

# BOROUGH OF TOTOWA

PASSAIC COUNTY, NEW JERSEY



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BOARD OF  
ADJUSTMENT

## BOARD OF ADJUSTMENT MINUTES OF FEBRAURY 8, 2023

The February 8, 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 7:02 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 January 11, 2023, meeting was made by Commissioner Carr and seconded by Commissioner Nash. On a roll call vote all Commissioners present voted in the affirmative.

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

1<sup>st</sup> Case: The Grand, 38 Lackawanna Ave, Block 131, Lot 1. The Totowa Board requested this application to be carried to the March 8, 2023, meeting.

2<sup>nd</sup> Case: Complete Performance Baseball Academy, 100-D Commerce Way, Block 166.03, Lot 17. Board Attorney DeDio has reviewed the application and all notices are in compliance and the Board has jurisdiction to hear the case.

Steve Martino states this application is seeking a D1 variance for use of a baseball academy. He is the co-owner of the academy. This facility would offer a range of series for baseball and some softball. There will be training, group training, onsite-off site coaches clinics, & college recruiting. The property now is a vacant open space and there will be no changes to the exterior and the interior will just be modified to operate. The hours of operation will be Monday through Fridays and weekends and will vary depending on the season. There will be 4-6 employees depending on camps or private instruction. There could be 4-5 students during non-camp times and that would slightly increase when camps are open. Parents usually drop the students off but sometimes will wait in the building. There are 16 parking spaces for this application, which is plenty. Summer months will have less people using the facility. The facility is never really closed, but August and

November are the slower months. Commissioner Patten asked about batting cages. There will be no personal training and no parties-they operate the training and there will be no subletting. If full teams wanted to come in to work out and the facility has space, they will allow that. Commissioner Carr wanted to know how many students in the camps, there will be a maximum of 15 and no full day camps-they are usually an hour and a half long. Commissioner Mancini wanted to know the age groups, the youngest team is 13 years old and goes up to college level. Chairman Fierro asked about signage on the building, there will only be a sign on the door.

At this time the Board opens the meeting to the public. There is no public to be heard.

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

Attorney DeDio reviewed the application.

A motion was made by Commissioner Nash to approve the application and was seconded by Commissioner Carr. Board approved 7 – 0 @ 7:17 P.M.

3<sup>rd</sup> Case: Tilcon New York, 839 Riverview Drive, and 355 Minnisink Road, Block 171, Lots 12, 12.01, 12.02, and 13. Alan Ziaken represents the applicant and was sworn in by Attorney DeDio. Mr. Ziaken reviews the application. They would like to rebuild a pre-existing batch plant and maintain an existing drum plant on that property. Michael Kotlarz, Director of Operations & Support for this site and is the Project Management and Capitol Projects, was sworn in by Attorney DeDio. Mr. Kotlarz was with Tilcon for 10 years. Tilcon has been located in Totowa since the 1980's. The last known approval for plan was 1989 that was in front of this Board. Tilcon acquired this site for Del Contractors in 1999. The drum plant existing is a high volume continuous mix plant for large road projects. The batch plant makes small individual mixes used for potholes, winter work, and emergency road repairs. This site needs to be rebuilt because it is over 30 years old and the steel is shot. They will be rebuilt with newer state of the art equipment and will have a higher efficiency. They will be using modern day technology and everything will be built in the exact same footprint. The hours of operation will be 24/7, which is the same as previous. There will be 6-8 employees per shift and there will be 3 shifts of 8 hours each. There is adequate parking on site. The production activity will be the same. The peak hours are 6:00 A.M. to 9:00 A.M. and there will be approx. 30 trucks per hours. During regular hours there will be 15-18 trucks per hour. During peak period the traffic flow of trucks will be able to be obtained within the site during the hours stated will not impact the ingress and egress to the adjacent traffic roads. Each plant has adequate travel ways to keep the trucks in que. The height variances are due to structures contained on these plants which are the silos, this is where the product is stored, and the baghouse, which are the steel box with cages that have the filter. This improvement will help the environment. The batch tower is where the asphalt is dropped out into a commercial truck or steel structure with a screens. The conveyer dryer is a transfer conveyer that brings the asphalt to the top of the tower. If size and height of the structures were reduced, they would not operate correctly. Commissioner Patten asked about the old asphalt that

is brought into the plant in the past, is this how they work milling that comes off of roads being reused, there will only be a certain amount that can stay onsite. Chairman Fierro asked about testing and how often is the air quality tested, testing get done daily.

Wayne Ingram, Planner and Civil Engineer was sworn in by Attorney DeDio and is considered an expert in his field by the Board. Mr. Ingram has been working with Tilcon for 18 years. Exhibit A1, is a plan dated December 21, 2022. Mr. Ingram describes the site, roads, and access. The 3-building outlined in brown reflect the proposed replacements. The heights are 77 feet for the dryer and conveyer, 62.3 feet for the batch tower, and 35.5 feet for the bag house. Nothing will be higher or more visual than the existing. In 1989 a variance was granted for 58 foot in height for the plant. The variances being requested are four height variances and a C-variance for setbacks. There are 16 existing delineated parking spaces. There is downward facing LED lighting which is pre-existing on prior towers. The traffic impacts were submitted to the County with a conditional approval from them with a few comments to address for some additional right of ways. They met with County planning Board asking for waivers for maintaining both entrances and was acceptable to them. The County asked for contribution for future improvements along Minnisink, which was agreed to and short sidewalk segments on Riverview Drive and some line striping and storm water improvements. They requested a confirmation from the Department of transportation that this is an essential need for road repairs for the supply chain, a letter was received from the DOT that is a critical facility. The letter was submitted to the Board. Site plan shows general traffic route through the site and was done with a fire truck, which is far longer than dump trucks and the fire truck was able to get through with no issues.

Planning portion testimony. The Applicant seeks a D-6 height variance. The proposed height does not intensify, it is more of a visual concern. The plant is pretty well hidden from the local area and is most visual from Route 80. Some purposes of zoning are purpose A, serving the general welfare, the DOT states critical need for their operations, purpose G, providing sufficient spaces for a variety of uses based under the environmental requirements, site is suited because of depressed nature within the site and surrounding, and purpose J, conservation of natural resources and preventing degradation of the environment. Commissioner Carr asked about the newer technology having less noise, there will be no difference in noise but air emissions will improve. Commissioner Patten wants clarification on the lots proposed. There was an error and the correction will be made to delete lot 12.03 and will be amended to lot 13.

At this time the Board opens the meeting to the public.

Brian Jeffers, Attorney for owners of 70 Vreeland Ave has a few objections to the application. One of the waivers, code section 415-73J needs to appear on a master site plan. Section J pertains to storm water management. Tilcon is looking for an exception to the requirement under that code under the premise they are not impacting the foot print of the property, but during the Engineers testimony he eluded something about the storm water management in his testimony which brings into question some prior history with an engineer hired by the town years ago regarding proposed work at the Tilcon property particularly as if related to storm water

management and the affect on down stream locations. In August of 2020, an email correspondence from Alan Lemanowitz regarding proposed work at the Tilcon facility mentions work will improve Tilcon and NJ DOT are working together for work on the property and that work will improve the efficiency of down stream storm water conveyance system. There was not more information on that result. Part of the purpose of submitting a storm water management plan with the site plan is to give an assessment of whether or not he existing facilities are adequate in their present condition and that they would not have an effect. Mr. Jeffers is asking the Board to not approve a waiver of the requirements of 515-73J which required them to submit data supporting that the existing system is adequate and that what ever proposed changes are not going to have an effect on downstream storm water management. Mr. Jerrers still argues there is no storm water management report to state if they are in compliance at this time. Mr. Zaiken states Tilcon will meet with the all the County requirements. Mr, Ingram states the existing storm water management is in compliance and they are not changes anything to the site and there are no impervious increasements. Engineer Cristaldi questions what work was being references by the previous Engineer, and if unknown then there can not be a comparison. Mr. Jeffers states all existing non-conformities stated in the agenda are concerning. Chairman Fierro states this is standard language if anything comes up during the meeting.

A motion was made by Commissioner Patten to close the public portion of the meeting and was seconded by Alternate Henry at 8:00 P.M.

Attorney Zaiken reviews the application and Board Attorney DeDio reviews that variance being seeked. Engineer Cristaldi states to remove the waiver request for storm water management since nothing is being changed.

A motion was made by Commissioner Patten to approve the application and was seconded by Commissioner Mancini. Application was approved 7 – 0 at 8:07 P.M.

4<sup>th</sup> Case: Blagoja “Bill” Markovski, 27 Roseland Ave, Block 154, Lot 53. Attorney DeDio reviewed the application and noticed, and the Board has jurisdiction to hear the case. Thomas Stearns, Engineer, was sworn in by Attorney DeDio and is considered an expert in his field by the Boars. Mr. Stearns prepared the land survey dated November 3, 2022, and reviews Ms. Greens letter dated November 8, 2022. Exhibit A1 is dated September 9, 2021, and was revised December 29, 2022. This is a single-family home in the R20 zone. In 2016 there was an approval to expand and add a bedroom. There is an asphalt driveway on the southerly side of the home with an existing 1 car garage. The application is to construct a two-car garage with a loft above for storage. Mr. Stearns reviews Ms. Greens letter dated November 8, 2022. There is a waiver for accessory structure location, the applicant is asking for a 9-foot setback for the garage. The ordinance for structure height which is 16 feet above grade and this one is 20 feet. There is a waiver for the number of garages for this zone and one is permitted. There is an existing non conformity for the front porch which is covered. The ordinance required two car garages with at least 440 square foot for every dwelling unit. Some items addressed on Ms. Greens letter are because she did not receive the revised survey before preparing this letter. The

F.A.R. indicated existing FAR of 25.5 and the F.A.R. being proposed is 29.5. The limit of impervious coverage in an R20 zone is 20% is allowed and 18.22 is compliant. Rear yard coverage for accessory structures they are compliant with. Mr. Stearns reviews the zone chart. Commissioner Patten wants to confirm that in 1999 a permit was sought out for a first floor addition and at that time there was a two car garage and in 2016 there was an approval for a second floor addition over the same space and now you are looking to add two more non-conformities to a previous 6-at what point was the existing garage eliminated. Homeowner Mr. Markovski, was sworn in by Attorney DeDio states when he did the addition for his kitchen it was over the existing two car garage and now there are beams that make the existing two car garage unusable. Commissioner Patten would like to know what the old garage space is being used for. Mr. Markovski states it is being used for storage. Commissioner Patten states that Mr. Markovski's hardship was self-induced and also states no trees are being shown on the recent survey and questions what else may be missing from the survey. Commissioner Carr explains the plans and information on them are not accurate. There was a seepage pit plan that was dated November 14, 2022, that the Board does not have.

At this time the Board opens the meeting up to the public.

Michael Sumulikoski, was sworn in by Attorney DeDio. Mr. Sumulikoski explains the one car garage that they have is being used by the tenant and that the Architect that prepared the plans submitted is very sick and it is very hard to get changes.

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

A motion was made by Commissioner Patten to grant continuous of this application and was seconded by Commissioner Mancini. Board approved 7 – 0 at 9:02 P.M.

Memorialization of 44 Knollwood Road was made by Commissioner Carr and seconded by Commissioner Mancini.

Memorialization of Fidelity Totowa Associated, LLC was made by Commissioner Nash and seconded by Alternate Henry.

A motion to adjourn was made by Commissioner Sagan and seconded by Alternate Henry at 9:05 P.M.

Respectfully submitted,  
Pam Steinhilber, Secretary