

NUTLEY ZONING BOARD OF ADJUSTMENT

Public Session Meeting Minutes

November 13, 2017

CALL TO ORDER: A meeting of the Nutley Zoning Board of Adjustment was called to order at approximately 7:30 p.m. by Chairman Frank Graziano. The Pledge of Allegiance was recited. Roll was called and the Sunshine Notice was read.

PRESENT: Joseph Frusteri, Daniel Tolve, Peter Sirica, Gary Marino, Tom DaCosta Lobo, Suzanne Brown, Chairman Graziano and Board attorney, Diana McGovern, Esq.

ABSENT: None

EXCUSED: Lori Castro

* * * * *

No. 1 Centre Street and Bloomfield Avenue APPROVED 7-0

Applicant: Thomas DiBiasi, Esq., 345 Centre Street, Block-Lot: 7800-1, 2, 3, 25

Application: to review the site plan consisting of pages, 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10, dated October 9, 2017, prepared by Charles L. Osterkorn Jr., Engineering Associate

Appearances: Thomas DiBiasi, Esq., Charles Osterkorn

Letter of Denial: was previously read

Section 600-1 A of the Codes of Nutley requires a site plan application.

A preliminary review using the Township of Nutley site plan checklist indicates the following information is missing:

600 Attachment I – Site Plan Checklist

B – 22 copies of the plan and checklist are required

C – 22 copies of the application and fees are required

F (7) – driveways

F (8) – retaining walls, etc.

F (26) – easement, deeds, variances, etc.

F (27) – floor plan

F (30) – application with county

Waivers may be requested.

A previous application for variances to construct a three (3) story mixed use building consisting of first floor ground level 1,200 SF for retail, 948 SF mechanical room, lobby area and a parking area, the second floor with 11 one bedroom dwelling units, the third floor with 11 one bedroom units for a total of 22 dwelling units, was approved by the Board of Adjustment.

Mr. Thomas DiBiasi, Esq., made his opening remarks to the board, stating that they were there for site plan approval. He stated that his client would comply with all Mr. Hay's conditions. Mr. Charles Osterkorn testified as the engineer on this project, introducing Exhibit A1, which were the site plans. Chairman Graziano pointed out that there were slight changes in measurements on the application. Mr. Osterkorn stated that architects generally work in inches, while engineers work in tenths. Mr. DiBiasi stated that he would replace the surrounding fences with a 5 foot solid vinyl fence. As a condition, Mr. DiBiasi agreed to a dumpster with enclosed coverage. Board attorney, Ms. Diana McGovern, Esq., read the applicant all the conditions they agreed to from the use variance application. Mr. DiBiasi agreed that his client would comply with all zoning ordinances regarding signage in the retail space.

With no further questions from the members and no one in the audience with questions or comments, a motion to grant this variance was made by Mr. Tom DaCosta Lobo, seconded by Mr. Peter Sirica. The variance was granted by a vote of 7-0.

* * * * *

No. 2 13 Prospect Street APPROVED 7-0

Applicant: Mr. and Mrs. John Cataldo, 13 Prospect Street, Block-Lot: 8808-7

Application: to erect a 18' by 21' pergola attached to the existing house, having an approximately one (1') foot setback to Sharlene Road and 19' setback to the rear property line, an approximate five (5') feet setback to the existing above ground pool, and a lot coverage of 3,332 SF when only 35% is permitted (1,810 SF) all as shown on the survey prepared by Jeffrey Canfora P.L.S., dated February 21, 2003,

Appearances: John Cataldo

Letter of Denial: was previously read.

Chapter 700, Article VIII, Section 700-46 of the Codes of Nutley, the schedule entitled "Schedule of Regulations as to Bulk, Height and Other Requirements," requires a minimum 25' setback to a secondary street (Sharlene Road). **The plan shows one (1') foot setback.** Also, limits a maximum lot coverage to 35%. **The plan shows a lot coverage of 64%.** And a minimum rear yard of 30'. **The plans shows a rear yard setback of 19'.**

Chapter 700, Article XI, Section 700-67 C of the Codes of Nutley requires the detached pool to be a minimum of 10' from the main dwelling. The pergola is considered to be part of the main dwelling.

Applicant John Cataldo testified that he submitted new drawings to the board. He stated that he changed the pergola to a car port, extending the roof off of the house. He stated it would be 18 feet by 21 feet in size. Chairman Graziano stated that he wished to see gutters on the car port. The applicant agreed he would make the roof the same as the existing roofing on his home. He stated that he would use decorative columns to support the car port. Ms. Suzanne Brown asked the applicant what the total height of the dwelling would be. He stated 8 feet on the left side and a little less than 8 foot on the right side. Ms. Brown also asked if he would align the roof with the existing roof from a previous addition. Mr. Cataldo responded that he would align the roofs.

With no further questions from the members and no one in the audience with questions or comments, a motion to grant this variance was made by Mr. Gary Marino, seconded by Mr. Peter Sirica. The variance was granted by a vote of 7-0.

* * * * *

No. 3 178 Frank Street CARRIED TO THE NEXT MEETING

Applicant: Mr. and Mrs. Enrique Nunez, 178 Frank Street, Block-Lot:

Application: to install two (2) chicken coops located in the side and front yards along Kierstead Avenue, as shown on the property survey received August 15, 2017,

Appearances: Enrique Nunez, Rosita Nunez

Letter of Denial: was read by Mr. Tom DaCosta Lobo

Chapter 700, Article VII, Section 700-39 K of the Codes of Nutley prohibits raising and keeping of livestock and poultry.

Chapter 700, Article XI, Section 700-67 A of the Codes Nutley states a detached accessory buildings and accessory uses may occupy in the aggregate an area not to exceed 30% of the area of any **rear yard**. The height of a detached accessory building shall be one story not to exceed 14 feet. The proposed coop and run will be located in the front yard and side yard along Kierstead Avenue.

Applicants Enrique and Rosita Nunez testified to the board that they had 3 small hens and were not aware of the township's ordinance. They stated that they wished the board to grant the variance to allow the family to keep the hens. Ms. Nunez stated that they currently did not have a permanent structure for the hens, only a coop. She stated that they had no neighbor complaints. Mr. Nunez explained that the hens were beneficial for his daughter, and asked the board if they could be considered service animals. Board Attorney, Ms. Diana McGovern responded that they would, but the applicants would need expert testimony to prove the hens were service animals.

A motion to carry this application to the next meeting was granted.

* * * * *

No. 4 113 Mapes Avenue APPROVED 7-0

Applicant: Mr. Frank Dauksis, 113 Mapes Avenue, Block-Lot: 5102-6

Application: To widen the existing driveway for a total width of 16’ which will be located in front of the main dwelling, and which will reduce the required 60% front yard coverage to 52% as shown on the property survey by Michael S. Lynch dated August 2, 2017;

Appearances: Frank Dauksis

Letter of Denial: was read by Mr. Thomas DaCosta Lobo

AND the Code Official having denied said permit by letter dated October 20, 2017, citing Chapter 700, Article XIII, Section 700-94 A (1) of the *Codes of Nutley* which states a driveway shall consist of the area directly opposite to an attached garage, detached garage or depressed garage or the extension of the side yard into the front yard. The driveway width shall not exceed 16 feet. However, if there is no garage and no available side yard, a driveway not to exceed 16 feet in width from the side lot line may be constructed. *The proposed increased driveway to the left will be in front of the main dwelling,* and also citing

Chapter 700, Article VIII, Section 700-48 of the *Codes of Nutley* which states any lot containing a residence for one or two families shall have at least 60% of the required front yard in landscaping. This area shall not be covered with paving, walkways or any other impervious surface. Landscaping may consist of grass, ground cover, shrubs and other plant material. *The front yard landscaping is reduced to 52%;*

Applicant Frank Dauksis testified to the board that he recently moved to Nutley and was unaware he needed a variance, but his contractor advised him he was denied a permit. Mr. Dauksis explained that his hardship was not being able to fit his 2 trucks in the driveway. He stated that he would install a planter to prohibit a car from driving into the home. He also explained that there would be all new asphalt and the concrete wall would meet the driveway.

With no further questions from the members and no one in the audience with questions or comments, a motion to grant this variance was made by Mr. Joseph Frusteri, seconded by Mr. Peter Sirica. The variance was granted by a vote of 7-0.

* * * * *

No. 5 78 Mapes Avenue APPROVED 6-1

Applicant: Mr. and Mrs. Gregory Vesonder, 78 Mapes Avenue, Block-Lot: 2700-6

Application: To *leave as erected, without a construction permit,* a bathroom and pantry/closet built in the attached garage, which will reduce the size of the garage to approximately 13’, as shown on the sketch received by Code Enforcement October 3, 2007;

Appearances: Gregory Vesonder

Letter of Denial: was read by Mr. Tom DaCosta Lobo

AND the Code Official having denied said permit by letter dated October 23, 2017, citing Chapter 700, Article V, Section 700-9 A of the *Codes of Nutley* which states a single-family dwelling, not to exceed one dwelling unit on each lot. No other principal use is permitted on the same lot with a single-family dwelling. Each single-family dwelling shall have two parking spaces, *at least one of which is in a garage*, and also citing,

Chapter 700, Article III, Section 700-3 of the *Codes of Nutley* definitions which state a parking space is an off-street space available for the parking of one motor vehicle and having minimum dimensions of nine feet in width and 18 feet in length, exclusive of passageways and driveways appurtenant thereto and giving access thereto, and having direct usable access to a street, and also citing

Chapter 700, Article III, Section 700-3 of the *Codes of Nutley* definitions which state a parking space for compact car is an off-street space available for the parking of one motor vehicle and having minimum dimensions of 7.5 feet in width and 15 feet in length, exclusive of passageways and driveways appurtenant thereto and giving access thereto, and having direct usable access to a street. No more than 20% of the parking requirement may consist of compact parking spaces;

Applicant Gregory Vesonder testified that he had installed a bathroom were there had previously been a pantry, absent of any contractors. He stated that he did not know he needed a permit and when he had purchased the home there was an existing pantry in the garage. Mr. Tom DaCosta Lobo asked the applicant if he went deeper into the garage with the bathroom than the pantry had been. He stated yes, that he had gone 1.62 feet farther into the garage for plumbing. Board Attorney, Ms. Diana McGovern, Esq., asked the applicant if the original survey pictured the pantry. Mr. Vesonder stated that he didn't receive a survey. Ms. McGovern asked the applicant how many cars could fit in his driveway. He stated that he could fit two cars without hanging onto the curb. Chairman Graziano asked the applicant why he did not add an addition onto his home. Mr. Vesonder responded that he wanted to do the work himself.

With no further questions from the members and no one in the audience with questions or comments, a motion to grant this variance was made by Mr. Tom DaCosta Lobo, seconded by Mr. Gary Marino. The variance was granted by a vote of 6-1, with Chariman Graziano voting against the granting of the application.

* * * * *

RESOLUTIONS MEMORIALIZED: 108 King Street, 9 Union Avenue, 236 Park Avenue, 77 Elm Place, 87 Ridge Road, 515 Washington Avenue, 141 Beech Street

MINUTES: October 2017 minutes approved.

INVOICES: \$640.00 invoice from Pennoni from the 10 Kingsland Avenue application

NEW BUSINESS: None

LITIGATED MATTERS: None

NOTE: THE PROCEEDINGS IN THIS MATTER WERE VOICE RECORDED. THE RECITAL OF FACTS IN THE MINUTES IS NOT INTENDED TO BE ALL-INCLUSIVE, BUT IS A SUMMARY AND HIGHLIGHT OF THE COMPLETE RECORD MADE BEFORE THE ZONING BOARD.

* * * * *

Respectfully submitted,

Anjelica L. Mitchell

Minutes Approved

Anjelica Mitchell 1/22/18