

**RESOLUTION OF THE BOROUGH OF BELLMAWR JOINT LAND USE BOARD
MEMORIALIZING USE VARIANCE AND MINOR SITE PLAN APPROVAL FOR SUKHJINDER
SINGH, 32 EAST BROWNING ROAD, BLOCK 137, LOT 19**

WHEREAS, on October 2, 2023 at a regularly scheduled meeting of the Bellmawr Joint Land Use Board, consideration was given to the application of Sukhjinder Singh for a use variance and minor site plan approval for improvements of the property including expansion of a preexisting nonconforming use to allow the addition of a three-bedroom apartment at 32 East Browning Road in Bellmawr, New Jersey, Block 137, Lot 19 on the tax map; and

WHEREAS, George Botcheos, Esquire appeared on behalf of the applicant; testifying was applicant, Sukhjinder Singh; and sworn in on behalf of the applicant was Lawrence DiVietro applicant's professional engineer. Steven Bach also testified as the Board Planner and Engineer and Larry McMaster testified from the public; and

WHEREAS, the Board makes the following factual findings in granting use variance, bulk variances, site plan approval and waivers;

1. Before the Board was the following documentation:
 - a. Borough of Bellmawr Land Development Application.
 - b. Plan entitled "Variance Plan, 32 East Browning Road, Block 13, Lot 19, Block 137, Lot 19, Situate Borough of Bellmawr, Camden County, New Jersey" prepared by Land Dimensions Engineering, dated 8-02-23.
 - c. Aerial photograph marked as A1
 - d. Colorized version of variance plan offered as a handout to Board members
 - e. Board Engineer's report dated August 29, 2023.
2. The application for a use variance was required so as to permit a three-bedroom apartment at an existing mixed-use building. The building is at the intersection of Browning Road and Chadwick Avenue.
3. The parcel in question is a 9813.8 square foot parcel identified as Block 13, Lot 19, on the tax map and with a street address of 32 East Browning Road.
4. The structure in question contains an existing two and one-half story dwelling located on Chadwick Avenue with an attached one-story structure fronting on Browning Road with two existing bituminous parking areas.
5. The two and one-half story dwelling currently contains a two-bedroom residential unit and the one-story structure has an existing one-bedroom apartment in the rear with a vacant commercial unit fronting on East Browning Road.
6. The proposal is to convert the vacant front portion of the one-story structure to a three-bedroom residential apartment which would require two additional stacked parking spaces to the existing two-car driveway on Chadwick Avenue. The parking requirements are met as follows:

1 - 1 bedroom (existing apartment) x 1.8 spaces = 1.8 spaces
 1 - 2 bedroom (existing house) x 2 spaces = 2.0 spaces
 1 - 3 bedroom (proposed apartment) x 2.1 spaces = 2.1 spaces

Required Parking : = 6 spaces

Proposed: = 7 spaces

7. The application implicates the following provisions of the Zoning Ordinance.

	<u>Required</u>	<u>Existing</u>	<u>Proposed</u>	<u>Conforms</u>
Min Lot Size (SF)	7,500	9,813.8	9,813.8	Yes
Min Lot Width (Ft)	75	120	120	Yes
Min Setbacks (Ft)				
Front (Browning)	10	5"	5"	No
Front (Chadwick)	10	10.8	10.8	Yes
Side (Adj. to Commercial)	10	N/A	N/A	N/A
Rear	10	7"	7"	No
Occupied Area (%)	80	60.42	64.16	Yes
Max Bldg Ht. (Ft)	35	<35	<35	Yes

* Indicates existing non-conformance

** Indicates variance required.

8. Both bulk variances are indicated to be required for front and rear setbacks in the zoning grid requires and in the Board Engineer's report. However, the Engineer/Planner's report notes both of these to be existing nonconformities and testimony was adduced that it would be impossible to comply with the ordinance without moving the entire structures. Likewise, compliance was not possible by acquiring ground from adjacent properties. The substantive rule in such instances is that these are protected nonconforming uses which are not being exacerbated. No bulk variances are therefore required.
9. The proposed multifamily housing is not a permitted use in the business area zoning district in which the property is located surrounding zoning districts are to the north, Municipal Government and Educational and Office zoning districts; to the east, the Office zoning district; to the south, a Residential A zoning district; and to the west, Business C zoning district.
10. The application does require a use variance pursuant to Section 260-32 of the zoning ordinance by virtue of its creation of a multifamily condition where only single-family dwellings are permitted in the zone.
11. The Board Engineer/Planner's report detailed the standard of proof for the use variance which explanation was affirmed by the Board Solicitor during the hearing and which was addressed by the applicant's professional below.
12. Initial testimony included the explanation of the aerial photograph marked as A1. It was noted by the applicant's counsel that there was no expansion to the structures themselves but only a reconfiguration of the mixed uses in same, one of which was a vacant commercial property whose vacancy threatened to cause a blight upon the adjacent streetscape upon which it fronts. To accommodate the new use, there would be an additional two parking stalls which would be reserved for individual tenants utilizing back-to-back parking stalls for each of the residential tenants. Those reservations would be pursuant to a lease which would be subject to the review and approval of the Board Solicitor. Similarly, residency in all living units would be by virtue of leases limited to the named occupants in

leases subject to the review and approval of the Board Solicitor. The applicant acknowledged that a condition of ongoing approval was monitoring and enforcement of the subject lease provisions.

13. Substantial discussion ensued concerning proposed façade treatments designed to blend the adjacent architectural treatments. These would be subject to the review and approval of the Board Planner, but would include as a component a continuous roof line treatment compatible with the existing roof lines.
14. The applicant also agreed as a condition of approval to consolidate all lots (if they are in separate ownership.)
15. Board members had questions concerning vacancies and code enforcement which were answered by the Board Engineer.
16. Board member Dan DiRenzo as the zoning officer outlined the history of the subject application which was done pursuant to enforcement by his office.
17. The applicant agreed that full compliance with all building codes would be expected as a condition of approval. These include, without limitation, fire, electrical, plumbing, construction, and any others that may be applicable. It is the Board's anticipation that the existing residential structures would also be inspected for full compliance, as would the structures to be converted. The Board Engineer and Board Solicitor did nevertheless advise the Board that uniform construction code compliance was beyond the Board's jurisdiction, but this provision is recited in the resolution to the extent that it can provide guidance to the various construction and subcode officials.
18. Lawrence DiVietro testified concerning the positive and negative criteria. He testified concerning the peculiar suitability for the subject conversion by virtue of the existing uses and the fact that the structure could be repurposed while upgrading the site, garnering full code and parking compliance, and unifying the aesthetics of the buildings with a unified architectural facade. The Board found this testimony to be credible and persuasive, and consistent with Board members observations of the structure directly across the street from the Borough Hall at which the Board meets.

NOW, THEREFORE after considering the foregoing facts, the Board concludes that the testimony application for use variance, bulk variance, site plan and waivers has substantial merit and should be approved subject however to the following conditions:

1. All terms and conditions of the engineer's report and comments at the public hearing.
2. Compliance with all representations made by the applicant at the public hearing and in writing.
3. Satisfaction of the performance standards per the Bach report.
5. Leases for each unit subject to resolution and approval of solicitor.
6. The applicant must contact the Joint Land Use Board office to settle any outstanding review escrow accounts prior to the issuance of building permits.
8. Approval of all appropriate reviewing agencies including without limitation, County Planning Board, Fire Marshall, Soil Conservation District, Department of Transportation, Police Department, Water and Sewer Department. (If required).
10. Provision of a compliance plan depicting all original improvements with subsequent amendments identified by date of approval.

11. Posting of any required additional performance and maintenance bonding.
12. Compliance with the conditions of approval set forth in this resolution.

BE IT FURTHER RESOLVED that the application has satisfied the positive and negative criteria. The applicant's testimony is found to be credible by the Board, and the Board members were all aware of the present status of the property as it was directly across the street from the Borough Hall. The Board finds the testimony supports the satisfaction of the positive criteria. The testimony also supports the negative criteria. No substantial detriment to the public good would ensue from the various improvements made to an existing mixed used property, as the structures are not being expanded. No offense to the zone plan or zoning ordinance can be identified.

Those Eligible to Vote

Those in Favor

Those Opposed

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Ken Murray
Josh Haas
Ray Staszak
Emil Andrae
Daniel DiRenzo
John Scarborough
Mark DeBerardinis

ATTEST:

JOINT LAND USE BOARD:



MARK DEBERARDINIS, SECRETARY



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 6 day of November, 2023.



MARK De BERARDINIS, SECRETARY