

**A RESOLUTION OF THE JOINT LAND USE BOARD OF THE BOROUGH OF
BELLMAWR MEMORIALIZING A USE VARIANCE APPROVAL AND PARKING
VARIANCE SUBJECT TO SUBSEQUENT APPLICATION AND APPROVAL OF SITE
PLAN FOR 1128 WEST BROWNING ROAD, BLOCK 6, LOT 31, APPLICATION
NO. 2024-08**

WHEREAS, on June 3, 2024 at the regular meeting of the Bellmawr Joint Land Use Board, consideration was given to application filed by Steven Galasso for property located at 1128 West Browning Road, Block 6, Lot 31.

WHEREAS, the applicant appeared pro se and provided testimony from professional architect, Charles Jon Meloy, and the Board having heard testimony from Steven Bach and Nicholas Bishop and having heard testimony from members of the public, including John Ertl, Paul Ferrante and Debbie Dugan and having reviewed documentation submitted with the application and during the hearing and for good cause shown, the Board makes the following factual findings in conditionally approving the subject application for use variance and parking variance;

1. The application has been properly noticed and applied for and all conditions precedent to the Board's jurisdiction have been satisfied.
2. The Board had before it the following items:
 - The application duly completed.
 - Request for tax collector clearance.
 - Agreement to pay professional fees.
 - Public notice.
 - Checklist of items required and submitted.
 - An architect's plan demonstrating the building footprint that is existing and not being expanded together with the existing site improvements, some of which are shown to require improvement pursuant to a site plan that has yet to be applied for and the grant of which is a specific and accepted condition of this approval.
 - Survey from Ewing Associates dated March 25, 2024 that depicts the outbounds of the property and improvements and structures thereon.
 - A document entitled, "Building Renovation Plan for 1128 West Browning Road, New Jersey," which details substantial and aesthetically desirable exterior repairs and interior remodeling that will be the subject of the aforesaid site plan (as to the

exterior) and building permit issuance (as to the interior remodeling). Attached to the aforesaid document was a visual aid that shows pictures of one unit after remodeling. The Board does find that these renovations will assist in transforming the property into an attractive and desirable property, which is presently moribund and only partly occupied as hereinafter detailed in testimony.

- Board engineer's report of April 26, 2024, which is described below in more detail.
- Two photographs of the front exterior of the structure with annotations. The first annotation shows the four separate entrances, one for each unit with explanatory pictorial material as to present and prior uses. The second shows the profiles of various exterior improvements and the unification of building lines by these improvements that will ensue, subject to site plan approval, resulting in a much-improved homogeneous exterior appearance on the roadway to the benefit of the property, but also to the community as a whole, this property being located on a major roadway and presently presenting what can only be called a nonattractive appearance.

3. Through the testimony and application materials, the Board learned of certain facts upon which it relies as a foundation for the grant of the relief requested, which relief is granted conditionally.

4. Specifically, the application is for a use variance to permit four apartments, two of which are existing, and two of which are proposed in an existing mixed-use building located on the southerly corner of West Browning Road and Adams Avenue. According to the Board engineer, the property is a 5,151-square-foot parcel that is undersized and contains an existing two-story masonry building with concrete parking in both front yards.

5. The additional multifamily housing proposed is not a permitted use (nor are the two existing residential units) in the Business A Zoning District, and hence, the use variance is required. It is surrounded to the west and south by residential and mixed-use properties in the borough's Business District A and to the east by commercial properties in the Business C Zoning District, and to the north by Brooklawn Borough's shopping center district.

6. With specific reference to the use variance, the Board engineer points out that Section 260-32 does not permit multifamily housing. However, it is further noted that two residential apartments currently exist in the existing building and that two additional units would be an expansion of an existing nonconforming use, which has a lower burden of proof under case law and as advised by the Board solicitor. The prior use combined residential and commercial uses and hence had two primary uses, a Non-Conformity which is being removed. As a result, there will only be a single primary use, that being residential.

7. The parking that is required under NJAC 5:21-4.14 requires eight spaces, and only six spaces are proposed, which will require a site plan in any event, as it is two less than required by the residential site improvement section.

8. The applicant is not proposing any changes or modifications that would result in any additional bulk variances, though there are existing nonconformities that are protected by statute. The plan provided by the applicant indicates that an ADA parking stall will be proposed in the site plan.

9. The Board engineer's report makes a series of recommendations and suggestions for the site plan upon which the use variances are approved, and this approval is based upon the applicant's agreement to comply with these conditions in the proposed site plan.

10. In order to satisfy the applicant's burden of proof, testimony was taken with regard to parking spaces, which will be designated for each individual residential unit and enforced by signage with the leases for each unit to be provided to the Board's solicitor for review and made part of the record.

11. Testimony was provided regarding trash and recycling storage for each of the proposed residential apartments. The applicant provided general testimony concerning a methodology for meeting the requirement that the trash enclosures be attractively blended into the building exterior and will be shielded from view from the adjacent roadway.

12. The applicant agreed that given the series of additions that make up this building, it clearly gives the impression of being three different disjointed structures and styles. The applicant has agreed to make the building more architecturally and aesthetically coherent when making the improvements to the existing building, and this will be accomplished in the site plan generally consistent with the building renovation plan exhibits submitted.

13. This type of a use variance is an expansion to an existing nonconforming use under NJSA 40:55D-7(d)(2).

14. The applicant testified and made a credible presentation, both concerning his intentions, his experience in this type of undertaking and investment and his financial ability and willingness to comply with all terms and conditions of the use variance approval and the site plan approval that must follow as a condition.

15. As a consequence of these various agreements and intended improvements, the board heard a substantial and credible presentation concerning the blighted condition of this property presently existing, which would be addressed by a wide variety of visual and maintenance improvements to the betterment of the community overall. The Board, as ever is mindful of the master plan recommendations to repurpose downtrodden and underutilized structures when necessary to prevent blighted conditions, provided that those repurposed uses satisfy the positive and negative criteria of use variances and will be an asset to the community where the existing conditions constitute a detriment to the adjacent community.

16. The Board finds that the Board Engineer and the applicant discussed the facts of the application and the property and the proposed use which would tend to support the master plan goals and intentions as referenced above. Additionally, the engineer, the solicitor and the

applicant brought forward testimony that would tend to further the several purposes of zoning articulated in the municipal land use law. In particular, NJSA 40:55D-2(a) – the promotion of the public health safety, morals and general welfare, (e) – to promote the establishment of appropriate population densities that will contribute to the well-being of persons and neighborhoods and communities, (g) – to provide sufficient space and appropriate locations for a variety of uses, including residential in order to meet the needs of all New Jersey citizens, (i) – to promote a desirable visual environment.

17. The testimony of Architect Meloy referenced to the site plan that is to be submitted as a condition of this approval. It will demonstrate that the building will be fully renovated, the property will be attractively landscaped, proper lighting will be installed to enhance the visual intrusions to adjacent properties, trash and recycling will be handled appropriately and discretely.

NOW THEREFORE, considering the foregoing facts, the Board concludes that the application for use variance and parking variance should be approved subject, however, to the following conditions:

NOW, THEREFORE BE IT RESOLVED, considering the foregoing facts and applicant's acknowledgments of responsibility, the Board concludes that the application has substantial merit and should be approved subject however, to all conditions set out in the site plan approval adopted concurrently herewith in a separate resolution.

1. Approval of Minor Site Plan with Architectural Elevations
2. The applicant must contact the Joint Land Use Board office to settle any outstanding review escrow accounts prior to the issuance of building permits.
3. Approval of all appropriate reviewing agencies.
4. Compliance with all Borough, County, State and Federal rules, regulations and ordinances.
5. Compliance with the Board Engineer's report and comments at the public hearing.
6. Compliance with all representations made by the applicant at all public hearings, including the testimonies and agreements set out above.
7. Posting any required additional performance and maintenance bonding for site plan
8. Compliance with the conditions of approval set forth in this resolution.

The Board further concludes that the applicant has satisfied the positive and negative criteria that is the applicant's burden of proof for the use variance under NJSA 40:55(D)-70(d), namely a use or principal structure in district restricted against such use of principal structure.

The Board further concludes that the applicant has demonstrated special reasons, including the repurposing of an existing structure, the enhancement of the visible environment and the decaying infrastructure at the subject site together with the advancement of the municipal master plan as set out above and the several purposes of the Municipal Land Use Law as memorialized in the foregoing factual findings. The applicant has readily satisfied the positive criteria.

Likewise, the applicant has satisfied his burden of proof of the negative criteria that there will be no substantial attachment to the public good nor substantial impairment of the intent and purposes of the zone plan and zoning ordinance. To the contrary, an existing nonconforming structure that is presently partially vacant, non-conforming and deteriorating will be replaced by a single priority use which is already on site but expanded by virtue of this approval that will serve to benefit as the surrounding residential community. The conditions of approval will be more than sufficient to offset any potential for negative impacts.

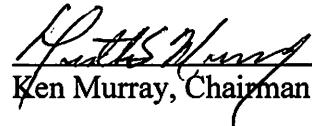
Those Eligible to Vote	Those in Favor	Those Opposed
Ken Murray	7	0
Mark DeBerardinis		
John Scarborough		
Ray Staszak		
Emil Andrae		
Harry Corcoran		
Phil Mullen		

ATTEST:



Mark DeBerardinis, Secretary

JOINT LAND USE BOARD:



Ken Murray, Chairman

CERTIFICATION

I HEREBY CERTIFY that the foregoing is a true and correct copy of a Resolution adopted by the Borough of Bellmawr Joint Land Use Board at a meeting held on the 5th day of August, 2024.



Mark DeBerardinis, Secretary