

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 JUNE 10, 2015

The June 10, 2015 regular and reorganization meeting of the Borough of Totowa Board of Adjustment was held at the Municipal Building. Chairman Fierro called the meeting to order at 7:39 p.m. followed by the Flag Salute. Attorney Briigliadorio read the Open Public Meetings Act.

A motion to accept the minutes of the May 13, 2015 meeting was made by Commissioner Bavazzano and seconded by Commissioner Mancini. On a roll call vote all Commissioners present voted in the affirmative.

1ST CASE: ALEX OLDJA

249 GRANT AVENUE, BLOCK 112, LOT 64, 65

Applicant is requesting variance(s) for minor subdivision for new single family dwelling. Attorney Raymond Redding, states 249 Grant Ave is the current address, it is vacant land and is requesting reverse subdivision. Mr. Redding presented to the board a letter from Mr. Corrado's office dated June 10th, 2015. The letter states the Borough of Totowa owns Block 65 and consents to Mr. Oldja purchasing the property.

Engineer Patrick McClellan-professional engineer-is considered an expert by the board. Mr. McClellan explains the lot consolidation of block 64 & 65, which will consist of a one family home with driveway and deck. Mr. McClellan addresses Engineer Murphys letter. Comment 1, is commentary about the project. Comment 2, addresses nonconformities of the R-7 residential zone: applicant requesting variance(s) for lot area/lot depth, front setback, side yard abutting a street, rear yard setback (including deck), F.A.R. Comment 3 the applicant has addresses the property address with the tax assessors and refers to the address of 17 Harding Avenue. Comment 4, variance needed for 4' and 6' high fence within 25' of both street lines. Comment 5, applicant will supply revised plans once accepted, site line distances at intersection of Harding Ave and Grant Ave, replacement of concrete curbing on Harding Ave, referenced survey, compliance of max permitted lot coverage. Comment 6, applicant will document that the Borough has consented to the filing of the application. Comment 7, once approved, the lot number will be assigned buy the Borough Tax Assessor. Comment 8, the applicant will file subdivision deeds by a NJ licenses professional surveyor. Comment 9, the applicant understands the Board Attorney and Engineer must approve the subdivision deeds and any other proposed easements. Engineer Murphy is satisfied with the testimony; the

driveway is still a concern with site line and needs to be seen on the site line diagram. Chairman Fierro asked for an explanation of the fence. The applicant would like to drop to 4' from 6' for privacy

Architect, Yogush Mistry, sworn in by Attorney Briigliadorio, licensed Architect in NJ and is considered an expert in his field by the board. Mistry presented Exhibit A-1, an 8 ½ x 11-3D color rendering of front and right side of the home. The lot will consist of a 1 family, 4 bedrooms colonial with living room, dining room, family room, partial finished basement. The 1st floor will be 1,440 square feet and the 2nd floor will be 1,730 square feet. The garage is 455 square feet and the deck will be 10 x 25. Commissioner Mancini asked if the basement will be finished, Mr. Yogush responds that the basement will be just partially finished. Commissioner Bavazzano asked what side the driveway would be on, Mr. Yogus answered that the driveway would be on the Harding side. Commissioner Patten wanted to know if the garage could be switched to the opposite side. Mr. Yogush stated that placing the garage on the opposite side would not work because the grade varied low on the left side. Commissioner Patten asked is the sidewalk will be installed across the driveway. Mr. Yogush explains the driveway apron and sidewalk will be included across the driveway. Vice Chairman Krautheim notes that other homes in the areas lots are not all conforming. Mr. Yogush states there is a mix of homes in that area.

Applicant Oldja, sworn in by Attorney Briigliadorio, is the current owner of 249 Grant Avenue. Mr. Oldja feels that the proposed project is the best option for the area and it is costing him more money to build it as proposed, but feels it will work best with the area and help beautify the neighborhood. Mr. Oldja plans on planting colorful, low maintenance plants in front of fences to soften the view. Attorney Redding endorses Mr. Oldja's project and feels it will improve the value of the neighborhood, add additional tax flow rate to the Borough all with the contingent of Mr. Oldja purchasing the Boroughs land. Attorney Briigliadorio recaps the variances and makes the board aware that the adjoining piece of property, which is 15' x 87' and approx. 1,309 square feet. The Board, if approves the application should be contingent on the sale going through of the Boroughs property.

Motion was made to approve the application by Commissioner D'Ambrosio and seconded by Commissioner Nash. Vote was 7-0 to approve at 8:11 pm.

2ND CASE: JERRY CURCIO
357 UNION BLVD, BLOCK 94, LOT 9

Attorney Briigliadorio notified the Board and public that this is a continuation of May 13th meeting. Chairman Fierro listened to last meetings tape and will be able to vote on this hearing. The case was suggested to be carried over to the June 10th meeting because the applicant was recommended to have a planner present detailing case details to the Board and the public.

Planner, Joseph Barbieri Jr, was sworn in by Attorney Briigliadorio. Mr. Bariberi is a licensed planner with a valid license in the State of New Jersey and is considered an

expert in his field by the board. Mr. Curcio presented the board with plans. Exhibit A-1, construction details plans dated June 4th, 2015. Exhibit A-2, photos of the current conditions on the property dated May 21, 2015. Engineer Murphy addresses issue in his letter, comment 1-is just a statement of proposed applications. Comment 2, applicant is requesting use variance and 2 D variances-one for the use and one for the floor ratio. Comment 3, is a list of the nonconformities and will be addresses later in the presentation. Comment 4, zoning schedule has been incorporated into the drawings. Comment 5, the additional will have brick to the face and vinyl siding to the sides and exterior of the building. Comment 6, vinyl siding will stay the same as existing. Comment 7, lighting of the building will stay the same and is noted on the plans. Comment 8, a design waiver is needed for off street parking. There are 16 off street parking spaces, 5 are on Mitchell Avenue and are not complying and are undersized. With the request there would be 21 spaces. Engineer Murphy would need a waiver for 16 spaces where 22 is required. Comment 9, a design waiver is needed for minimum width of 12.66 with 45% parking, 13 is required. The rear driveway, note that the existing refrigeration will be removed and relocated on the roof of the building, Mr. Curcio will provide 4' wide sidewalk so there is no issues with the door opening. The plan does not comply with the Boroughs ordinance for one way driveway. Mr. Curcio will re-stripe the lot and install signage to control traffic and install sidewalk. Comment 11, the curb will be replaced along Mitchell Avenue and a 10-12 feet of sidewalk extension will also be added on Mitchell.

Use variance for 2, one bedroom apartments, which is in a D-variance, floor area ratio is also a D-variance. Mr. Barbieri explains the positive criteria for approval of this application. Mr. Barbieri feels the property is suited for the proposed use, there are many of the same configurations along the boulevard, and will supply a housing need for seniors, couples, and young individuals. The proposed application would not be suitable for a family. Mr. Barbieri explains the negative criteria; he feels it will not have a negative impact on adjacent business owners. Mr. Barbieri also feels there will be sufficient parking and will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

Commissioner Patten asked if there were any delineation's of parking spots for residents, Mr. Curcio states that there will be 4 parking spots in the rear for residents only. Chairman Fierro inquired about the slant towards the fire house, Mr. Curcio explains that it is not a steep grade and will not be an issue for parking. Attorney Briigliadorio recaps the waivers that are needed. The first waiver is for design to construction materials for side and rear, second is off street parking needs to be 22 and proposed is 16, third is the driveway width which is 12.66 and needs to be 13, fourth is floor area ratio which should be 35% and applicant is proposing 39%.

Attorney Briigliadorio asked what the sizes of the apartments would be, Mr. Barbieri states the overall is 51 x 36 and each unit would be 25.2 x 36. Commissioner Mancini would like to know about attic and storage space, Mr. Curcio said there will only be a roof line. Commissioner Bavazzano inquired about where the refrigeration would be. Mr. Curcio explains that the refrigeration would be on the addition behind the

apartments. Commissioner Korsakoff would like to know if there is access to the roof. Mr. Curcio states there is an entrance in the back of the building which is enclosed, to get to the roof. Attorney Brigliadorio reviewed variances to the board and public, a D-1 variance for mixed use of residential over a business, D-4 variance for floor area ratio, and design waiver for construction materials and parking spaces.

Motion was made to accept the application by Vice Chairman Krautheim and seconded by Commissioner Bavazzano. Vote was 7-0 to approve at 9:34 pm.

3rd CASE: FORTRESS HOLDINGS, LLC
555 PREAKNESS AVENUW, BLOCK 6, LOT 2

Attorney Darren DelSorto gave a brief overview at last month meeting, he had to send additional notices to the Borough of Haledon and the City of Paterson. With the new notices given, Attorney DelSorto would like to start the presentation from the beginning.

Paul Qassis, was sworn in by Attorney Brigliadorio, is principal owner along with silent partner Mr. Krikor. An overview of the application is the addition of two floors to the existing building which would include a high end restaurant housing 350 people and a mezzanine level. Attorney DelSorto addresses 6 parking spot that encroach on neighboring property. He states that the parking spot are existing, but would like to remove them from the application to avoid legal issue. Those 6 parking spaces will not be part of the application and by doing so the original seating of 375 will be reduced to 350. Engineer Murphy asked Attorney DelSorto which 6 parking spots he was referring to on the plans. Attorney DelSorto refers to Site plan sheet 2 of 5, which is dated April 30, 2015, and shows it is to the back rear left which is the westerly driveway. Mr. Qassis owns a few restaurants, one of which is the Balcony in Carlstadt, New Jersey. Mr. Qassis has acquired a chef with over 25 years' experience. Commissioner Patten wanted to know when Mr. Qassis purchased the property. Mr. Qassis purchased the building in May of 2014. Commissioner Korsakoff would like to know what Mr. Qassis means when he refers to the restaurant as "high end". Mr. Qassis states it will be a steak house and would like to obtain a liqueur license once one is available.

Commissioner Nash asked about the hours of operation. Mr. Qassis feels the restaurant would be open from 5 pm to 11 or 12 pm from Tuesday to Thursday including Sunday and 5 pm to 3 am Friday and Saturday. There may be lunch hours once a customer base has been established. Chairman Fierro is concerned about how the neighbors will feel about noise and traffic at 3 am in the morning and if 3 am is negotiable. Attorney DelSorto feels the 3 am closing would be negotiable. Commissioner D'Ambrosio asked about security. Mr. Qassis feels that security would be in place on Friday and Saturday along with valet parking and states there will be no outside music being played, only inside. Engineer Murphy would like to know if this will be just a restaurant or will there also be catering too. Mr. Qassis would like to have both a restaurant and catering. Mr. Qassis has no intentions on having a DJ, but if a private party wants to supply their own, he would be ok with that.

Engineer Patrick McClellan was sworn in by Attorney Brigliadorio. Engineer McClellan shows the board sheet 2 of 5, which is the site plan/variance plan dated April 30, 2015 and sheet 1 of 5 which is the site plan of 555 Preakness Avenue. Block 6, Lot 2. Engineer McClellan stated that the property is an I-3 industrial zone on the east and northwest side, R-20 on the southwest side, R-1 on the border of Paterson and AA1 zone on the border of Haledon. The property is just less than 2 acres. Engineer McClellan refers to sheet 2 of 5 which is the site and variance plan. There are minor modifications to the site, there are two access points off Preakness Avenue. The plan shows 89 parking spaces, 4 of which are handicap-note that previous statement by Attorney DelSorto removing the 6 parking spaces the amount has changed to 83. With renovations the parking area will allow 102 parking spaces.

Engineer McClellan would like to address Engineers Murphys letter. Comment 1, is a description of the application. Comment 2, a use variance is needed for proposed property. Comment 3, due to existing conditions variances are needed for min front depth, min side yard abutting residential and rear yard setback. Variance needed for non-existing condition is the building height. Attorney DelSorto would like to add that the applicant would like 10' height, but does have plans for 6'8. Comment 4 is in parts and states the following: applicant would like to waive the relief of buffers, waive landscaping and trees in parking lot areas, applicant will comply with lighting for safety purposes, loading spaces will be addresses by traffic engineer, applicant will comply with adequate drainage, maintenance, and delineation, no soil investigation has been done yet. Exhibit page 3 of 5 is site grading plan dated April 30, 2015 sewer pipe is unknown and will defer that investigation at the time of construction. Signage will comply and the 15' maximum height will also be compliable.

Chairman Fierro asked about the waste line, Engineer McClellan states that part of waste line is in roadway in Paterson and should be on private property. Attorney Brigliadorio wanted to clarify the design waivers needed. Engineer McClellan list the design waivers needed are buffers, landscaping and shade trees, loading area, and lighting. Attorney Brigliadorio also states the off street parking issues, drive isle width, outside storage, and building mounting sign. Engineer McClellan states the applicant will comply with the off street parking and Architect Streba will address the signage. Engineer Murphy is concerned that the drainage issues should not wait until construction starts and that the applicant should obtain the survey for accurate details of correction of the issue. Engineer Murphy also recommends a trash rack, a 36" pipe (but may need to be larger upon survey), an increase in imperious are since one of the expanded parking areas will be over an open drain and that 100 year storm capacity applied. Revised plans should be submitted to the emergency department.

Architect, Joseph Sterba, sworn in by Attorney Brigliadorio and is considered and expert by the board. Architect Sterba submits Exhibit A-1, Architectural site plan dated April 30, 2015, shows the additions to building along with stairway tower and elevators. Exhibit A-2 is plan of Front view of building dated February 28, 2015. Exhibit A-3, Site plan zoning Area dated April 30, 2015, shows the 5th floor plan and 6th floor mezzanine; which would have limited seating. The plans show 50'8 of height needed with the

kitchen on the first floor level with dumb waiters to deliver food. The kitchen is approx. 2,400 square feet. Exhibit A-4, Existing individual floor levels dated February 24, 2015. Building mounted sign is in proportion with building size, plus a free standing sign on the north westerly side. A 15'6 area will be added for emergency vehicles and change design from 2 piers to one pier. Commissioner D'Ambrosio refers to Exhibit A-3 and points out that plan shows too many seating, Architect Sterba acknowledge the plans need to be revised. Vice Chairman Krautheim would like to know what the mezzanine height would be. Architect Sterba says applicant is requesting 12', but can comply with 9'. The current height of existing floors are 12'. Engineer Murphy would like to know about the fire protection. Architect Sterba states an analysis needs to be done and the applicant will comply. Engineer Murphy would like to know if the kitchen is adequate for catering. Architect Sterba replies that kitchen can be expanded if need be. Engineer Murphy reminds the applicant that the plans need to be revised.

Valet parking expert, Ellis Dumont, was sworn in by Attorney Brigliadorio. Mr. Dumont works for 30 years with Advanced Parking Concepts; he has been in the business for 35 years and is a member of Board of Director of National Parking Association, Chair Valet Counsel under MPA, and former President of Nation Valet Parking Association. Mr. Dumont is considered an expert in his field by the board. Mr. Dumont states that a good valet offers good neighbor approach. Exhibit A-5 is a report dated June 9, 2015. Mr. Dumont provides 3 photos to the board. Photo 1 is the main entrance on the left is facing the building, Photo 2 is the stacked parking of 17 vehicles which would add 119 onsite parking spaces, and Photo 3 is the second entrance, which will be an exit only and is on the right side when facing the building. Mr. Dumont feels with his studies and expertise that there will be no back up on Preakness Avenue on a night of full capacity. Mr. Dumont also suggests that police should be present on full capacity nights and emergency vehicles will not have an issue getting in and out. Commissioner Patten questions the flow of traffic both ways. Mr. Dumont states the second isle for entrance, which is closest to the building, can be utilized for exit if an issue. Mr. Dumont assures Engineer Murphy he is confident traffic will not be an issue at full capacity.

Traffic expert, Craig Peregoy, sworn in by Attorney Brigliadorio, is a licensed Engineer and his license is valid in New Jersey. Mr. Peregoy is considered an expert by the board. In his studies the driveway will operate very well during peak hours, traffic counts for 4 pm – 6 pm is 750 per hour. The propose office space and restaurant is 61 spots, he calculates 3 seats per 1 parking spot which equals 117 spots. Engineer Murphy states that if the applicant keeps evening hours there would be adequate parking, but if applicant opens for lunch there would not be enough parking. Mr. Peregoy states 113 spots would be needed if open for lunch. Mr. Peregoy will supply a revised parking analysis report. Commissioner Patten is concerned that when exiting the driveway and the incline would headlights be an issue with surrounding neighbors getting lights in their homes. Mr. Peregoy does not have an answer, but Mr. Qassis says there is only one home and that is higher than the driveway. Vice Chairman Krautheim would like to know if left and right hand turns were included in report. Mr. Peregoy states that left and right hand turns were included in the analysis.

Professional Planner, Joseph Barbieri Jr, sworn in by Attorney Brigliadorio. Applicant is requesting a use variance to provide a restaurant in residential zone. The building at 555 Preakness Ave is a historical building and will remain and enhances. The 50'8 building height would keep the consistency but 46'8 is the alternate proposal but would not maintain with the current structure.

Public to speak:

Linda Greenberg, sworn in by Attorney Brigliadorio resides at 502 Skyline Drive in Haledon. Mrs. Greenberg states she did not receive a certified letter and is questioning if she should of. Attorney DelSorto showed proof to the board that it was indeed sent by certified mail on May 29, 2015 and stamped at post office. Mrs. Greenbergs concerns are the one way in and out to her complex and what is an emergency vehicle cannot get in if there is a backup of traffic to get into the restaurant. Another concern is black ice and the police close the street when that is an issue. She is not sure what type of clientele will be there until 3 am and thinks it is too late to be opened. Mrs. Greenberg feels lower attendance would be best, also she has had issues when Passaic County Tech has an event of the church up the street she has a hard time getting into her development.

Edward Valladares, sworn in by Attorney Brigliadorio resides at 378-380 Linwood Ave in Paterson. Mr. Valladares is a life time Paterson resident. Mr. Valladares states the existing tenants are throwing garbage and being loud. Mr. Qassis assures Mr. Valladares that it is not his tenants and it is kids that are hanging around. Mr. Qassis will be installing lighting and security to prevent this issue plus the police are aware and will randomly drive thru the parking lot. Mr. Valladares main concern is noise.

James Giurintans, sworn in by Attorney Brigliadorio, resides at 59 Newgent Drive in Clifton but his mother resides at 375 Linwood Ave in Paterson and is handicap. Mr. Giurintans is a licensed engineer with 20 years' experience in site plans, both licenses are valid. Mr. Giurintans would like to know if the outdoor balcony will have tables and chairs for dining. Mr. Qassis is intending to have outdoor dining with tables and chairs. Mr. Giurintans asked if there will be a bar area added since there is less seating. Mr. Qassis states that at this time there will be no bar area. Mr. Giurintans would like Mr. Qassis to be more accurate to the board about the hours of operation. Mr. Qassis informs him that the restaurant will be open until midnight during the week and until 3 am on Friday and Saturdays. Mr. Giurintans would like to know if he would remove the pavement from the 6 unused parking spaces and replace with landscaping. Mr. Qassis does not understand why he would need to do that.

Mr. Giurintans would like the engineer to explain the building additions. Mr. McClellan shows the elevator tower and 2 stairway towers. There will be a loading area around back which will be designated. Mr. Giurintans would like to make sure the restaurant will have valet parking, and would like to know what happens if the offices are there past 5 pm. Mr. Qassis has every intention to have valet parking; he will also make sure any office workers are able to get out of the parking lot after 5 pm. Mr. Giurintans asked what the drainage area is for the 36" pipe, the answer is 110 acres. Mr. Giurintans would

like to know if the retaining wall is going to be removed. Engineer McClellan states the applicant will be removing the retaining wall. Mr. Giurintans asked if necessary steps are being taken for water run off after surveys are received. Mr. McClellan responds there are multiple solutions pending results, there is no water quality enhancements and the system will be modified to 100 year flood standards. Mr. Giurintans asked the traffic specialist if he considered PC Tech's events for example Friday night football games, can he access it the count. Mr. Peregoy can only figure it on an average daily basis. The glare of lighting impact is not an issue, there is a 40' difference from Linwood Avenue. Mr. Giurintans concerns are the impact of a business this large will cause more noise, traffic, etc. He also feels there are a lot of questions the board has to consider for approval of this application. The last concern is the food disposal will cause more animals to be around.

Attorney Briigliadorio recaps the outdoor dining has a yearly application that need to be applied for. The restaurant will have to be cleaned up by 11:30 pm. If the board does not want to approve 50'8 height, then 46'8 is on the table. Chairman Fierro feels that 3:00 am is the issue. Attorney DelSorto states the applicant will reduce the time to 2:00 am that the restaurant will be cleaned up and closed. Commissioner Patten asked Engineer Murphy about the noise ordinance; Mr. Murphy says it is flexible. Attorney Briigliadorio states the outdoor dining has a lot of restrictions and if approved, the applicant would have to be in full compliance. Mr. Briigliadorio would also like to state that the maximum occupancy is 350, the applicant is eliminating the 6 parking spaces and possibly removing the pavement under, applicant will reduce the close time from 3 am to 2 am on Fridays and Saturdays, if applicant decides to open for lunch-the open time would be 12 to 3 pm, and lastly the building height would either be 50'8 or 46'8. Vice Chairman Krautheim understands the concerns about the building height and feels that esthetically it warrants an exception to be 50'8.

Motion was made to accept the application by Commissioner D'Ambrosio with the stipulation of the building height to be 46'8 and comply with the Borough on all discussed, plus the 2 am close on weekends and outdoor dining compliance with no night clubs. Motion was seconded by Commissioner Mancini. Vote was 7-0 to accept @ 12:23 am

THE FOLLOWING RESOLUTION(S) WAS MEMORIALIZED:

1st CASE: JENNIFER MARI
213 DEWEY AVENUE, BLOCK 116, LOT 15

Applicant was granted for variance(s) for construction of a 2nd floor to a single family home. Motion to accept was made by Commissioner Bavazzano and seconded by Commissioner Patten.

2nd CASE: ENAMUL KHAN
25 HUDSON AVENUE, BLOCK 41, LOT 26

Applicant was denied for variance(s) to construct a 2nd story addition to a single family home. Motion was made by Commissioner Patten and seconded by Commissioner Bavazzano.

Motion to adjourn the meeting was made by Commissioner Patten and seconded by Commissioner Bavazzano at 12: 36 am.

Respectfully submitted,
Pam Steinhilber, Secretary