

# BOROUGH OF TOTOWA

PASSAIC COUNTY, NEW JERSEY

BOARD OF  
ADJUSTMENT



MUNICIPAL BUILDING  
537 TOTOWA ROAD  
TOTOWA, NJ 07512

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The April 12, 2023, regular meeting of the Borough of Totowa Board of Adjustment was held at the Municipal Building. Chairman Fierro called the meeting to order at 7:13 P.M.; followed by the Flag Salute. Attorney DeDio read the Open Public Meetings Act and the Remote Meeting Protocol.

A motion to accept the minutes of the March 8, 2023, meeting was made by Commissioner Patten and seconded by Commissioner Mancini. On a roll call vote all Commissioners present voted in the affirmative.

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

1<sup>st</sup> Case: Simram LLC, 572 Union Blvd, Block 139, Lot 2-construction of mixed -use building, retail and residential requiring variances.

Raymond Reddin is the Attorney for the Applicant. The Board is seeking additional information and will carry this to the May 10, 2023, meeting. Attorney DeDio states the Applicant will not need to re-notice or re-publish.

2<sup>nd</sup> Case: Wahed Razzak, 52 Mountainwood Court, Block 9.05, Lot 25-construction of new single-family home in R-20A district, variances for building height, FAR and back stop for tennis courts and any other variances required by the Board.

Ray Reddin is the Attorney for the Applicant Wahed Razzak. Wahed Razzak is the owner of the home, there are two professionals here this evening-the Architect and the Planner. The Engineer is not able to be here this evening and if the Board is satisfied with just the Architect and Planner, we can proceed with a vote or if the Engineer needs to clarify his portion, then they would ask for it to be continued.

Architect, Anwar Alkhatib, was sworn in by Attorney DeDio and considered an expert in his field by the Board. Mr. Alkhatib reviews the plans that were submitted and prepared by the Engineer.

The plans are marked exhibit A and contain 3 sheets. Sheet C-01, summarizes that project, sheet C-02 is the proposed site plan, and C-03 is the detailed grading plan. There are two storm tanks being proposed that will be located closer to the property line and further from the house. The Architectural Plans are marked exhibit B and were prepared by Mr. Alkhatib and contain 6 sheets. Sheet A-01 is the basement plan which consists of a 2-car garage that will have access from the side and an open space basement with a walkout door and will be 3,500 square feet which includes the garage. Sheet A-02 is the first-floor plan which consists of a living room, sunroom, family room, kitchen, dining room, office, bedroom, bathroom, and a single elevator and will be 3,509 square feet. Sheet A-03 is the second floor with 4 bedrooms and 4 bathrooms and will be 2,479 square feet. Sheet A-04 is the layout of the roof with a pitched slop of 6 to 12 pitch. Sheet A-05 is the elevation plan, the front of the house looks like a two-story building and the back is where you see the 3<sup>rd</sup> story. Sheet A-06 is the site elevations. There will be two seepage pit tanks proposed for run off. Engineer Cristaldi asked if the height variance was calculated. Mr. Alkhatib states it was and is 46.89 feet. Commissioner Patten asked if the basement level has mostly fire egress windows and are they planning to have bedrooms in the basement. Mr. Alkhatib states they are not proposing any bedrooms in the basement and are not enclosing any portion of it. Commissioner Patten also questions the height, the garage level to the basement is 2 feet lower, so there is 2 feet to help lower the height. Mr. Alkhatib said it would affect the front of the house and they need at least 20" but it could be done. Chairman Fierro asked about the condition of the existing walls. Mr. Alkhatib cannot comment on that. Engineer Cristaldi there should be a drainage report and that should be a subject of approval. Attorney Reddin states in 2010, there was an application that was filed and approved resolution, this is marked exhibit C and dated April 14, 2010. The same FAR was proposed then as now, the only change is they are changing the pool to tennis courts.

Charles Heydt, Planner, was sworn in by Attorney DeDio and considered an expert in his field by the Board. There are three variances being requested and one existing non-conforming variance. Existing conditions are because of the topography of the site, D4-F.A.R., D6-height variance, and setback stop variance for accessory structures for no encroachment on the 30' yard. The D4 F.A.R. is the lot width is the pre-existing non-conforming, 86-foot dimension at the cud de sac, and R20 zone with 120' wide is required. The D-6 height variance, 46.89 feet is being proposed where 35' is permitted. From Mountainwood Court it is 30.91'-this is because of the topography grade. The Application complies with setbacks requirements and is consistent with the neighborhood. Side stop setback prior approval in 2010 with a pool in the backyard, this Applicant converted that into a tennis court. A portion of the tennis court is why this variance is being triggered but it helps to level this area out and uses two retaining walls to help the steep topography. Negative criteria-this is a vacant lot today and storm water sheet flows wherever it wants, probably the far corner and around the retaining wall. Very unregular condition right now and with the application the water will be conveyed into the seepage pits which is an improvement over the existing conditions. The zoning ordinance-the project was previously approved with the same F.A.R. This application had a change from the pool to tennis courts and is a single-family home in an R20 district and is appropriately sized for the area.

Commissioner Patten asked on the site where the retention basins are going to be and the house is going to be developed, was there any blasting being proposed. Engineer Cristaldi states there needs to be a soil resting done before finalizing the design. Mr. Alkhatib can change the roof pitch from 6 to 12 to 4 to 12 instead of changing the height of the house, which would affect the basement. Attorney Reddin asked can the resolution be conditioned upon approval of the drainage. Engineer Cristaldi states that is what he was going to suggest. Commissioner Patten asked if the single man elevator was going on all three floors, Mr. Alkhatib states it is. Attorney Reddin suggest opening to the public with the condition of there is any required testimony from the Engineer, they would ask for the opportunity to bring him in that the Board would allow that at a later time.

At this time the meeting is open to the public.

Robert Niemiec, was sworn in by Attorney DeDio, resides at 7 Hamilton Trail. Mr. Niemiecs concerns are:

1. Existing walls are in good shape is a lie, in the town records they were forced to reduce the height of the existing walls.
2. There are structural cracks in the wall.
3. There needs to be a low density and soil analysis done.
4. The Applicant can shorten the ceiling heights from 9' to 8' and gain 3'.
5. Three attempts have been made to build this property and they all failed.

William Lydecker, was sworn in by Attorney DeDio, resides at 61 Stirling Terrace. Mr. Lydeckers concerns are:

1. The previous Engineer was supposed to be on-site full time by the previous owner and was not, the walls were built on the ground with no foundation.
2. Drains were at the bottom of the walls and no water has ever gone through the drains.
3. There is a huge hole in the wall where there is a double wall.
4. The wall was built on a stump near a 50' tree and now there are 5 large trees with roots growing under the wall.
5. There is an easement on his property but the drains from the upper property were never hooked into them.
6. Water that comes off the proposed property is amazing the amount and has caused the wrought iron railings he had to rot out and his pavers have cracked.

Engineer Cristaldi states the Applicants Engineer needs to do some investigative work-soil analysis and address drainage problems and see where the water is supposed to go and if it is.

Neil DiDio, was sworn in by Attorney DeDio, and resides at 62 Sterling Terrace. Mr. DiDios concerns are:

1. He was one of the first homes to be built there and watched it all being built and the builder did a terrible job and the Engineer overlooked it.
2. Mud/clay and small rocks come down onto Mr. Lydeckers house.
3. The wall is unstable-when built they did not use nets.

4. Mr. DiDio is not an engineer but has seen walls built and this was not built properly, and he fears for it coming down with such a large home being proposed and would like to see it be sized down slightly.

Engineer Cristaldi states there is a report on file and the Applicants Engineer should get that report and do an evaluation of the existing wall and know the stability of that existing wall.

Robert Sendewicz, was sworn in by Attorney DeDio, resides at 1 Hamilton Terrace. Mr. Sendewiczs concerns are:

1. This proposed property is directly above his home.
2. He is not happy to see a three-story home from his backyard.
3. There are three light poles on the tennis courts, does this mean they will be playing tennis at night.

Wahed Razzak, was sworn in by Attorney DeDio. Mr. Razzak states the lights are just design and can be shielded. Safety is also a concern of his and will do what it takes to be safe and have the neighbors happy.

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

Attorney Reddin will have the Engineer at the next meeting to testify.

A motion was made by Commissioner Patten to continue at the June 14, 2023, meeting and was seconded by Commissioner Nash.

Attorney DeDio states the Applicant will not need to republish or re-notice.

Resolutions to Memorialize:

Tumble Nasium, 18 Furler Street, Lot 175, Lot 10

The Grand, 38 Lackawanna Ave, Block 131, Lot 1

Fazzlul Razzak, 13 Haven Avenue, Block 11, Lot 38

A motion to adjourn was made by Commissioner Sagan and seconded by Commissioner Nash @ 8:12 PM.

Respectfully Submitted,

Pamela Steinhilber