

approved
5/16/2016
RGP

NUTLEY ZONING BOARD OF ADJUSTMENT

Public Session Meeting Minutes

April 18, 2016

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: Peter Sirica, Mary Ryder, Gary Marino, Thomas DaCosta Lobo, Suzanne Brown, Chairman Graziano and Board attorney, Diana McGovern, Esq.

ABSENT: None

EXCUSED: Lou Fusaro, Lori Castro

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No. 1 38 Centre Street APPROVED 6-o

Applicant: Dr. Michael Russ, 38 Centre Street, Block-Lot: 7004-14

Application: To construct a new two family dwelling, as shown on the preliminary plan prepared by Architect, Mileto-Godsall Associates, LLC, dated January 10, 2016;

Appearances: Thomas DiBiasi, Esq., Frank D. Mileto, Paul Bauman, Stewart McEwan, Richard Grabowski

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

AND the Code Official having denied said permit by letter dated February 23, 2016, citing

Section 700-46 A of the Codes of Nutley "Schedule of Regulations"	REQUIRED	PROPOSED	VARIANCE REQUIRED
Min Lot Area	6000	5168	X
Min Lot Width	60'	50.12	X
Min Lot Depth	100'	100'	

Lot Size Per Dwelling	3000	2800	X
Min Front Yard	25'	23'	X
Min Rear Yard	30'	30'	
Min Side Yards	6'	8'	
Min Side Yard Other	6'	5'	X
Max Stories	2.5	2.5	
Height/Feet	30'	30'	
Max Lot Coverage	35%	33%	
Max Impervious Coverage	70%	80%	X
Front Yard Landscaping Section 700-48	60%	49%	X
Parking Requirement Section 700-91 A	4 spaces	4 spaces	
Driveway Front Yard Section 700-94 A (1)	16'	19'	X

Mr. Serje Demerjian recused himself from this matter. Mr. Thomas DiBiasi made his opening remarks to the board, stating that he would be representing the applicant. He introduced his first witness, architect Frank D Mileto, who stated that Exhibit A1 was the elevations and Exhibit A2 was the actual floor plans. Mr. Mileto stated that he pushed the house back to comply with variances. Mr. DiBiasi stated that his client attempted to buy square footage from his neighbors, but was unsuccessful. Mr. Mileto explained that the house would have a laundry room, family room, and no bathroom or kitchen in the basement. He stated that the property would have vinyl siding and the colors would be tan and red brick. Mr. DiBiasi called his next witness, planner Paul Bauman. Mr. Bauman testified that the design of the property was changed to eliminate variances but there were a few left. He stated that lot area and width are fixed due to the fact that there was no vacant land available. He also stated that the bay window interferes with the setback but was an improvement, esthetically. Mr. Bauman explained to the board that granting the variances would improve the character of the neighborhood. Stewart McEwan, of 44 Centre Street, testified to the board that he was not asked to sell his property, however he had no problem with the application, he simply wanted a privacy fence in-between the two properties. The applicant agreed. Richard Grabowski, of 107 St. Mary's Place, testified to the board that he wished to know what the orange spikes on the sidewalk of the application were. Counsel was inconclusive as to what the orange spikes represented.

With no further questions from the members and no one in the audience with questions or comments, a motion to grant the variance was made by Ms. Suzanne Brown, seconded by Mr. Gary Marino. The variance was granted by a vote of 6-0.

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No. 2 22 Colonial Terrace APPROVED 7-0

Applicant: Mr. Mark Azerski, 22 Colonial Terrace, Block-Lot: 3002-3

Application: To construct an addition onto the existing garage which was approved by the Board of Adjustment May 18, 1992 for side and rear yard setbacks, having a rear yard setback of three (3') feet and a seven (7') foot setback to the open roofed porch which is attached to the main dwelling, as shown on the survey prepared by Richlan, Lupo & Pronesti dated June 18, 1982;

Appearances: Mark Azerski

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

AND the Code Official having denied said permit by letter dated January 27, 2016, citing Chapter 700, Article XVI, Section 700-113 B (2) of the *Codes of Nutley* which states a nonconforming structure or a structure on a nonconforming lot may be enlarged if the enlargement does not increase the nonconformity of the nonconforming features, and also citing

Chapter 700, Article XI, Section 700-67 B (1) of the *Codes of Nutley* which states no detached accessory building or accessory use shall be located nearer than three feet or 1/2 the height of such building up to a distance of six feet, whichever is greater, to a side or rear lot line. *The proposed is three (3') feet*, and also citing

Chapter 700, Article XI, Section 700-67 C of the *Codes of Nutley* which states no detached accessory building shall be located nearer than 10 feet to a main building. *The proposed is seven (7') feet*,

Applicant Mark Azerski testified to the board that his existing garage was built with a variance in 1992. He stated that he wanted a larger garage for a collector car, trailer, and his wife's car. He stated that there was 7 feet between the porch and the garage. Mr. Serje Demerjian asked that applicant if he was widening the driveway. The applicant replied that he was not. Ms. Mary Ryder asked what type of siding he wished to use. Mr. Azerski responded that he would match the existing siding and would put a new roof on the entire garage. Mr. Peter Sirica asked the applicant about the trailer. He responded that he would park the trailer inside the garage.

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

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No. 3 6 Manhattan Court APPROVED 7-0

Applicant: Mr. and Mrs. Steven Calvitto, 6 Manhattan Court, Block-Lot: 5801-41

Application: To install a six (6') foot solid type fence (5' solid; 1' lattice) in the side yard of the corner property, as shown on the survey prepared by Anthony J. Manno, Dated December 12, 2007;

Appearances: Steven Calvitto

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

AND the Code Official having denied said permit by letters dated July 16, 2015, citing Chapter 700, Article XI, Section 700-71 B of the *Codes Nutley* which states a fence erected along the side lines from the front line of a main structure to the rear line of such structure and within such lines shall not exceed four feet in height and shall be not less than two feet in height and shall be of 50% open construction (i.e., the open spaces in the fence shall be at least the same width of each picket, slat or other construction element of such fence). The setback for any such fence shall be in line with the furthest setback of the adjacent property or the property upon which the fence is being erected, whichever setback is greater;

Applicant Steven Calvitto testified to the board that he wished to put a fence across his driveway to create a patio effect since he lived on a corner property. He expressed that he wanted to put a 5 foot fence with 1 foot lattice, to match his existing fence. Chairman Graziano asked the applicant if there would be a gate you can drive through. The applicant responded that there would not be and that the driveway was about two cars wide.

With no further questions from the members and no one in the audience with questions or comments, a motion to grant the variance was made by Ms. Suzanne Brown, seconded by Ms. Mary Ryder. The variance was granted by a vote of 7-0.

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No. 4 60 Hillside Avenue APPROVED 6-0

Applicant: Mr. and Mrs. Gary Wilde, 6 Hillside Avenue, Block-Lot: 4602-11

Application: To not rebuild the existing 13' X 18' garage that has been removed due to it being unsafe and to install an eight (8') foot by 10' shed, which will comply with the required side and rear yard setbacks, at the above referenced premises, as shown on the survey submitted to the Code Enforcement dated February 1, 2016;

Appearances: Gary Wilde

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

AND the Code Official having denied said permit by letters dated February 22, 2016, citing Chapter 700, Article V, Section 700-9 A of the Codes of Nutley states a single family dwelling shall be require to have two (2) parking spaces and one space must be in a garage;

Mr. Serje Demerjian recused himself from this matter. Applicant Gary Wilde testified to the board that he previously had a very unsafe garage and that his driveway did not connect to it. He stated that he demolished the garage without knowing he needed a variance to do so. He told the board that he wished to keep his new shed up. Chairman Graziano asked the applicant how many cars the driveway holds. Mr. Wilde responded that his driveway fit 4 cars.

With no further questions from the members and no one in the audience with questions or comments, a motion to grant the variance was made by Mr. Gary Marino, seconded by Ms. Suzanne Brown. The variance was granted by a vote of 6-0.

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No. 5 96 Highfield Lane APPROVED 7-0

Applicant: Mr. Matthew Aiello, 96 Highfield Lane, Block-Lot: 3602-30

Application: To install a six (6') foot solid type fence in the rear and both side yards (southern and street side), which is the front yard of the adjoining properties and to install a four (4') foot picket type fence in the front yard (street side) which is in the corner sight clearance triangle, as shown on the survey dated November 7, 2012;

Appearances: Matthew Aiello

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

AND the Code Official having denied said permit by letter dated February 22, 2016, citing Chapter 700, Article XI, Section 700-71 A of the *Codes of Nutley* which states no fences of any type shall be permitted in any front yard, and also citing

Chapter 700, Article XI, Section 700-71 D of the *Codes of Nutley* which states a fence erected on any corner lot shall conform to the fence requirements for the adjoining properties, and also citing

Chapter 700, Article XI, Section 700-71 B of the *Codes of Nutley* which states a fence erected along the sidelines from the front line of a main structure to the rear line of such structure and within such lines shall not exceed four feet in height and shall be not less than two feet in height and shall be of 50% open construction (i.e., the open spaces in the fence shall be at least the same width of each picket, slat or other construction element of such fence). The setback for any such fence shall be in line with the furthest setback of the adjacent property or the property upon which the fence is being erected, whichever setback is greater, and also citing

Chapter 700, Article XI, Section 700-75 A of the *Codes of Nutley* which states on every corner lot within the triangle formed by the street lines on such lot and a line drawn between points on such lines at the distance from their intersection specified below, there shall be no fence or wall higher than 2 1/2 feet nor any other obstruction to vision other than a post, column or tree not exceeding in cross section one square foot or one foot in diameter between a height of three feet and a height of 10 feet above the established grade of either street. For a lot having an interior angle of 90° or more at the street corner thereof: 20 feet,

Applicant Matthew Aiello testified before the board that he wished to install a privacy fence on both sides of his property for safety and protection. He stated that he wanted a 6 foot fence, a gate would be on the west side of the property, and a 4 foot picket fence near the corner of the property. Chairman Graziano pointed out that the fence might cause a visible hardship for passing cars. The applicant stated that there was about 4 feet of property between his property and the corner. Mr. Serje Demerjian recommended a 30 inch fence in the front yard. Mr. Gary Marino asked the applicant if he would do a 5 foot solid 1 foot lattice fence. The applicant agreed.

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

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No. 6 549 Prospect Street APPROVED 6-1

Applicant: Mr. Joseph Haines, 549 Prospect Street, Block-Lot: 4902-6

Application: To construct a new single family dwelling, on the existing 59' by 200' lot, as shown on the plan prepared by Dassa-Haines Architecture, dated March 21, 2016;

Appearances: Joeseph Haines, Mary Merrit, Ronald Merit

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

AND the Code Official having denied said permit by letter dated March 22, 2016, citing Chapter 700, Article VIII Section 700-46 A of the *Codes of Nutley* entitled "Schedule of Regulations" which requires a lot width of 70' in an R-1AA zoning district. The existing lot has a width of 59',

Applicant Joseph Haines testified before the board that he had bought this property a year ago. He stated that the lot width is consistent with the neighboring homes. He explained that no neighbors could sell him property or they would need a variance. Mr. Haines stated that the property would have a 2 car garage, front porch, 4 bedrooms, and a walk out basement. Mary and Ronald Merit, of 553 Prospect Street testified that they objected to the building of this home for aesthetic reasons. Ms. Merit explained she was worried the neighborhood would look jammed and she stated that she owned about 6 inches of the driveway. Exhibit 0-1 and 0-2 were introduced as pictures of the driveway. Their main concern was what will happen to their wall. Mr. Haines stated that the wall will have to come down. Mr. Thomas DaCosta Lobo stated that the wall was not on the applicant's property. Mr. Serje Demerjian asked the applicant if he could lower the elevation of the garage. Mr. Haines responded that he was worried about having to create a 3 story home and also trench drains. Ms. Suzanne Brown asked the applicant if he would consider keeping the garage. The applicant responded that having an attached garage was a selling point. The applicant agreed to preserving 44 feet of the neighbor's wall.

With no further questions from the members and no one in the audience with questions or comments, a motion to grant the variance was made by Mr. Serje Demerjian, seconded by Mr. Gary Marino. The variance was granted by a vote of 6-1.

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No. 7 95 Hawthorne Avenue APPROVED 7-0

Applicant: Mr. Anthony Leone, 95 Hawthorne Avenue, Block-Lot: 2901-12

Application: To install a new six (6') foot solid type fence, in the south side yard as shown on the survey submitted to the Code Enforcement department March 11, 2016;

Appearances: Anthony Leone, Samantha Teixeira

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

AND the Code Official having denied said permit by letter dated March 16, 2016, citing Chapter 700, Article XI, Section 700-71 B of the *Codes of Nutley* which states a fence erected along the side lines from the front line of a main structure to the rear line of such structure and within such lines shall not exceed four feet in height and shall be not less than two feet in height and shall be of 50% open construction (i.e., the open spaces in the fence shall be at least the same width of each picket, slat or other construction element of such fence). The setback for any such fence shall be in line with the furthest setback of the adjacent property or the property upon which the fence is being erected, whichever setback is greater,

Applicants Anthony Leone and Samantha Teixeira testified to the board that they wanted to put a 6 foot solid fence around the property. They explained that the orange highlight on the survey was the area that needed a variance. Ms. Mary Ryder suggested the applicants do a 5 foot solid fence with 1 foot lattice. The applicants agreed.

With no further questions from the members and no one in the audience with questions or comments, a motion to grant the variance was made by Ms. Mary Ryder, seconded by Mr. Serje Demerjian. The variance was granted by a vote of 7-0.

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RESOLUTIONS MEMORIALIZED: 260 Washington Avenue, 100 Ridge Road, 10 Daily Street, 43 Manhattan Court

MINUTES: March 21, 2016 minutes approved

INVOICES:

LITIGATED MATTERS: The Board went into executive session at 9:46 pm. The Board ended the executive session at 10:12 pm.

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Respectfully submitted,

Anjelica L. Mitchell

Minutes Approved Angelica Mitchell