

BOROUGH OF TOTOWA

PASSAIC COUNTY, NEW JERSEY



BOARD OF
ADJUSTMENT

MUNICIPAL BUILDING
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BOARD OF ADJUSTMENT MINUTES OF JANUARY 11, 2023

The January 11, 2023, regular and reorganization meeting of the Borough of Totowa Board of Adjustment was held via zoom. Chairman Fierro called the meeting to order at 7:08 P.M.; followed by the Flag Salute.

The 2023 Oaths of Office were received from Municipal Clerk Wassel for Chairman Fierro for a 4-year term and Alternate Masi for a 2-year term. Alternate Masi was absent, and Chairman Fierro was sworn in.

Nomination for Board Chairman was requested. A motion to appoint Fierro as Chairman was made by Vice Chairman Krautheim and seconded by Commissioner Patten. There being no other nominations from the floor, the nomination for Chairman was closed. On a roll call vote all members present voted in the affirmative and congratulations were extended to Chairman Fierro.

Nomination for Board Vice Chairman was requested. A motion to appoint John Krautheim as Vice Chairman was made by Commissioner Patten and seconded by Commissioner Mancini. There being no other nominations from the floor, the nomination for Vice Chairman was closed. On a roll call vote all members present voted in the affirmative and congratulations were extended to Vice Chairman Krautheim.

Nomination for Secretary was requested. A motion to appoint Pam Steinhilber as Secretary was made by Alternate Henry and seconded by Commissioner Carr. There being no other nominations from the floor, the nomination for Secretary was closed. On a roll call vote all members present voted in the affirmative and congratulations were extended to Secretary Steinhilber.

Nomination for Board Attorney was requested. A motion to appoint DeDio, as Board Attorney was made by Commissioner Mancini and seconded by Commissioner Patten. There being no other nominations from the floor, the nomination for Board Attorney was closed. On a roll call all members present voted in the affirmative and congratulations were extended to Attorney DeDio,

Nomination for Board Engineer was requested. A motion to appoint Alaimo Engineering, as Board Engineer was made by Commissioner Nash and seconded by Commissioner Mancini. There being no other nominations from the floor, the nomination for Board Engineer was closed. On a roll call vote all members present voted in the affirmative and congratulations were extended to Board Engineer Cristaldi.

A motion was made by Commissioner Sagan and seconded by Commissioner Carr that the Board of Adjustment will meet the second Wednesday of every month at 7:00 p.m. in the Council Chambers/Zoom for the year 2023 through January 2024. On a roll call vote, all members present voted in the affirmative.

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

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

Attorney DeDio read the Open Public Meetings Act and the Remote Meeting Protocol.

1ST Case: Blagoja "Bill" Markovski, 27 Roseland Ave, Block 154, Lot 53.

Applicant's Planner had an operation and could not make it this evening and is requested to be carried to the February 8, 2023, meeting.

A motion was made by Commissioner Patten to carry to the February 8, 2023, meeting and was seconded by Commissioner Mancini.

Attorney DeDio states on record that the Applicant will not need to republish or reserve.

2nd Case: Oldja 44 Knollwood LLC, 44 Knollwood Road, Block 145, Lot 40

Attorney Raymond Redding explains the application for a site plan approval for a single family home on a currently vacated lot. Attorney DeDio has reviewed this application and they are in compliance with the municipal land use law and the Board has jurisdiction to hear the case.

John Ferrante, Engineer for the Applicant, was sworn in by Attorney DeDio and is considered an expert in his field by the Board. Mr. Ferrante prepared and presented the plans that were submitted to the board. Revision B, dated October 27th, 2022, and has a colored version-this will be marked exhibit A1. This is an infill lot and is currently empty. It is located directly across from Meadow Drive. Existing homes are shown on plans, all lots on South side of Knollwood Rd are all the same size, 50 feet wide by 100 feet deep and approximately 5000 square foot pre-existing nonconformity for this zone. The rear of this lot is all wooded. The applicant meets all the zoning requirements and the only variance being sought is the FAR variance where 40% is required and 49.44 is what's being proposed which is approximately 469 square foot over the requirement. The applicant meets the height requirements. There are two design waivers for replacement of existing trees that are being removed. The applicant is removing two trees and they need to replace with four new trees. Figure F-2, is the proposed law with surveyed dimensions. This lot has a 10 foot wide easement for a storm water line. Mr. Ferrante did a wetland delineation, the wetland is in the rear which is indicated on the plan. The DP letter would receive a 50-foot buffer. There is a driveway that is 17 feet wide with a garage, a covered porch is being proposed, and all fits within the neighborhood. There will be the same front yard setback as existing homes in the neighborhood. The patio in the rear that is being proposed will have a few steps into the first floor. This property will have a partial finished basement, the walls will be sheet rocked and insulated. The foundation will not encroach

on the 10-foot easement. There will be a dry well and overflow that will be connected to the storm line within the easement.

Yogesh Mistry, Architect, was sworn in by Attorney DeDio and is considered an expert in his field by the Board. Mr. Mistry prepared and submitted the architectural plans dated February 9th, 2021, it consists of two pages and will be marked exhibit A-2, sheets A2.01 and A4.01. This will be a single-family home with two stories 4 bedrooms and 2 1/2 bathrooms. The ground floor will consist of a living room, family room, dining room, powder room, and kitchen totaling 842 square feet. The second floor will have four bedrooms, and two bathrooms totaling 1,131 square feet. The square footage meets the FAR but raises the FAR to 49.44 when including the porch at 99 square feet and a two-car garage at 400 square feet. The applicant meets all other requirements, they just have the F.A.R. that is an issue. Exhibit A-3, renderings of the proposed home. The applicant meets the height requirement of 30 feet, the finishes on the home will be stone, siding and white trim. Commissioner Patten asked if there will be any access to the basement from outside. Mr. Mistry states there will be no access to the basement from the exterior of the home. Commissioner Patten would like to state on the testimony tonight that the basement will remain unfinished. Mr. Mistry confirms the basement will remain unfinished. Planner Green asked if the basement was finished or used, would it aspirate the variances seeking tonight. Mr. Mistry said if the basement was finished then yes it would seek other variances. Planner Green's concern is if there is a new homeowner and they decide to finish the basement and use it as living space, it would increase your usable square footage and how do we prevent this from happening and advise a future homeowner that they cannot do this. Planner Green suggests record the board resolution to the deed if board approves it would be in the title search for the new owner. Vice Chairman Krautheim asked attorney DeDio if he has seen a deed restriction put in place. Attorney DeDio states he has seen this in the past.

Alexander Oldja, Applicant, was sworn in by Attorney DeDio. Mr. Oldja states the building department and ordinances have rules that he has to abide by and the basement will be unfinished, just partially finished for energy efficiency. In all his previous applications this was never an issue or been specified as a deed restriction and would not feel comfortable with being the first test case in this and is concerned about the implications this could have on him down the road.

Charles Heydt, Planner, was sworn in by Attorney DeDio and considered an expert in his field by the Board. Mr. Heydt did not submit any plans this evening but he has reviewed the plans. This application is in an R-7 zone with minimum lot size which all the homes in the area are the same. He is requesting a D-4-F.A.R. variance because 40% is required and 49.4% is being requested. This calculates to 469 square foot above what is allowed. He is proposing to eliminate trees and will abide by the town ordinance to replace them. A D-4 variance is generally supported by finding the positive criteria that the site can accommodate the impacts associated with the added intensity. The negative criteria is no substantial detriment to the general welfare and no detriment to the zoning plan. From the design standpoint the architect and the building mass complies with all the setback requirements and the building height. There is consistency along the front with the other neighborhood homes and this home will have a split roof line. There is no impact for the proposed first and upper floor. There will be no internal plumbing, no leaders, no drainage, and no egress windows in the basement. The negative criteria is no physical impacts to the adjacent properties. Commissioner Mancini asked how many homes on that street have

basements. Mr. Heydt could not answer that at this time. Engineer Cristaldi is concerned about the high water table and being right next to wet lands. Mr. Ferrante states they do have a high water table and the wet lands are 50' away.

At this time the meeting is opened to the public.

Peter Cullen & Donna Schaffer-Cullen, reside at 42 Knollwood Road, were sworn in by Attorney DeDio. They are both concerned about the water and how the water filters through the end of Meadow Drive and floods. They have lived at their home for 30 years and have seen this happen many times. Mr. Cullen shows how the plan shows 2 pipes running down the right side of the drawings and according to previous owner, Mitch Diamond who gave the Cullen's an old survey which shows a 12-foot pipe that runs on the left side of the property and drains out to the woods. The proposed house is shown being built on that 12-foot pipe. The applicant's surveyor did not indicate that pipe but the applicant will investigate. Ms. Cullen states the applicant's surveyor asked her where that pipe was, the applicant cannot comment on that. There is discussion back and forth about the additional pipe and what the previous owner, Mitch Diamond gave to them. Ms. Cullen reviews the empty land, existing pipes, and elderly people who live there have stated the local residents have the way of the land and they have maintained the property as far as snow removal etc. Mr. Ferrante reviews the plans and the catch basins and how they will work. He does point out an additional line that shows it on an angle and a survey did pick it up, he reviews the seven foot difference to address the water and the drywell will take care of the additional water.

Brian Simes, resides at 46 Knollwood Drive, was sworn in by Attorney DeDio. Mr. Simes concern is his basement has gotten wetter and wetter over the years and he needs to put a French drain in his home because of the water. It hasn't rained in a while and the water table is high right now. The swamp is not being maintained and becoming a catch basin which is an issue and if a home is built on top of this land the water will have nowhere to go.

Cristine Gish, resides at 38 Knollwood Road, was sworn in by Attorney DeDio. Ms. Gish states it is a mess back there, all the trees are dying and she gets water all the time and the water is coming up from the ground because the water table is very high even without a bad rain.

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

Mr. Ferrante states when the applicant proposed drywells, they have to follow strict DEP requirements, one is the bottom of the dry well has to be at least two feet from the water table. They have notes on their drawings if during construction the contractor has to verify that the soil condition that he spoke about are indeed there or they need to be called and redesign a new system with the approval of the Township engineers. Engineer Cristaldi asked how many recorded easements are on the property. Mr. Ferrante states only one which is shown on the left side. Commissioner Patten asked if for whatever reason they cannot get the two foot what is the remediation to get to the water that he is now going to prevent from going into the ground. Engineer Cristaldi states the groundwater is high when it rains it would never hit the ground, there is nothing to remediate but he doesn't believe with the 7 foot

difference this should be an issue, they will just need to dig and see. Mr. Oldja states with the history information he is hearing from neighbors he understands the situation and will work with the neighbors and building department to make things right. And still is in disagreement to the deed restriction and feels it is not a good idea. Vice Chairman Krautheim said the deed restriction was only a suggestion at this point. Engineer Cristaldi states the water issue is a concern and makes a suggestion to improve the water issue for the neighbors. Attorney Redding sums up the application at this time.

A motion was made by commissioner Patten to approve the application and was seconded by commissioner Nash. A roll call was taken and the application was approved 8 to 0 at 8:45 PM.

At this time the Board will take a break at 8:47 P.M.

The Meeting was called to order at 8:54 P.M.

3rd Case: Fidelity Totowa Associates LLC, 465 Route 46, Block 174, Lots 1-3.02, 4.02, 5-6.

Attorney DeDio had reviewed the application and the Board has jurisdiction to handle the case.

Attorney Gregory Asadorian goes over the application. The Applicant seeks warehouse and distribution use with an 80 square foot office space. The property is located in the B-3 district; highway business used as retail. The applicant only needs a use variance, there will be no site work or signage being proposed. Total square footage of this application is 20,267 square feet that will be used as warehouse slash office.

Jeffrey Taylor, Architect, was sworn in by Attorney DeDio and considered an expert in his field by the Board. Mr. Taylor discussed converting the area currently vacant to the rear. Retail space for Home Sense did not need the rear of this space and the only access to this space is from the exterior rear. The applicant is requesting to use this space as warehouse space which is a lesser use than retail. Exhibit A1, LLD 1- Overall Demising Plan, dated November 4, 2022. This plan shows the existing loading area for the warehouse. Partitions are already existing, and the loading dock will be shared, 1 loading dock for Total Wine and one loading dock for the proposed warehouse. There will be no facade changes and no exterior changes to this application. Exhibit A-2, tenant number one dated November 15, 2022. The applicant is proposing 20,267 square feet to be used as a warehouse and a small office. Mr. Taylor goes over Ms. Green's review letter dated January 6, 2023. On page 6 under comments, comment #4 there will be no outdoor storage-comment #5 the applicant will comply with the hours of the B-3 district ordinance-comment #9 there will be no new signage. Vice Chairman Krautheim asked if there was a proposed tenant already. Mr. Taylor states yes there is a proposed tenant. Ms. Green would like to make a condition of approval that there will be no tractor trailers left on site & no trucks or vehicles left on site. Commissioner Patten asked if there will be delineated parking for this and if in the back about an issue with the parking and the Fire Zone. Mr. Taylor states there will be a maximum of four employees with plenty of parking that is already delineated.

Matthew Seckler, Traffic Expert, was sworn in by Attorney DeDio and considered an expert in his field by the Board. Mr. Seckler has visited the site numerous times and prepared a traffic and parking

assessment report dated December 29, 2022, this exhibit will be marked A-3. There will be four employees on site with no delivery trucks, vans, trailers left on site. There are approximately 30 parking spaces and the hours of operation will be 7:30 AM to 3:30 PM and we'll only have one shift. The delivery trucks will be either a 20 foot box truck were a normal tractor trailer size. Mr. Seckler states that going from retail to warehouse actually reduces the number of trips and sees no issues with site circulation. Miss greens review letter #7 on page 6, the applicant will have the hours of 7:30 AM to 3:30 PM with just one loading dock and four employees. The parking spaces will need to be restriped. Commissioner Nash asked about weekend operations. Mr. Seckler states operations is not anticipated but does not want to say there may never be weekend deliveries.

Steve Lydon, Planner, was sworn in by Attorney DeDio and considered an expert in his field by the Board. Mr. Lydon states the applicant will maintain all existing building improvements & maintain all existing driveways. There will be no increase in building coverage, impervious coverage and they are only seeking a D1 use variance. Exhibit A-4, is a plan that outlines the site and dated January 10, 2023. Mr. Lydon goes over why the site is well suited for this application. Mr. Lydon also discusses the discrepancy form Ms. Green's letter and goes back to a memorialized resolution from the Planning Board dated June 24, 1999.

At this time the meeting was opened to the public.

A motion was made by Commissioner Patten to close the public portion of the meeting and was seconded by Commissioner Mancini.

A motion was made by Vice Chairman Krautheim to approve with a condition of approval for no outside storage and was seconded by Commissioner Carr. A roll call was taken and the application passed 8 – 0 at 9:45 P.M.

A motion to adjourn was made by Commissioner Sagan and seconded by Commissioner Carr @ 9:48 P.M.

Respectfully submitted,

Pam Steinhilber-Daub