

**RESOLUTION OF THE COMBINED LAND USE BOARD OF BELLMAWR
GRANTING BULK VARIANCES AND LOT CONSOLIDATION APPROVAL FOR
KOMAL PATEL, 28 DEVON AVENUE, BLOCK 102, LOT 9 AND 9.01
RESOLUTION NO. 08-2022**

WHEREAS, on June 6, 2022 consideration was given to the application in the above-captioned application for various items of relief during public hearings conducted in person; and

WHEREAS, the relief sought was for a bulk variance and lot consolidation approval together with any other required relief.

WHEREAS, the applicant was represented by John Penberthy, Esquire and produced witnesses, including Ray Seneres, applicant's architect, and Komal Patel appeared and testified on behalf of the application. No public appeared and testified. Steven Bach testified as Board Planner/Engineer regarding the contents of his report.

1. The applicant sought relief by way of variance for rear yard setback and lot coverage. The rear seatback proposed is 15 feet, 4 inches, where 30 feet is required. The variance for rear setback was only applicable to a portion of the porch/back deck. The balance of the lot and structure was compliant. Also, the applicant sought a variance for a maximum lot coverage of 30 percent where 36.68 percent is proposed, largely by virtue of the driveway which services the garage at the side of the house as opposed to directly from the front.

2. The Board had before it the following items:

- a. Joint Land Use Board Agreement to Pay Professional Fees.
- b. Lot consolidation description from Pennell Land Surveying, Inc.
- c. A Deed from Westville Investments LLC to the applicant. This Deed conveyed two separate tracks, Lot 102, Lot 9, and 102, Lot 9.01. The applicant proposes to consolidate the lots which consolidation under the facts of this case is tantamount to a subdivision.
- d. Request for tax collected clearance.
- e. Photographs of the house from the front. Attached to the application was a narrative explanation of the requested variances and the reason for relief. Also supplied was information on material and the effects of imperviousness on runoff and infiltration.
- f. Properly completed checklist.

- g. The proposed site plan depicting the outlines of the dwelling and its location upon the lots that are being consolidated. That site plan was prepared by RV Seneres Architect.
- h. A plan of lot consolidation prepared by Pennell Land Surveying Inc. dated May 11, 2022.
- i. The last item actually is a May 27, 2022 report of Steven Bach of Bach Associates, the Board Planner and Engineer.

3. The property is located in a residential A zoning district which has the following requirements as noted.

	<u>Required</u>	<u>Existing</u>	<u>Proposed</u>	<u>Conforms</u>
Min Lot Size (SF)	6,000	12,500	12,500	Yes
Min Lot Width (Ft)	60	125	125	Yes
Min Lot Depth (Ft)	100	100	100	Yes
Min Setbacks (Ft)				
Front	25	N/A	25.33	Yes
Side	5	N/A	10	Yes
Side Aggregate	15	N/A	60	Yes
Rear	30	N/A	15.33*	No
Lot Coverage (%)	30	0	36.68*	No
Max Bldg Ht. (Ft)	35	N/A	<35	Yes

4. Waivers were requested and granted for checklist Items 45 and 48, while waivers for completeness only were requested and granted for Items 13, 24 and 51. The applicant agreed to comply with all conditions of the engineers' report.

5. The applicant produced substantial credible testimony justifying the positive and negative criteria for the C variances. Noted was the fact that the consolidation of the two existing lots is itself a positive benefit to the community given that each of the lots was just over being buildable by right. So, many of the bulk of requirements for the property are substantially exceeded, including lot size (two times the requirement), lot width (over two times the requirement), side yard (twice the requirement), side aggregate (four times the requirement). The juxtaposition of the lots as combined do cause a rear yard setback issue but only where the proposed covered but open wood deck is depicted. The building itself meets the rear setback. Moreover, the setback of 30 feet is not only met for the balance of the lot except for the covered open wood deck, but in nearly half of the combined lots, there is no structure whatsoever from the front to the back.

6. It is apparent that it is difficult to site this single home in scale onto a double lot. Moreover, it is noted that the driveway that is the principal cause for the 6 percent plus or minus

excess coverage is caused by the concrete driveway necessary to enter the site and then provide for side entry into the structure for the cars. The aesthetic advantages to eliminating front-facing garages was articulated and accepted by the board, and hence the nominal excess lot coverage is deemed to have no detriments whatsoever since it is caused not by the structure but by a driveway and the benefits of the driveway in allowing for side-facing garages have already been discussed. Upon questions from the engineer, the applicant indicated that the wood deck to the rear would have spaced flooring that would allow for water to penetrate to the surface below which the applicant indicated would be soil. The applicant agrees as a specific condition of this approval that the deck, although it would be covered, would never be enclosed without the applicant returning to the Board for the further relief that would be required by the intensification of the rear yard setback violation. The Board notes that no public appeared and testified

NOW, THEREFORE BE IT RESOLVED considering the foregoing facts, the Board concludes the application for variances has substantial merit and shall be approved subject however to the following conditions:

1. The applicant must contact the Combined Land Use Board office to settle any outstanding review escrow accounts prior to the issuance of building permits.
2. Approval of all appropriate reviewing agencies including without limitation, the MUA, County Planning Board, Traffic Commander, Fire Marshall, Soil Conservation District, Department of Transportation and Police Department, Water and Sewer Department. (If required).
3. Compliance with all Borough, County, State and Federal rules, regulations and ordinances.
4. Compliance with the Board Engineer's report and comments at the public hearing.
5. Compliance with all representations made by the applicant at all public hearings, including no site enclosure at the rear covered porch.
6. Compliance with all terms and conditions of all prior approvals except as is specifically modified herein.
7. Provision of a compliance plan depicting all original improvements with subsequent amendments identified by date of approval.
8. Posting of any required additional performance and maintenance bonding.

The Board further concludes that the request for C-Variances is appropriate based upon the testimony aforesaid. Accordingly, the applicant has satisfied the positive criteria of N.J.S.A. 40:55D-70(c) with respect to variances and further there is no evidence whatsoever in the record that would indicate a substantial detriment to the public good or substantial impairment of the intent and purpose of the zoning plan or zoning ordinance. Hence, the Board concludes that the applicant has satisfied the negative criteria of N.J.S.A. 40:55D-70(c).

Those Eligible to Vote

Those in Favor Those Opposed

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Secretary Staszak
John Scarborough
Chairman DiRenzo
Vice Chairman Murray

Mark DeBerardinis
Josh Haas
Harry Corcoran
Councilman Wilhelm
Mayor Sauter
Zoning Official Chris Mecca

ATTEST:


RAY STASZAK, SECRETARY

BOROUGH OF BELLMAWR
COMBINED LAND USE BOARD:


DANIEL DI RENZO, CHAIRMAN

CERTIFICATION

I HEREBY CERTIFY that the foregoing is a true and correct copy of a Resolution adopted by the Borough of Bellmawr Combined Land Use Board at a meeting held on the day of August 01, 2022.


RAY STASZAK, SECRETARY