

# BOROUGH OF TOTOWA

PASSAIC COUNTY, NEW JERSEY

BOARD OF  
ADJUSTMENT



MUNICIPAL BUILDING  
537 TOTOWA ROAD  
TOTOWA, NJ 07512

Phone (973) 956-7929

## BOARD OF ADJUSTMENT MINUTES OF MARCH 9, 2022

The March 9, 2022, regular meeting of the Borough of Totowa Board of Adjustment was held via zoom. Chairman Fierro called the meeting to order at 7:01 P.M.; followed by the Flag Salute. Attorney DeDio read the Open Public Meetings Act and the Remote Meeting Protocol.

Attorney DeDio sworn in new Commissioner Sagan.

A motion to accept the minutes of the February 9, 2022, meeting was made by Commissioner Nash and seconded by Commissioner Carr. On a roll call vote all Commissioners present voted in the affirmative.

Present: Chairman Fierro, Commissioners Patten, Mancini, Nash, Carr, Sagan, Alternate Masi, Henry, Engineer Cristaldi, Attorney DeDio, Planner Green. Absent: Vice Chairman Krautheim.

1<sup>ST</sup> CASE: BAHAR BHUIYAN, 665 TOTOWA ROAD, BLOCK 154, LOT 20.01

Attorney DeDio states this Application will be carried to the April 13, 2022, meeting because proper notice to the public was not made. Applicant will need to renotify.

2<sup>ND</sup> CASE: DAMON VESPI  
471 TOTOWA ROAD, BLOCK 95, LOT 5

Attorney DeDio states the notices are in compliance with the Municipal Land Use Law and the Board has jurisdiction to hear the Application.

Gregory Asadorian, Attorney for the Applicant reviews the Application. The applicant seeks primarily and final major site plan with relief variance to construct a two-story mixed use- professional use on 1st floor and two one-bedroom apartments on the second floor. There are also some site improvements being proposed, parking, grading, drainage, landscaping, lighting, signage, and trash. The property is located in the R7 single family zone. On February 22, 2022, notice went out to the public and on February 18, 2022, notice

was published in the newspaper. The property is approximately 6,069 square feet located at the intersection of Totowa Road and Masklee Court in the R7 single family zone and is currently vacant. Proposing mixed use development which will comprise of professional space of 2,129 square feet and two one-bedroom residential units. The basement will be used for storage only for the professional office space on the first floor. A single two-way driveway from Masklee Court is being proposed. The applicant is also proposing 8 off street parking spaces and two building mounted signs. There will also be two street numbers on two facades and one for each side of the street and one freestanding sign which will not be illuminated. the variances the applicant is seeking will be a D1 use variance, mixed use, D4- FAR, a number of C variances proposed - number of family, variance for buffer, bulk variance, lot size, and variance for width. There are a number of waivers, replacement trees, buffer, maximum pervious coverage, street trees, lighting, off street parking, number of parking spaces, parking location to street line, garage dwelling units, parking space sizes, parking aisle width, sign type, screening of trash facilities, and tree removal. The design waivers are number of signs, off street loading, removal of parking-on-parking street, buffer landscaping, landscaping and parking area, stormwater management, lighting, maximal sign area, & set back.

Damon Vespi, owner of the property, was sworn in by Attorney DeDio. Mr. Vespi is an Attorney for personal injury law and has owned this property for 3-4 years. Mr. Vespi also owns two other properties in town. The previous house had to be knocked down because of the conditions of previous owner beyond repairs. This will be Mr. Vespis satellite office with a secretary, possibly two paralegals and a large conference room. Mr. Vespis main office is located at 361 Union Blvd. The hours of operation may be 8:30 AM through 4:30 PM or 5:30 PM, which would be ideal. Days open would-be Monday through Friday with no weekends. Planner Green would like to know if the units upstairs will be rental or condos. Mr. Vespi responds that condos have not been a thought, he was thinking rentals since he purchased this property three years ago.

Yogesh Mistry, Architect, was sworn in by Attorney DeDio and considered an expert in his field by the Board. Mr. Mistry has made various proposals for this project over the past few years. The most recent plans, A201, which was last revised on November 19, 2022, and will be marked A1, exterior elevations and floor plans. The basement will be storage for the first-floor tenant, the first floor will consist of 2,129 square feet and the second floor will be two one-bedroom apartments, one will be 777 square feet and the other will be 1,038 square feet. There will be hardwood floors, granite countertops, stainless steel appliances. The exterior elevations will be limestone and stucco finish. The height of the building is 28.1 feet from average grade at the top. Exhibit A2. is the color rendering elevation. This elevation shows light gray stucco and tan limestone with black windows and doors. Mr. Mistry goes over the board planner's report which was dated January 19, 2022. Number 19 on page 10, will clarify and will be within 30 feet limit. Item number 23 they can eliminate, item number 29 there is only one sheet to the set which is aA201. Item number 30 the ceiling height will be between 7 1/2 to 8 feet. Item number 31 is noted above, item number 32 the den will be 8 '3 by 16 feet, one bedroom will be 11 feet by 17 feet and the other bedroom will be 11 feet by 15 feet. Item number 33 will be put on the roof and the mechanisms will be hidden in the parapet. Item number 34 there are two lights

in back which are decorative, 2 in the front which are also decorative and on Masklee Court lights there are also decorative. Item number 35 will be white stucco and the base will be stone, and item number 36 this is not a large building, this is giving it a rest residential feel. Engineer Cristaldi states that on that street it is all residents and that this does not have a residential feel and would like the applicant to explain. Architect Mistry explains it's a mixed use, they could not do a gable roof because of height, the Planner will go into more detail. Mr Vespi also states there is another law office down the street and considered with the other buildings being used in the vicinity. Mr Vespi feels this building will add value to the community. Commissioner Patten asked about this stairwell, is it common to have public access for just the business and is there any access to the roof. Architect Mistry states there will be a door that owner could lock to the basement there will be a hatch to the roof, no stairwell. Commissioner Mancini asked about parking for the tenants, will there be designated spots for them. Architect Mistry states the engineer will respond. Planner Green is concerned about the den, which is 128 square feet and can be used as a bedroom. She would like to see a restriction on the den becoming a sleeping space. Architect Mistry states there is no restrictions, there also is no closet and no door to that room. The board can put a restriction if they feel necessary. Planner green would like it to be that a restriction is placed on the lease for the new tenant. Planner Green would also like to know, in regards to the FAR- how much of this building would you have to lose to comply. Architect mystery said we would have to lose a floor to make it work.

Patrick McClellan, Engineer, was sworn in by Attorney DeDio and considered an expert in his field by the Board. Engineer McClellan prepared the plans for this evening marked A3, the site plan, which consists of nine sheets-dated March 24, 2021. There are red marks on the plans to specify areas to review this evening. The original dwelling was removed but on sheet two it shows a dotted line of the existing dwelling so that you can see in proportion to where it was situated on the lot to how the new proposed building will fit. The new structure is situated on property closer to Totowa Road. They will maintain a four-foot set back at front right corner of the building and squaring it up to Masklee Court. The ordinance requires a single side yard of eight feet, which is held at the east side budding a residential home. Rear of the property is parking, the applicant is proposing 5 parking spaces 9 feet by 17 feet deep one parking space 8 foot by 17 feet deep, one parking space 9 feet by 17 feet deep and one spot 10 feet by 17 feet deep. The drive aisle is 22 feet and it should be 24 feet. This proposal of the property is low impact parking, there will also be additional parking spaces on Maslee Court. If approved, the Applicant would have to go in front of the town council to adjust parking space angles so that the 10 spaces there now will only go down to 9 parking spaces to include the drive aisle width. On sheet 4, the draining system falls under New Jersey definition for major development. This does not disturb more than one acre of land and does not add more than 1/4 acre of impervious coverage. The applicant is also proposing an underground detention system. The landscape scaping plan is proposing 2 trees and a number of shrubs. On sheet 7, the lighting plan, there are free standing lights in the parking lot and four building mounted lights that throw light away from the building to illuminate the ground. Exhibit A4, a letter from the County of Passaic department of planning and economic development, dated June 28, 2021, shows the applicant was granted conditional approval of the ingress and egress access on Masklee Court only. Architect McClellan goes over Engineer Cristaldi's letter dated, February 23,

2022. Under tree removal, 11 trees needs to be provided under the ordinance for the trees being removed. The applicant can consider donating the remainder of the trees required but not planted on site to the borough for planting at other locations such as Boroughs parks. Under drainage, currently the applicant has conditional approval, the County asked for some additional information. Under the site plan layout, there is no access to Totowa Road per County comments on letter dated October 23, 2020. Parking on Masklee Court will reduce from 10 spaces to 9 spaces, but the applicant would need council approval. The trash area will be screened in. Parking spaces adjacent to the easterly property line will have a drop curb to increase the backup space. Under the lighting plan, the applicant agrees to LED technology, which allows for 0 foot candles at the property line. Under other approvals, there is a conditional approval but will also need soil erosion certification approval. Mr. McClelland goes over Ms. Green's letter dated January 19, 2022. Under waivers and exceptions section 383-2F, replacement tree waiver. Section 415-99B, the applicant will comply. Section 415-100A and 415-100 E, associated with lighting all requirements will be made. Section 415-108 C, this will be screened. Section 415-115A, we feel this is considered the parking lot as a structure. General section #5 this will be updated if needed. The site plan section 11 indicates lot is vacant, section 12 is a typo and section 13 is a discrepancy. Section 14 and 15 will be taken off the plan, section 16 will be updated to remove waiver request. Section 17 will be taking off, section 18 they will clarify building height calculations. Section 19 was addressed by Architect Mistry. Section 22 the fence needs to be removed or straightened out to get onto property line. Section 24 they do not assign that spot for residents and scheduled time before business opens. Section 26 will not be an issue; and section 27 they will get permission from the borough. Under lighting and landscaping the applicant will comply to the issues. Under signage and detail number 45, no sign will be illuminated, and #46 the applicant will provide.

Planner Green is interested to learn the County master plan for the Borough of Totowa right of way was stated to either move the building back or cut a little out of the corner, the Applicant is seeking relief tonight from the Board for the front yard setbacks but in order to grant relief, the Board would need to know what the number actually is. What is the number for the actual setback. Engineer McClellan states it would be 5 ½ feet instead of 4. The FAR would be affected slightly, they could not move the building back because of the parking lot size so either they would have to shorten the building structure or do a cut out in that corner to comply. The variance for impervious coverage will increase with the shift of parking spaces-The Board should know this also to grant relief.

Since time is close to 10 P.M. the Planner will be heard at the April 13, 2022, meeting.

At this time the meeting is opened to the public.

Sweeney Melendez resides at 22 Masklee Court, which is located behind the new proposed building. Mr. Melendez is concerned about the parking, which is already a problem and the garbage which is currently being thrown around.

Jonathan Callejas, resides at 480 Totowa Road, was sworn in by Attorney DeDio. Some of Mr. Callejas's concerns are heating on the roof will increase the height, refuse pick up

if only once a week will start to smell in the summer, the parking spaces are too tight to maneuver when there is snow, parking is already an issue, and they want to take 2 parking spaces away. Mr. Mistry answers the height will remain the same, maybe 1 foot higher than the parapet and will be placed towards the center so it will not be visually seen. Attorney Asadorian answers the refuge removal and if there is an issue, they will have picked up twice a week. Mr. McClellan states the owner has an obligation to remove the snow from the site and there is only one parking space being removed.

Cheryl Yodice, resides at 457 Totowa Road, was sworn in by Attorney DeDio. Ms. Yodice concerns are: this should be at 371 Union Blvd not on Totowa Road, this application negatively affects the neighborhoods character, the den can be used as a second bedroom, there are already flooding issue, this will make it worse, the loss of parking and parking lot is an issue because the spaces are too tight, and the increase in traffic.

Carol Mardelli, rents at 451 Totowa Road, was sworn in by Attorney DeDio. Ms. Mardelli states she has seen many changes and the area has gotten very busy over the years. She objects to this application because it is too large for the neighborhood, there will be more traffic, and why not build a single-family home instead of a residential and commercial building.

At this time a motion was made by Commissioner Patten to close the public portion of the meeting and was seconded by Commissioner Nash.

This Application will be continued to the April 13, 2022 meeting with no re-notification to the public.

A motion to adjourn the meeting was made by Commissioner Patten & seconded by Commissioner Mancini. The meeting was adjourned at 10:23p.m.

Respectfully submitted,  
Pam Steinhilber, Secretary