.(3) - The applicant has provided a lot depth of 147.12 where a lot depth of 150 feet is required. *It shall be noted that this is an existing non-conformance.*
2. Maximum Building Coverage §96-76D.(4) – The applicant has requested a variance for maximum building coverage but has not provided the existing or proposed coverage.
3. Our office has no objection in the Board acknowledging that the existing lot depth and lot coverage are existing non-conformances, but we have no technical information to recommend to the board to approve any existing non conformances as bulk variances without the benefit of detailed site data from the applicant.

Standard of Proof for “C” Variances

The applicant must provide testimony to justify the requested variances. For a C(1) variance, the applicant must demonstrate that the strict application of the zoning regulations to the property create a hardship or result in exceptional practical difficulties by reason of the exceptional shape of the property or the exceptional topographic conditions uniquely affecting the property, or the structures lawfully existing upon the property. For a C(2) variance the applicant must show that the proposed variance advances the purposes of municipal land use law and that the benefits of the deviation would substantially outweigh any detriments.

The applicant should address whether the proposed variance will substantially impair the intent of the Master Plan or zoning plan and whether there are any potential impacts to the public good.

COMMENTS:

1. Our office does not recommend the requested Site Plan Waiver based on the existing site improvements.

Use Variance and Site Plan Waiver Request
Matthew J. Rutkowski
Block 34, Lot 6
900 Aura Road
C-1 Commercial District
Elk Township Application ZB-24-03
Bach Associates Proj. # ETPB2024-12
August 15, 2024
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Should there be any questions or if additional information is required, please contact the undersigned at (856) 546-8611.

Very truly yours,
BACH ASSOCIATES, PC



Steven M. Bach, PE, RA, PP, CME
President



Candace Kanaplue, PP, AICP
Associate

Cc: Christopher Dasti, Esq, Board Solicitor
Matthew J. Rutkowski, Applicant
Estate of Vernon C. Nicholson, Owner
John D. Kosylo, Esq., Applicant's Attorney
David J. Fleming, PE, Applicant's Engineer

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Use Variance Review #1.doc