

8. Type of application presented:

- Appeal from decision of Zoning Official (N.J.S.A. 40:55D-70a)
- Interpretation of Zoning Ordinance or Zoning Map (N.J.S.A. 40:55D-70b)
- Hardship Variance (N.J.S.A. 40:55D-70c(1))
- Flexible (C)/balancing benefits and detriments (N.J.S.A. 40:55D-70c(2))
- Use Variance (N.J.S.A. 40:55D070d)
 - (1) Use or principal structure
 - (2) Expansion of non-conforming use
 - (3) Deviation from conditional use standard
 - (4) Increase in permitted floor area ratio
 - (5) Increase in permitted density
 - (6) Height of principal structure greater than 10 feet or 10% of maximum height permitted
- Permit to build in street bed (N.J.S.A. 40:55D-34)
- Permit to build where lot does not abut street (N.J.S.A. 40:55D-36)
- Site plans (N.J.S.A. 40:55D-76)
 - Major
 - Preliminary
 - Final
 - Minor
- Waiver of site plan itself
- Subdivision (N.J.S.A. 40:55D-76)
 - Minor
 - Major
 - Preliminary
 - Final
- Waivers from subdivision and/or site plan standards
- Other

9. Request is made for permission to keep an existing apartment located on the second floor of an existing garage

(Describe type of variance sought)
"D" Use Variance and a "C(1)" Variances - See attached Rider
 contrary to the requirements of
Sections: _____
_____ of the Dennis Township Land Use and Development
Ordinances, Dennis Township Code Chapters 98, 165 and 185.

10. Supply the following information concerning this application. Place an asterisk to the left of the description of all items for which variances are sought.

ZONING SCHEDULE: (ZONE "PV" PINELANDS VILLAGE DISTRICT)

DESCRIPTION	REQUIRED "PV" ZONE	EXISTING LOT 28	EXIST. GARAGE APT.	VARIANCE
MINIMUM LOT AREA	3.2 ACRES	2.43± ACRES	2.43± ACRES	YES.
MINIMUM LOT FRONTAGE	100'	OVER 100'	OVER 100'	NO
MINIMUM LOT WIDTH	100'	108.0'	108.0'	NO
MINIMUM LOT DEPTH	250'	1049.89'	1049.89'	NO
PRINCIPAL BUILDING				
MINIMUM FRONT YARD SETBACK	200'	OVER 200'	OVER 200'	NO
MINIMUM SIDE YARD SETBACK	15'	14.2'	31.4'	YES
MINIMUM REAR YARD SETBACK	50'	38.3'	OVER 50'	YES
MINIMUM GROSS FLOOR AREA (GFA)	1000 SQ. FT.	1140 SQ. FT.*	595 SQ. FT.	YES
MAX. BUILDING HEIGHT	30'	LESS THAN 30'	LESS THAN 30'	NO
ACCESSORY BUILDING				
MINIMUM SIDE YARD SETBACK	10'	3.4'	N/A	YES
MINIMUM REAR YARD SETBACK	10'	OVER 10'	N/A	NO
DISTANCE TO PRINCIPAL STRUCTURE	10'	OVER 10'	N/A	NO
MAXIMUM BLDG. HEIGHT (TOOL SHED)	15'	LESS THAN 15'	N/A	NO
MAXIMUM COVERAGE				
PRINCIPAL BUILDING	50%	1843 SQ. FT./1.7%**	595 SQ. FT./0.7%	NO
ACCESSORY BUILDINGS	1%	0.2%	N/A	NO

* EXCLUDES GARAGE APARTMENT GFA

** INCLUDES A FRAME RESIDENCE AT 1248 SQ. FT. AND GARAGE APARTMENT AT 595 SQ. FT. (1843 SQ. FT. TOTAL)

Accessory Building

	<u>EXISTING CONDITION</u>	<u>REQUIRED BY ORDINANCE</u> YES/NO	<u>PROPOSED REQUIRED</u>	<u>VARIANCE</u>
<u>PARKING:</u>				
No. of Spaces	6	3		No variance required
<u>SIGNS:</u>				
Size	N/A			
Number	N/A			
Type (free standing or building mounted)	N/A			

11. Has there been any previous appeal, request or application to this Board or to the Planning Board involving these premises? If yes, state the nature of application, date of application, date of hearing and result received from Board.

None Known

BY LAW, VARIANCES CAN ONLY BE GRANTED WHERE THE APPLICANT IS ABLE TO SATISFY BOTH POSITIVE AND NEGATIVE CRITERIA ESTABLISHED BY THE MUNICIPAL LAND USE LAW. NO VARIANCE RELIEF OF ANY TYPE MAY BE GRANTED UNLESS THE VARIANCE OR RELIEF CAN BE GRANTED WITHOUT SUBSTANTIAL DETRIMENT TO THE PUBLIC GOOD AND WITHOUT SUBSTANTIALLY IMPAIRING THE INTENT AND PURPOSE OF THE ZONE PLAN AND ZONING ORDINANCE. HARDSHIP VARIANCES OF THE ZONE PLAN AND ZONING ORDINANCE. HARDSHIP VARIANCES (40:55dc(1)) CAN ONLY BE GRANTED WHERE AN EXCEPTIONAL CONDITION EXISTS WITH REGARD TO A SPECIFIC PIECE OF PROPERTY, WHERE EXCEPTIONAL TOPOGRAPHICAL CONDITIONS OR PHYSICAL FEATURES UNIQUELY AFFECT A SPECIFIC PIECE OF PROPERTY OR WHEREBY REASON OF AN EXTRAORDINARY AND EXCEPTIONAL SITUATION UNIQUELY AFFECTING A SPECIFIC PIECE OF PROPERTY OR THE STRUCTURES LAWFULLY EXISTING THEREON THE STRICT APPLICATION OF THE ZONING REQUIREMENT WOULD RESULT IN PECULIAR AND EXCEPTIONAL PRACTICAL DIFFICULTIES TO OR EXCEPTIONAL AND UNDUE HARDSHIP UPON THE DEVELOPER OF THE PROPERTY. RELIEF UNDER THE FLEXIBLE C TYPE VARIANCE (N.J.S.A. 40:55D-70c(2)) CAN ONLY BE GRANTED WHERE, WITH REGARD TO A SPECIFIC PIECE OF PROPERTY, THE PURPOSES OF THE MUNICIPAL LAND USE LAW WOULD BE

ADVANCED BY A DEVIATION FROM THE ZONING ORDINANCE REQUIREMENT AND THE BENEFIT OF THE DEVIATION WOULD SUBSTANTIALLY OUTWEIGH ANY DETRIMENT. USE, AND RELATED VARIANCES (N.J.S.A. 40:55d-70d) CAN ONLY BE GRANTED WHERE THERE ARE SPECIAL REASONS AS SPECIFIED BY THE MUNICIPAL LAND USE LAW. THE BURDEN IS UPON THE APPLICANT TO PROVIDE PROOF OF SATISFACTION OF THE AFORESAID REQUIREMENTS APPLICABLE TO HIS APPLICATION.

A SHORT SUMMARY OF THE REASONS WHY YOU ARE ENTITLED TO THE RELIEF SOUGHT FROM THE ZONING BOARD OF ADJUSTMENT SHALL BE PROVIDED ON A SEPARATE SHEET OF PAPER AND ENUMERATED WITH THE APPROPRIATE PARAGRAPH NUMBER UNDER WHICH THE RELIEF IS SOUGHT, (PARAGRAPHS NO. 12-15)

12. Attach to this application a statement of the facts showing why the relief sought can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Dennis Township Zoning Plan and Zoning Ordinance. State why the variance can be granted without substantial harm to the neighborhood and without significant overturning of the Township Zoning Plan.

13. Attach to this application a statement specifying the hardship/exceptional conditions of the specific property involved justifying the granting of a variance pursuant to N.J.S.A. 40:55D-70c(1). State what is unique about your specific piece of property noting such things as an exceptionally narrow, deep, or otherwise unusually shaped lot; physical features located on the lot that prevent its use in a normal manner that would be allowed by the existing zoning; the specific location of existing structures that limit compliance with the required zoning. Note how the circumstances relating to your particular lot differ from other lots in the neighborhood. State what hardships would result should the variance not be granted to you.

14. Attach to this application a statement setting forth the facts supporting the contention that the purposes of the Municipal Land Use Law would be advanced by a deviation from the Zoning requirements in question and the benefits of that deviation would substantially outweigh any detriment pursuant to N.J.S.A. 40:55D-70c(2). Among the purposes of the Municipal Land Use Law are following: promotion of public health, safety and welfare; provision of adequate light, air and open space; establishment of appropriate population densities; provision of sufficient space for agricultural, residential, recreational, commercial and industrial uses and open space; promotion of a desirable visual environment; conservation of historic sites, districts, open space and natural resources; encouragement of senior citizens housing. Cite which of these apply to your application and further, cite the characteristics of your land that will present an opportunity for improved zoning and planning to benefit the community.

15. Attach to this application a statement setting forth the special reasons for granting this variance pursuant to N.J.S.A. 40:55D-70d. "Special Reasons" exist where a proposed project carries out a purpose of zoning, (such as those noted in Section 14 above) or where the refusal to allow the project would impose an undue hardship on you; state why the property at issue cannot reasonably be developed with a use permitted by the Zoning Ordinance.

**RIDER TO ZONING APPLICATION
167 FIDDLER ROAD
BLOCK 67, LOT 28**

Applicants are the owners of the lot existing of 105,698 plus or minus sq. ft. or 2.43 plus or minus acres, and is located in the Township's PV (Pinelands Village) Zone.

When the applicant purchased the property it was being used as two (2) dwelling units consisting of a single family dwelling and apartment above the detached garage, which is a non-conforming use in this particular zone, requiring a use variance. The total living space for the two units combined is less than 1800 sq. ft.

The existence of the garage apartment requires a "d" variance. Applicant, in order to obtain a "d" variance, must show "special reason" in order for the board to grant the requested relief.

The term "special reason" takes its definition from the purposes of zoning listed in N.J.S. 40:55D-2. The special reason being relied on in this instance is that the two (2) units have been in existence for over thirty (30) years.

The applicant must also show that the variance may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning ordinance (negative criteria). The improvements on the property have been in existence for over thirty (30) years with no negative impact to the surrounding area and without substantially impairing the intent and purpose of the zone plan and zoning ordinance.

The PV zone permits private single family dwellings on lots containing at least 3.2 acres. the subject lot is 2.43 acres. Accordingly, a lot size variance is required, per Section 185-26(E). In addition, the following variances are required: A variance for minimum side yard is required for the principal building and the tool shed, per Section 185-26(E); the principal building side yard requirement is 15' whereas the existing is 14.2', the accessory building (tool shed) requires a 10' side yard set back and 3.4' is existing. A minimum rear yard variance for the principal A frame dwelling is required because the existing set back is 38.3' where 50' is required, per Section 185-26(E). Finally, a variance is being requested for minimum gross floor area for the garage where 1,000 sq. ft. is required and 595 sq. ft. is existing in the garage floor area, per Section 185-26(E). Any and all additional variances and/or design waivers that may be deemed necessary.

These requests are being made to Subsection c(1). This Section speaks of an extraordinary and exceptional situation uniquely affecting a specific piece of property. This language, which resulted from the 1985 amendments, recognizes that hardship can be created not only by the physical characteristics of the land, but by reason of the existence of a structure already located on it which may create an "exceptional situation" sufficient to justify a zoning variance. See Lang v. Zoning Board of Adjustment, 160 N.J. 41 (1999); Wilson v. Brick Twp. Zoning Bd., 405 N.J. Super. 189, 200-202 (App. Div. 2009); Hawrylo v. Board of Adjustment, 249 N.J. Super. 568 (App. Div. 1991).

The applicant must also meet the negative criteria relief by showing that the relief can be granted without substantial detriment to the public and unless it will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

VERIFICATION OF APPLICATION

(Indicate Status of Applicant Below)

- Applicant is owner of property
- Applicant is not owner of property but has an Agreement of Sale and the consent of the owner to make this application.
- Other (specify)

STATE OF NEW JERSEY:

SS

COUNTY OF CAPE MAY:

Henry Weigel and Cheryl Weigel, being of full age and duly sworn according to law, upon his/her oath, deposes and says that the information set forth in the variance application, survey, subdivision plan, site plan and related documents submitted in connection with this application is true and correct and that they accurately portray the proposed project for which variance relief and accompanying approvals (if any) are sought.

Henry Weigel
 Applicant's Signature
 Henry Weigel

Cheryl Weigel
 Cheryl Weigel

Sworn and subscribed to before me this 13th day of July, 2023.

Emily R. Hensel
 Notary Public
 My Commission Expires

EMILY R. HENSEL
 Notary Public of New Jersey
 Commission #84430
 My Commission Expires 09/10/2027

CONSENT TO APPLICATION BY OWNER OF PREMISES
(Need not be signed if Owner is Applicant)

I hereby consent to the application submitted to the Dennis Township Zoning Board of Adjustment with regard to the premises referred to in this application which premises is owned by me.

Henry Weigel
 Owner's Signature
 Henry Weigel

Cheryl Weigel
 Cheryl Weigel

Sworn and subscribed to before me this 13th day of July, 2023.

Emily R. Hensel
 Notary Public
 New Jersey

EMILY R. HENSEL
 Notary Public of New Jersey
 Commission #84430
 My Commission Expires 09/10/2027

DENNIS TOWNSHIP ZONING BOARD OF ADJUSTMENT

SURVEY/PLAN/PLAT AFFIDAVIT

STATE OF NEW JERSEY:

SS

COUNTY OF CAPE MAY:

(Name) Henry Weigel and Cheryl Weigel, being duly sworn according to law, upon his oath deposes and says:

- 1. I am the owner of the property known and identified as Block 67, Lot(s) 28, in the Township of Dennis or I am the applicant for development in this matter.
- 2. The attached sealed survey/plan/plat prepared by GIBSON ASSOCIATES, P.A., and dated 6-26-2023, accurately reflects the physical condition of the property as of the date of this Affidavit and there have been no changes or alterations to the property since the date of the sealed survey/plan/plat.
- 3. I make this Affidavit in support of an application for development before the Dennis Township Zoning Board of Adjustment and understand that said Board shall rely on the current accuracy of the said survey/plan/plat in considering the application for development of the property.

Henry Weigel
 Signature - Owner/Applicant
 Henry Weigel

Cheryl Weigel
 Cheryl Weigel

Sworn to and subscribed before me this 13th day of July, 2023.

Emily R Hensel
 Notary Public
 New Jersey **EMILY R. HENSEL**
 Notary Public of New Jersey
 Commission #84430
 My Commission Expires 09/10/2027

**DENNIS TOWNSHIP ZONING BOARD OF ADJUSTMENT
ESCROW FEES AND APPLICATION FEES**

Applicant's Name: Henry Weigel and Cheryl Weigel
 Address: 167 Fidler Road
Woodbine, NJ

Address of Property: Same as above
 Subject to the Application: (Street Address): Same as above

Block: 67 Lot (s): 28

Amount of required Escrow: \$ 2,500.00

Amount of required Application Fees: \$ 500.00

All escrow funds shall be deposited by the applicant with the Municipal Treasurer who shall, in turn, deposit them in a separate escrow account and carry them under the Township's Trust Fund section of accounts on the books of the Township as a professional, inspection and consulting fee escrow fund. Said escrow fund shall be used to pay the fees of professional personnel employed to assist the Dennis Township Zoning Board of Adjustment in review of the application, to prepare Board Resolutions and other legal documents relating to the application, and to inspect and approve construction. Professional fees shall be billed through the Municipality's voucher system and approved for payment by the Zoning Board of Adjustment. Any excess of funds remaining in the escrow account at the time when all required improvements have been finally accepted and all professional work completed shall be returned to the applicant. If at any time it become evident that the escrow account is or will be insufficient to cover said fees, the developer shall increase the fund as required by the appropriate Zoning Board of Adjustment Official having jurisdiction over the matter.

The application fee is non-refundable and is a separate charge from the escrow fee.

I understand and consent to the foregoing.

Date: July 13, 2023

Applicant: Henry Weigel
Cheryl Weigel
 Henry Weigel
 Cheryl Weigel