

# BOROUGH OF TOTOWA P L A N N I N G   B O A R D

PASSAIC COUNTY  
NEW JERSEY



MINUTES – July 9, 2020

Chairman Hennion called the Planning Board meeting of Thursday, July 9, 2020 to order at 8:00 p.m. in the Municipal Building of the Borough of Totowa.

Mayor Coiro went on record stating that due to COVID-19 and Executive Orders by Governor Murphy, this Planning Board Meeting is being held virtually via Zoom.

**PRESENT:**

Chairman Hennion	Commissioner Sabatino	Commissioner Murphy	Commission Campilango
Commissioner Niland	Commissioner Zarek	Councilman D'Angelo	Mayor Coiro
Commissioner Ferraro	Richard Briigliadoro, ESQ	Tom Lemanowicz, PE	

The clerk read the statement of the meeting as follows: The meeting of the Planning Board to be held on the 9th day of July 2020 is in accordance with the Schedule of Annual Notice, which is posted, and in accordance with Chapter 231 P.L. 1975 of the State of New Jersey. The agenda for this meeting has been prepared and distributed to the members of the Planning Board and a copy has been on file in the Construction Official's Office.

***ITEM #1***

Nonna Marie's Pizza Restaurant 783 Union Blvd	Block 139 – Lots 3&4	Site Plan Approval Certificate of Use
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Mr. Florio Dervishi appeared via zoom requesting the approval for occupancy of approximately 1,000 square feet of space to operate a Pizzeria and Restaurant. The restaurant will serve items including, but not limited to, pizza, pasta, salads, hot and cold subs and related items. Mr. Dervishi testified that this application is for a change of ownership.

Regarding signage, Mr. Dervishi testified that the existing signs are being changed to reflect the name of the new business. Thus, the signs will be no larger than the signage that previously existed.

The meeting was opened to members of the public and there were no members of the public present expressing an interest in this application.

A motion was offered by Commissioner Campilango and seconded by Commissioner Niland to approve the minor site plan as presented. This approval is subject to and contingent upon the following conditions and will be memorialized in a Resolution at a future date:

1. The construction of internal partitions, exits, entrances and fire safety devices are subject to and require the approval of the fire sub-code official, the fire inspector and the building inspector.
2. The applicant will supply the Chief of Police with an emergency contact list and will also obtain the approval of the Police Chief in regards to all alarms and security devices.
3. There will be no outside storage of equipment or materials.

4. The Applicant will replace the existing text sign with the name of her business. Applicant is also permitted to place a sign in the window to identify the business, but the sign shall not exceed twenty percent of the glass window area.
5. All terms and conditions of the Board's prior resolutions remain in full force and effect except as satisfied or amended and not in conflict with this approval.

Nine agreed to a roll call vote... 9-0

**ITEM #2**

GOM Real Estate Investment, LLC  
95 Shepherds

Block 11– Lot 9.01

Amended Site Plan Approval  
Variances – Set backs, building  
length, width of parking spaces.

Jerome A. Vogel, Attorney for the applicant appeared via Zoom with a request for preliminary and final site plan approval, as well as ancillary “c” or bulk variance relief, a *de minimis* exception and design waivers. The Applicant seeks approval in order to construct a new boulevard style access drive off of Shepherds Lane in order to construct two buildings containing a total of seventy-four dwelling units. Fifty-nine of the dwelling units will be market rate and fifteen of the units will be affordable housing units. The fifteen units of affordable housing will be dispersed throughout the project.

Testifying on behalf of the Applicant was Patrick D. McClellan, P.E., a Licensed Professional Engineer in the State of New Jersey. Mr. McClellan oriented the Board to the site and the surrounding area. The site is approximately 5.59 acres in size. It has approximately 215 feet of frontage on Shepherds Lane. The site is located across the street from Holy Sepulcher Cemetery. In addition, there are single-family residential homes located within nearby Murphy Court and Boyle Avenue, and there are also commercial or industrial sites located on Shepherds Lane. Mr. McClellan testified about significant topographic features which exist on the site. In addition, he stated that the property is constrained by environmental conditions inclusive of wetlands on the westerly side of the property as well as a regulated stream that runs through the property. Mr. McClellan estimated that approximately one-third of the site cannot be developed due to environmental constraints. Mr. McClellan stated that the Applicant designed the development to be located outside of the wetlands. As a result, the Applicant attempted to centralize disturbance in order to comply with the requirements of the R-AH-2 Ordinance.

Mr. McClellan testified that the Applicant is proposing development on the easterly side of the Property. The Applicant proposes to construct two buildings with 74 dwelling units whereas the prior application that was approved by the Planning Board consisted of four buildings with a total of fifty-four dwelling units. Each building will be approximately 62 feet wide and 220 feet long. Each building will provide three stories of residential living space above parking. There will be thirty-seven dwelling units located in each building for a total of 74 for rent dwelling units.

Mr. McClellan testified that the application is fully compliant with the Residential Site Improvement Standards (RSIS) with respect to the number of on-site parking spaces where 148 parking spaces are proposed. Mr. McClellan testified that with respect to the prior application, the Applicant was proposing 122 parking spaces and the Board granted variance relief for five parking spaces. The Board granted a *de minimis* exception from the RSIS requirements because the site was previously deficient five parking spaces.

Mr. McClellan testified that in accordance with the R-AH-2 Ordinance, the maximum density is fifteen dwelling units per acre. The Applicant would thus be entitled to have eighty-three dwelling units on the site in order to meet the maximum density of fifteen units per acre. However, the Applicant is proposing seventy-four dwelling units, thus the Applicant is under the permitted density allowed under the R-AH-2 Ordinance.

Mr. McClellan also addressed the Boulevard access way. Mr. McClellan reviewed Sheet 4 of the Site Plan and confirmed that the Boulevard access way has not been altered from that which was previously approved by the Planning Board.

Mr. McClellan testified in regard to elevation increases in the area of Building A on the site. He indicated that the elevation increases from approximately 160 +/- up to 180 +/- in the area of Building A and the area behind the building. The Applicant will install retaining walls around the perimeter of the Property. Along the southerly edge of the residential properties, the wall will be about 20 feet +/- tall. As a result, the proposed buildings are characterized as being down in a hole.

Mr. McClellan indicated that the site will have assigned parking spaces. There are two points of access regarding the parking underneath each building. Mr. McClellan testified that the proposed traffic circulation results in a more efficient circulation than that which was previously approved by the Planning Board.

Mr. McClellan also testified in regard to the Stormwater Management Plan. He stated that the New Jersey Department of Environmental Protection (NJDEP) in 2018 approved the Applicant's Stormwater Management Plan. He indicated that there was no change to the Plan as a result of the proposed development of the site. Mr. McClellan also indicated that the Applicant has received permits from the NJDEP regarding stormwater management.

Mr. McClellan next reviewed the Board Engineer's report dated July 6, 2020 prepared by Thomas R. Lemanowicz, P.E., P.P., C.M.E., C.F.M. from Richard A. Alaimo Engineering Associates. Mr. McClellan stipulated that the Applicant has no objection to the terms and conditions set forth in the Board Engineer's report and the Applicant intends to comply with the comments contained in the Board Engineer's report. In addition, Mr. McClellan sought to clarify certain items identified in the Board Engineer's report. Mr. McClellan reviewed page 2 of the Board Engineer's review report under Section B, Technical Review Item 3 comments regarding site circulation, signs, as well as the location and angles of parking spaces. Mr. McClellan stipulated that the Applicant will work with the Board Engineer regarding traffic flow, traffic circulation and the parking layout to address any concerns that the Board Engineer has to the satisfaction of the Board Engineer. In addition, Mr. McClellan stipulated that he would work along with the Board Engineer to satisfactorily address any comments or concerns of the Board Engineer regarding the number, placement and type of signs in the parking lot of the site.

Mr. McClellan next addressed Section B, Technical Review Item 7 regarding the width of parking spaces underneath the building. Mr. McClellan stated that there are columns shown within the under-building parking that fall on the parking space stripe. Thus, there is a pinch point regarding certain parking spaces which reduces the width of the parking space from 9 feet to 8 feet, 6 inches in the area where the pinch point occurs. Mr. McClellan testified that the remainder of the parking space maintains a width of 9 feet. As a result, Mr. McClellan testified that the Applicant seeks a *de minimis* exception from the RSIS for the width of some of the under-building parking stalls at 8 feet, 6 inches where a minimum parking stall width of 9 feet is required.

Next, in regard to Section B, Technical Review Item 9, pursuant to NJAC 5:21-4.5(g) the minimum width of sidewalks is 4 feet. However, the plans indicate a 3.5-foot width between Building B and the drive-aisle. Mr. McClellan confirmed that the Applicant will modify the plan to meet the 4-foot requirement. Thus, there is no relief required in regard to the sidewalk width.

Mr. McClellan next reviewed Section B, Technical Review Item 10 and confirmed that the Applicant will comply with that comment.

Mr. McClellan reviewed Section B, Technical Review Item 11, and he stipulated that in regard to improvements relating to a neighboring properties encroachments onto the southern corner of the Property, the project is designed to accommodate the encroachments. Mr. McClellan testified that there is no objection on behalf of the Applicant that if the application is approved, the Resolution shall contain a condition that the Board's action in approving the application cannot be implied as granting an approval of any encroachment onto the subject Property from a neighboring property.

Mr. McClellan reviewed Section B, Technical Review Item 24, and he testified that the Applicant has prepared a very sophisticated Stormwater Management Report which has been provided to the NJDEP. The Report is extremely thorough and the site is exempt from groundwater recharge. The Applicant has received its permitting from the NJDEP regarding stormwater management. Mr. McClellan stated that the approval of this application will not result in any change to the permits that have been secured from the NJDEP. Mr. McClellan represented that the NJDEP issued a flood hazard permit which includes a finding that the Stormwater Management Plan is satisfactory in regard to the 54-unit project.

In regard to Section B, Technical Review Item 44, the nature and sufficiency of the lighting plan was addressed by Mr. McClellan. Mr. McClellan represented that the Applicant will provide a fully compliant lighting plan. He then offered into evidence Exhibit A-1, which is an updated Lighting Plan dated June 26, 2020 and prepared by his office. Mr. McClellan also recognized that the updated Lighting Plan would be subject to the review and approval of the Board Engineer.

In regard to Section B, Technical Review Item 15, Mr. McClellan discussed N.J.A.C. 5:21-5.3(b) which indicates that water distribution piping shall be connected into loops. Mr. McClellan testified that he would review the appropriate regulations with the Board Engineer, and if the water distribution system needs to be looped, it will be looped, or if it's not required to be looped and it could be handled as a straight connection, the Applicant will address that to the satisfaction of the Board Engineer.

The Board had questions in regard to the visibility of Building A from the residents on Boyle Avenue. Building A is at a height of 44.03 feet which is less than the maximum height of 45 feet permitted in the R-AH-2 Zone. Mr. McClellan testified that for example, the owner of residential property identified as Lot 5 would have a view wherein approximately 20 feet of Building A would be above the wall, but there would be landscaping which would further shield the building from view.

The Applicant also stipulated to provide a structural and geo-technical analysis relative to any retaining walls constructed on-site. Mayor Coiro requested that the Applicant provide as much vegetative screening as is possible to protect the residents on Boyle Avenue.

Mr. McClellan next reviewed the Board Planner's report dated July 8, 2020 and prepared by Darlene A. Green, P.P., AICP of Maser Consulting, P.A. Mr. McClellan reviewed the variances as outlined in Section B and commencing on page 3 of the Board Planner's report. Mr. McClellan represented that the Applicant is not requesting a variance regarding the affordable housing set-aside. The Applicant will comply in all respects with the number of affordable housing units, the dispersal of affordable housing units and a bedroom mix for the affordable housing units in order to comply with the appropriate affordable housing regulations.

The Applicant requires the following "c" or bulk variances:

1. **Section 415-151A.** – Variance for tract setback. The Ordinance requires a minimum track setback of 40 feet. Further, no parking lots or buildings are permitted within this area. The Applicant proposes a 31.4-foot setback to Building "A" with a 28.8-foot setback to a bump out on Building A. Also, a surface parking area is located within the 40-foot setback along the southwestern property line and 12.6 feet from the southeastern property line.

**Section 415-151A con't.**

The Applicant seeks “c” variance relief due to the environmental constraints on the westerly side of the site along with steep slopes on the easterly portion of the site which impacts the location of the buildings and parking area.

2. **Section 415-151A.** – Variance for building wall front-to-front setback. The Ordinance requires a minimum tract setback of 75-feet between the front walls of buildings. The Applicant proposes a 56.6-foot setback between the front walls of Buildings “A” and “B”. The Applicant requests ancillary “c” or bulk variance relief once again due to the environmental constraints and topography of the site which dictates where the buildings could be located on the site.
3. **Section 415-151A.** – Variance for building length. The Ordinance limits building length to 200 feet for multi-family dwellings. The Applicant proposes Buildings “A” and “B” to be 220 feet. However, this does not account for the 1.5-foot overhangs on each end. Therefore, the Applicant seeks a variance for a building length of 223 feet. The Applicant previously received variance approval for a building length of 211 feet in 2017. The Applicant has reduced the number of buildings from four (4) buildings to two (2) buildings while slightly increasing the length of the buildings from that which was previously approved in 2017.
4. **Section 415-151A.** - Variance for number of stories. The Ordinance limits building height to three stories. The Applicant is proposing three (3) stories of residential living space above one (1) story of parking. The Applicant does, however, comply with the height requirement in the zone not to exceed a maximum of 45 feet. (It should be noted that the 2017 approval permitted four-story stacked townhomes.)

Next, in regard to Items 9-24 of the Board Planner’s report, the Applicant requires variance relief associated with the proposed landscaping.

5. **Section 415-156A.(1)** – Variance for landscape buffer. The Ordinance requires a 50-foot wide natural landscape buffer from properties with single-family detached homes along Boyle Avenue and Murphy Court. Additionally, no existing tree is permitted to be cut or removed, unless dead or diseased, and no building or parking lot shall be within 50 feet of the property line. The Applicant does not propose a 50-foot buffer along the property line abutting single-family uses located along Boyle Avenue. In fact, Building “A” is located within the 50-foot buffer.
6. **Section 415-156A.(3)(a)** – Variance for number of shade trees. The Ordinance requires the existing trees within the buffer area to be supplemented by one shade tree for every 50 linear feet of buffer. The proposed development requires a buffer along approximately 436 feet along the property line adjacent to single-family uses along Boyle Avenue (hereinafter “Boyle Avenue buffer”) and approximately 464 feet along the property line adjacent to single-family uses on Murphy Court (hereinafter “Murphy Court buffer”). Therefore, nine shade trees are required in each of the Boyle Avenue and Murphy Court buffers. The Applicant proposes six shade trees within the 50-foot-wide buffer from Murphy Court.
7. **Section 415-156A.(3)(b)** – Variance for number of evergreen trees. The Ordinance requires the existing trees within the buffer area to be supplemented by two evergreen trees for every 25 linear feet of buffer. The proposed development requires 37 evergreen trees in the Murphy Court buffer. The Applicant proposes 32 evergreen trees within the 50-foot buffer from Murphy Court.
8. **Section 415-156A.(3)(c)** – Variance for number of shrubs. The Ordinance requires the existing trees within the buffer area to be supplemented by 15 shrubs for every 50 linear feet of buffer. The proposed development requires 31 shrubs in the Boyle Avenue buffer and 139 shrubs in the Murphy Court buffer. The Applicant proposes 27 shrubs in the Murphy Court buffer.
9. **Section 415-156A.(5)(a)** – Variance for shade tree size. The Ordinance requires shade trees within the buffer to have a minimum caliper of three inches and a height of 12 to 14 feet. The proposed Carolina Poplar and Red Maple trees have a height of eight to ten feet. Additionally, the caliper of the Carolina Poplar and Red Maple trees is not provided. Furthermore, the caliper of the proposed Plane and Willow Oak trees complies with the Ordinance, but the height was not provided.

10. **Section 415-156A.(5)(c)** – Variance for shrub size. The Ordinance requires shrubs in buffer areas to be planted at a height of 36 inches. The proposed Green Gem Boxwood and Dense Yew shrubs in the buffer areas have a planting height of 15 to 18 inches.
11. **Section 415-156B.(1)** – Variance for landscape buffer. The Ordinance requires a 20-foot wide natural landscape buffer from all uses other than single-family detached homes. Additionally, no existing tree is permitted to be cut or removed, unless dead or diseased. The Applicant proposes two modular block walls, a portion of 15 parking spaces, and a portion of the detention/sand filter basin within the 20-foot buffer located along the shared property line with Block 11, Lot 7.01.
12. **Section 415-156B.(3)(a)** – Variance for number of shade trees. The Ordinance requires the existing trees within the buffer area to be supplemented by one shade tree for every 50 linear feet of buffer. The proposed development is adjacent to a warehouse to the southeast for approximately 459 linear feet (hereinafter “warehouse buffer”). Therefore, nine shade trees are required in the warehouse buffer. The Applicant proposes two shade trees in the warehouse buffer.
13. **Section 415-156B.(3)(c)** – Variance for number of shrubs. The Ordinance requires the existing landscaping within the buffer area to be supplemented by ten shrubs for every 50 linear feet of buffer. The warehouse buffer requires 92 shrubs to be planted. The Applicant proposes 57 shrubs in the warehouse buffer
14. **Section 415-156B.(5)(a)** – Variance for shade tree size. The Ordinance requires shade trees within the buffer to have a minimum caliper of three inches and a height of 12 to 14 feet. The Red Maple and Plane trees within the buffer are proposed at a height of eight to ten feet. Additionally, the caliper of these trees has not been specified.
15. **Section 415-156B.(5)(c)** – Variance for shrub height. The Ordinance requires shrubs in the buffer areas to be planted at a height of at least 36 inches. The Applicant proposes the Green Gem Boxwood and Dense Yew shrubs in the warehouse buffer with a planting height of 15 to 18 inches.
16. **Section 415-156B.(7)** – Variance for buffer composition. The Ordinance does not permit more than 25% plantings in the buffer area to be the same species and/or variety of plant. The Applicant proposes 27 Green Gem Boxwood shrubs, which comprises 31% of the species within the warehouse buffer.
17. **Section 415-156B.(8)** – Variance for planting arrangement. The Ordinance requires buffer plantings to be in a natural staggered pattern. The Applicant proposes the Forsythia in a single row along the basin.
18. **Section 415-156C.(1)** – Variance for shade trees. The Ordinance requires shade trees to be planted at 40 feet on center along all public streets and specifies certain species of street trees. The Applicant proposes Plane Trees, which is not a listed species.
19. **Section 415-156C.(4)** – Variance for percentage of variety. The Ordinance limits street trees to 33% of the same species and/or variety. The Applicant proposes three street trees of the same species.
20. **Section 415-156D.(3)** – Variance for parking lot landscaping size. The Ordinance requires trees in the parking lot landscaped areas to be at least three inches in caliper. The Applicant proposes Red Maple, Eastern Redbud, Zuan Crabapple, Plane Tree, and Yoshino Cherry trees in the parking area. However, only the height of these trees was provided.

The Board and the Applicant engaged in a lengthy discussion regarding landscaping and the need for variance relief. The Applicant stipulated that it would provide enhanced landscaping and will use its best efforts to comply with the landscaping requirements set forth in the R-AH-2 Zone. Further, Mr. McClellan agreed on the record to comply with all of the caliper and minimum height installation sizes of the landscape plantings. The Applicant’s efforts may result in the elimination of one or more variances for landscaping. However, the extent of landscaped plantings and whether or not any variances will be eliminated cannot be determined at this time. The landscaping will not occur until the project is under construction and thus, the nature and extent of the proposed landscaping will be addressed in the field.

Therefore, the Applicant seeks variance relief for all of the variances associated with landscaping as set forth in the Board Planner's report dated July 8, 2020 with the understanding that some variances may eventually be eliminated or, in the alternative the nature and extent of the variances will be reduced as the Applicant supplements and enhances landscaping on the site.

**Design Waivers**

1. **Section 415-157B.(1)** – Waiver/exception for wall offset spacing. The Ordinance requires wall offsets to be no more than 30 feet apart. The proposed side façades have wall offsets exceeding 30 feet (from the offset to the rear corner of the building).
2. **Section 415-157B.(3)** – Waiver/exception for roof offset spacing. The Ordinance requires roof offsets to be no more than 40 feet apart. The proposed side facades have roof offsets exceeding 40 feet (from the roof offset to the corner of the building).
3. **Section 415-157J.(2)(a)** – Waiver/exception for street address signage. The Ordinance requires each building or individual unit to have street address signage. The Applicant represented that it will comply and thus, no waiver is required.
4. **Section 383-2A.** – Waiver/exception for tree removal plan. The Ordinance requires a tree removal plan to be filed with every application before the Planning Board for approval of a subdivision, re-subdivision, planned development, conditional use or zoning variance, or prior to any other development requiring tree removal or planting. The Applicant has not provided a tree removal plan, but the Applicant testified that it's going to clear cut trees within the limit of disturbance. However, the Applicant still requires waiver relief.
5. **N.J.A.C. 5:21-4.5G.** – Waiver/exception for sidewalk width. The New Jersey Residential Site Improvement Standards requires sidewalks to be at least four feet wide. The Applicant proposes a three-foot, six-inch-wide sidewalk in front of Building 'B'. The Applicant stipulated that it will adjust the sidewalk width to be 4-foot-wide thus eliminating the need for a waiver.

Mr. McClellan introduced into evidence Exhibit A-2, which he characterized as being an illustrative cross-section, Section A-A dated April 27, 2017, Sheet 1 of 2. A-2 depicts the height of Building A on the site in relation to the height of the adjoining residential property on Boyle Avenue. The houses on Boyle Avenue would basically see approximately 20 feet of the top of Building A from the subject site.

The next witness to testify on behalf of the Applicant was Osvaldo Martinez. Mr. Martinez is a licensed professional Architect in the States of New York and New Jersey. Mr. Martinez addressed Section E Comments contained in the Board Planner's report dated July 8, 2020. In regarding to Item No. 9, Mr. Martinez testified that there will be a refuse room with a trash compactor. He explained that the trash would be wheeled out through the garage to the curb which would then be taken away from the site by a private carting service. He clarified his testimony that when he used the word curb, he did not mean the curb on Shepherd's Lane, but rather, an internal curb within the site. He also testified that each building will have a trash chute.

In regard to Items 10 and 11 of the Board Planner's report, there appear to be discrepancies between the engineering plans and the architectural plans. Mr. Martinez testified that the discrepancies between the engineering plans and the architectural plans would be resolved. In regard to Item No. 14 of the Board Planner's Report, Section 415-129 of the Totowa Borough Code permits appurtenances not for human occupancy to extend up to 5 feet above the permitted height of the zone, if the area does not occupy more than 25% of the roof area. Mr. Martinez testified that the Applicant will be in compliance with the ordinance requirements. He stated the elevator bulkhead would be located on the roof. Mr. Martinez also testified that the Applicant will install HVAC condenser units, which are low in height, on the roof to service the lobby and common areas. Therefore, he stated the Applicant would comply with Section 415-129 of the Borough of Totowa Code.

Section 415-157 of the Totowa Borough Code provides requirements for building massing, dimensions and architectural design. Ms. Green contends that upon her review of the architectural plans, the building massing of the front and rear façades comply with the ordinance, while the side facades have triggered two variances.

Mr. Martinez testified that in reviewing the exterior of the building and the construction materials to be used, the Applicant put a lot of detail in the longer side of the building. As a result, the Applicant determined that it would not be necessary to make the side of the building more ornate. The Board Planner stated she agreed with the Architect and recommends that the Board grant the variances.

Next, in regard to Item 17, the plans illustrate four two-bedroom units with a “study”. The study is approximately 70 square feet in area. The Applicant stipulated that the study would not be converted to a bedroom and the Applicant stipulated that the Applicant will put restrictive language in the lease prohibiting the study from being converted to a bedroom. The Applicant also agreed to comply with the requirements to provide three 3-bedroom affordable units and to submit revised plans showing the location of the 3-bedroom affordable units.

Item 19 of the Board Planner’s report addresses the decorative grilles on the garage openings. Mr. Martinez testified that a simple pattern was selected in order to blend in with the rest of the building. The Board Planner stated she has no objection to the type of grilles being used in the garage area.

In regard Item No. 20 of the Board Planner’s report, Mr. Martinez confirmed that the building will be sprinklered.

The Board Engineer referenced Item 56 in his report. Item 56 provides “the man-doors from the lobby and refuse/recycling room open into the required 24-foot wide aisle within the garages, potentially conflicting with vehicular traffic. The Architect indicated that he would work with the Board Engineer to resolve the conflict issue with potentially making the doors open in as opposed to opening out or moving the door to the side of the recycling room, as well as any other considerations that would be satisfactory to the Board Engineer.

In regard to refuse collection, the Board requested that the Applicant keep the garbage inside the building until the carting company comes for pickup.

Counsel for the Applicant stated the Applicant will provide sign details.

The next witness to testify on behalf of the Applicant was Charles Heydt, P.P., a licensed Professional Planner in the State of New Jersey. Mr. Heydt testified that he reviewed the Borough of Totowa Master Plan and Zoning Ordinances regarding this application. He testified this site is a 5.59 acre site irregular in shape. He stated the property has severe topographic issues including steep slopes, as well as wet lands and a stream that runs through the property. Mr. Heydt stated that approximately one-third to one-half of the site is able to be developed. As a result, the proposed clustered development option is appropriate for the site. He stated the proposed plan is more efficient than that which was previously approved because the number of buildings was reduced from 4 to 2.

Mr. Heydt testified that the proposed use of the property is a permitted use in the R-AH-2 Zone. The project is an inclusionary project. The Ordinance provides for an inclusionary housing development with a maximum density of 15 units per acre with a 20% set-aside. This application results in a density of 13.2 units per acre for a total of 74 dwelling units. Thus, the application as proposed is in conformance with the allowable density in the R-AH-2 Zone.

Mr. Heydt testified that in regard to building coverage, the maximum permitted building coverage in the zone is 65% and the Applicant proposes a building coverage of 11.2%. In regard to impervious coverage, the maximum allowed in the zone is 80% and the Applicant is proposing 33.2%. Thus, in terms of building coverage and impervious coverage the Applicant is significantly below that which is allowable in the R-AH-2 Zone.

The Applicant is proposing three stories of living space for the residential dwellings. However, the Applicant is unable to comply with the number of stories because the three stories of dwelling units are over a one-story garage, thus, resulting in each building containing four (4) stories. The height of each building is less than the 45-foot height maximum allowed in the R-AH-2 Zone.

Mr. Heydt also testified that in regard to the variances for tract setback, the Board previously approved the setback at 31 feet where 40 feet is required. The Board previously approved a building length of 211 feet where 200 feet is required. The Board previously approved the number of stories at four with three residential over one parking as part of the prior application. The tract setback variances are due to the environmental conditions existing on the site. The Applicant attempted to centralize disturbance in order to respect the environmental constraints on the site. Furthermore, the topography increases in elevation from Shepherds Lane and moving towards Boyle Avenue.

The Applicant will also work with the Board's professionals in order to provide a landscape design that will mitigate the visual impact of this project on the residential neighbors on Boyle Avenue.

Mr. Heydt also testified that the southeast boundary adjacent property is located in an industrial zone and the lack of a setback would have a negligible impact on those properties.

In regard to the requirement for a 40-foot setback with a parking area being setback 12.6 feet, Mr. Heydt stated the variance would be justified. The need for the variance is a product of addressing the environmental conditions existing on the site. Centralizing disturbance and proposing development where it is located is done to respect the environmental constraints on the site. The Applicant will also provide landscaping and buffering relative to the setbacks in order to minimize the impact from not being able to meet the setback requirements.

With respect to the variances for building length, the Applicant has designed the buildings in order to centralize disturbance on the site in order to respect the existing environmental constraints on the property. In addition, the Applicant has designed the buildings to eliminate massing and to provide for articulation of the façade to enhance the aesthetics of the buildings.

With respect to the request for variance relief for the various items of landscaping, Mr. Heydt supports the agreement between the Board and the Applicant to have the Board address all the variances for landscaping at this time with the understanding that the Applicant will provide an enhanced landscaping plan and will meet with the Board's professionals to supplement the landscaping plan to the satisfaction of the Board's professionals.

Mr. Heydt testified the Applicant was entitled to ancillary "c" or bulk variance relief under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-70c(1) on the basis of hardship due to the topography of the site, steep slopes, the shape of the property and the environmental constraints relative to the wetlands that exists on the site and the stream that runs through the site.

Next, Mr. Heydt indicated that the Applicant is also entitled to ancillary "c" or bulk variance relief under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-70c(2). Mr. Heydt stated that the Applicant complies with the major components set forth in the R-AH-2 Zoning Ordinance, including but not limited to, the Applicant is proposing an inclusionary development thus the use is a permitted use. The density of 15 units per acre with a 20% affordable housing set-aside is also being complied with.

In regard to the positive criteria, Mr. Heydt testified in regard to purposes of the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-2 which would be advanced by the approval of this application. Mr. Heydt testified that 2(a) would be satisfied because the approval of this application would promote the public health, safety, morals and general welfare.

Also, the proposed application is for an inclusionary development with a 20% set-aside for affordable housing. 2(e) would be satisfied which is to promote the establishment of appropriate population densities that will contribute to the well-being of persons, neighborhoods and communities; 2(i) would be satisfied which is to promote a desirable visual environment through creative development techniques and good civic design and arrangement.

In regard to the negative criteria, Mr. Heydt testified that the application for variance 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. Mr. Heydt testified that the Applicant's professionals will work along with the Board's professionals in regard to the parking layout and traffic circulation to insure that it is safe and efficient. The Applicant will also provide additional buffering and screening and landscaping along the perimeter in order to provide additional screening for the neighboring residential properties on Boyle Avenue. Furthermore, the site is located within the R-AH-2 Zone. The Applicant is proposing an inclusionary housing development with less than the maximum density of 15 units per acre while providing a 20% affordable housing set-aside. Thus, the application is in conformance with the Borough's Master Plan.

A motion was offered by Commissioner Campilango and seconded by Commissioner Murphy to open the public portion of the meeting.

Nine agreed to a roll call vote... 9-0

Erin Yannarelli, a resident at 308 Boyle Avenue, Totowa, New Jersey.

Ms. Yannarelli requested information in regard to the number of two-bedroom dwelling units and the number of three-bedroom units that will be provided on-site. She asked whether or not the units would be for sale units or rental units. She inquired as to how many elevators would be in each building.

The Applicant responded that there will be three three-bedroom units in total on-site and there will be sixty-five two-bedroom units on-site. The remainder will be one-bedroom units. The Applicant also confirmed that the units would be for rent and not for sale units. There will also be one elevator located in the center of each building.

Ms. Yannarelli asked a question regarding the height of the building on this site in relation to the height of her house on Boyle Avenue. It was explained that approximately 25+/- feet of the building on the subject Property would be visible to her.

The Applicant also represented that with respect to the retaining wall it will have a 6-foot high solid fence and the Applicant will plant shrubbery between the wall and the fence to further buffer the site.

Ms. Yannarelli indicated she was opposed to the project because it would bring too many new school children into the school and would present traffic issues.

There were no further members of the public present who addressed the Board.

A motion was offered by Commissioner Campilango and seconded by Commissioner Murphy to close the public portion of the meeting.

Nine agreed to a roll call vote... 9-0

A motion was offered by Commissioner Campilango and seconded by Commissioner Murphy to approve the Preliminary and Final site plan approval, Ancillary “c” bulk variance relief, Design waiver relief and a de minimis exception from the Residential Site Improvement Standards as presented. This approval is subject to and contingent upon the following conditions and will be memorialized in a Resolution at a future date:

1. The development of the site shall take place in strict conformance with the testimony, plans and drawings which have been submitted to the Board with this Application.
2. The Applicant represents that all of its representations and stipulations made either by it or on its behalf to the Borough of Totowa Planning Board are true and accurate, and acknowledges that the Planning Board specifically relied upon said stipulations in the Board’s granting of approval. If any representation or stipulation is false, this approval is subject to revocation.
3. This approval is granted strictly in accordance with any recommendations set forth on the record by the Planning Board at the time of the public hearing on July 9, 2020.
4. The granting of this application is subject to and conditioned upon the Applicant complying with all terms and conditions set forth in the Board Engineer’s review report prepared by Thomas R. Lemanowicz, P.E., Alaimo Group, and dated, July 6, 2020.
5. The granting of this application is subject to and conditioned upon the Applicant complying with all terms and conditions set forth in the Board Planner’s review report prepared by Darlene A. Green, P.P., AICP, Maser Consulting, P.A., and dated July 8, 2020.
6. The granting of this application is subject to and conditioned upon the Applicant constructing fifteen (15) affordable housing units on-site in conformance with the latest procedural and substantive rules for affordable housing as determined by the Courts or other applicable regulatory or administrative agency having jurisdiction over this matter. This includes the three three-bedroom affordable units.
7. The Applicant shall be responsible for retaining a qualified administrative agent to manage affordable units.
8. The granting of this application is subject to and conditioned upon the Applicant complying with all applicable affordable housing requirements.
9. The granting of this application is subject to and conditioned upon the review and approval of the site plan by the Totowa Borough Emergency Services and the Totowa Fire Official.
10. The granting of this application is subject to and conditioned upon the Applicant entering into a Developer’s Agreement with the Borough of Totowa and that a performance bond shall be posted for the proposed improvements.
11. The granting of this application is subject to and conditioned upon the Applicant providing a restriction in the Lease prohibiting the study from being converted to or used as a bedroom. The Applicant shall provide a copy of the restrictive language in the Lease to the Board Attorney and Board Planner for review and approval.
12. The granting of this application is subject to and conditioned upon the Applicant submitting a landscape plan in accordance with the testimony before the Planning Board and the nature and sufficiency of the landscape plan shall be subject to the review and approval of the Board Planner and Board Engineer. Additionally, the landscape plan must show the required street trees along Shepherd’s Lane in accordance with Section 415-156. The Applicant shall comply with the caliper and installation height required by the ordinance for all required landscaping.
13. The granting of this application is subject to and conditioned upon the Applicant submitting a site lighting plan in compliance with Section 415-152 of the Borough Ordinance.
14. The granting of this application is subject to and conditioned upon the Applicant installing guide rail and safety fencing where retaining walls are parallel to the roadway. Guide rails shall be provided along Shepherds Lane in the vicinity of the head wall at the westerly corner of the subject property. A safety fence shall be provided along the top of retaining walls four (4) feet high and above.

15. The granting of this application is subject to and conditioned upon the Applicant submitting a detailed Stormwater Operation and Maintenance Manual which shall be subject to the review and approval of the Board Engineer.
16. The granting of this application is subject to and conditioned upon the review and approval of the submitted plans by the Totowa Borough Water and Sewer Departments.
17. The granting of this application is subject to and conditioned upon the approval of the New Jersey Department of Environmental Protection, if required.
18. The granting of this application is subject to and conditioned upon the approval of the Passaic County Planning Board, if required.
19. The granting of this application is subject to and conditioned upon the approval of the Hudson-Essex-Passaic Soil Conservation District.
20. The granting of this application is subject to and conditioned upon the Applicant revising the parking layout, and circulation plan to the satisfaction of the Board Engineer.
21. The granting of this application is subject to and conditioned upon the number, type and location of directional signs and other traffic related signs in the parking area being amended and said amendments shall be subject to the review and approval of the Board Engineer.
22. The Board's approval cannot be construed to be an approval by the Board of any encroachments from neighboring properties onto the subject Property.
23. The granting of this application is subject to and conditioned upon the Applicant retaining the garbage inside each building until the carting company comes on-site to pick up the garbage.
24. The granting of this application is subject to and conditioned upon the submission of revised plans which shall be reviewed and approved by the Board Engineer and Board Planner. The plans shall not be signed by the Board Secretary and Chairman until the revised plans have been reviewed and approved by the Board Engineer and Board Planner.
25. The granting of this application is subject to and conditioned upon the Applicant providing assigned parking spaces. If there is any fee for parking as it relates to the affordable units, any amount charged for parking shall be deducted from the gross rent due and owing from the affordable unit.
26. All terms and conditions set forth in the prior Resolution of the Planning Board shall remain in full force and effect except as satisfied or amended and not in conflict with this approval.
27. The granting of this application is subject to and conditioned upon the Applicant opening and maintaining an escrow account with the Borough of Totowa and keeping the account current with sufficient funds for professional review and inspection fees.
28. This approval is subject to the payment in full by the Applicant of all taxes, fees, escrows, assessments and other amounts due and owing to the Borough. Any monies are to be paid by the Applicant within twenty (20) days of said requests by the Board Secretary.
29. Certification that taxes are paid current to date of approval.
30. Subject to all other applicable rules, regulations, ordinances and statutes of the Borough of Totowa, County of Passaic, State of New Jersey or any other agency or entity having jurisdiction hereunder.

Nine agreed to a roll call vote... 9-0

A motion was offered by Commissioner Campilango and seconded by Commissioner Zarek to approve the Planning Board Minutes of June 25, 2020 as prepared.

Seven agreed on a roll call vote.....7-0

Commissioner Niland & Councilman D'Angelo abstained

There being no other business, a motion was offered by Commissioner Campilango and seconded by Commissioner Murphy to adjourn the meeting.

All in favor.....9-0

Respectfully submitted,

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Pete Campilango, Secretary

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Patricia Paulson  
Board Clerk

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Date Approved