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**Township of Nutley  
Planning Board  
Meeting Minutes  
Wednesday, February 28, 2018**

A regular meeting of the Planning Board of the Township of Nutley was held at the Parks and Recreation Building, 44 Park Avenue, Room 300. In addition to the regular scheduled meeting of the Planning Board, a joint meeting of the Planning Board, Zoning Board of Adjustment, Board of Education and Board of Commissioners of the Township of Nutley was held to discuss land use and other issues affecting the Township of Nutley, as related to the Zoning Board and Planning Board. Adequate notification of the joint meeting was published in the Nutley Sun on February 15, 2018.

**Roll Call:**

- Mr. Contella - present
- Mr. Malfitano - present
- Ms. Castro - excused
- Mr. Kirk - present
- Mr. Greengrove - excused
- Ms. Kucinski - present
- Mr. Algieri - present
- Mr. Del Tufo, Secretary - present
- Mr. Arcuti, Vice - Chairperson - excused
- Ms. Tangorra - Chairperson - present
- Mr. Kozyra - present
- Commissioner Evans - present
- Mayor Scarpelli - present

**Meeting Minutes:**

Meeting Minutes for February 7, 2018 were approved by the Board.

**Invoices:**

An invoice for Debra Fontana for attendance and preparation of the February 7, 2018 Meeting Minutes was approved by the Board.

An invoice for Joseph Laurite for reimbursement of the escrow fees for the property located at 100 King Street was approved by the Board.

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 Planning Board.

**Moment of Silence for Carmen Orechio**

Ms. Tangorra praised Senator Carmen Orechio, former Mayor and Commissioner, as a well-known and important person of the community and requested a moment of silence for his passing on February 26, 2018.

**S&S at Valley, LLC/North American Eagle Construction  
367 - 371 Franklin Avenue Application**

Mr. Kozyra stated that at the February 7, 2018 meeting, the Board had a discussion concerning the application and outlined the required expert reports. After the meeting, it was determined that the applicant is going to have to submit new plans. The new plans are not ready and will not be ready for a couple of weeks. Mr. Kozyra spoke to Mr. DiBiasi, attorney for the applicant, and the hearing will not be scheduled until the Board receives the new plans and reviewed by the Code Enforcement Department. Mr. DiBiasi has agreed to waive all time constraints with respect to the application.

**Kingsland Street Urban Renewal, LLC  
Parking, Streets, and Roads at  
Seton Hall Medical School Site Plan Application**

Mr. Kozyra stated that the Township Engineer, Todd Hay, issued a letter today allowing the applicant to move forward with the preliminary site plan approval. This approval would include constructing the roadways and paving. This approval does not include paving the parking areas. The construction of the parking areas are part of the application that must be brought back before the Board as part of an amendment to the application.

**Joint Meeting with Zoning Board of Adjustment, Board of  
Commissioners and Board of Education**

At the beginning of the Joint Meeting, each Board member introduced themselves. Below is a list of the members attending the meeting:

**Planning Board**

Carol Tangorra, Chairwoman  
Barry Kozyra, Board Attorney  
Gerard Del Tufo, Secretary  
Anthony Malfitano  
Mayor Joseph Scarpelli  
William Algieri

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Jason Kirk  
Lorraine Kucinski  
Frank Contella  
Commissioner Thomas Evans

**Board of Commissioners**

Commissioner Steven Rogers  
Commissioner Alphonse Petracco  
Commissioner Mauro Tucci

**Zoning Board of Adjustment**

Frank Graziano, Chairman  
Diane McGovern, Board Attorney  
Daniel Tolve  
Joseph Frusteri  
Gary Marino  
Gregory Tolve  
Thomas Da Costa Lobo  
Peter Sirica  
Suzanne Brown, Vice-Chairwoman  
Theresa Duva  
Joseph Battaglia

**Board of Education**

Lisa Danchak Martin  
Debbie Russo  
Daniel Carnicella, President  
Brenda Sherman  
Salvatore Balsamo  
Salvatore Ferraro

Frank Graziano, Chairman of the Zoning Board of Adjustment, reviewed the 2017 Zoning Board of Adjustment Case Review chart that was distributed at the meeting. Mr. Graziano stated that the Zoning Board reviewed 58 applications in 2017. Of those 58 applications, two were denied, three were withdrawn and 53 were granted. Most of the applications that were granted had conditions such as dimension reduction. An example of one of the conditions is an application for 515 Washington Avenue, where the applicant widened the driveway without a permit. The Board granted the variance to widen the driveway approximately

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two feet so two cars could park side by side, but as a condition of the approval the applicant had to remove five feet of the driveway that he had already installed.

In 2017, the Board had the usual fence variance requests and widening of driveways requests (due in part to the no overnight parking ordinance). Mr. Graziano stated that the Board has seen an increase in applications to widen driveways to extend in front of the house. In some cases, the Zoning Board granted the application but only with sufficient safety precautions as a condition.

Mr. Graziano also stated that for as long as he has been the Chairman of the Board, there have been numerous requests that the ordinances governing mixed use applications be addressed as to parking, the size of commercial spaces and the maximum density of a mixed-use application. The Board only had two mixed-use applications in 2017 (both were granted), one for a total of twenty, one-bedroom units and a ground floor with 1200 square feet of commercial space. The other application had twenty-three bedrooms, five two bedrooms and eighteen one bedrooms but only 870 square feet of ground floor for commercial space. Both applications were considered mixed-use by the Code Enforcement Department. Mr. Graziano said that while the current minimum parking requirement is one and a half spaces per apartment unit, perhaps a study should be done to see if this minimum number adequately addresses the Township's parking needs.

Diana McGovern, Zoning Board Attorney, stated that they had one application for a self-storage facility within an M-0 zone. At the time of the application, the Board did not know if a self-storage facility was considered a commercial warehouse because under the Code there is no definition for a commercial warehouse. The Code Enforcement Department could not say if a self-storage facility was part of that use. Ms. McGovern asked that the Planning Board review the M-0 definition as to a commercial warehouse.

In addition, the code and schedules on mixed-use are in conflict. The [Attachments to Section 700] state that the maximum height in a B-3 zone is forty feet, which is incorrect. It is three stories under the maximum height code for B3, B3A, and B4. She said if you go into the language of the Code under mixed-use in Section 740-40E, it states mixed-use building should be no higher than two floors so there is a "disconnect" between the code, the schedules, and the actual written description of a mixed-use. The effect of having no minimum amount of square feet for commercial space in a mixed-use application is that it almost becomes an apartment building and avoids all the other code provisions that would apply to a commercial or other use. The Zoning Board has been asking for four years for the density level to be set.

Carol Tangorra stated that the Planning Board has done already quite a bit of work regarding density. It is something that the Board has talked about a lot and the Board's recommendations were submitted to the Commissioners. Recently, there has been some talk about revising the Board recommendations that were previously sent to the Commissioners. Mr.

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Kozyra confirmed that on two past occasions the Board sent the recommendations for density in mixed use applications to the Commissioners with the latest recommendations being sent in April, 2017.

Mr. Del Tufo stated that he, Ms. Kucinski, Mr. Arcuti, and Mr. Malfitano are members of the Planning Board/Zoning Committee. They had meetings and studied all the issues that were just raised. During their meetings, they reviewed density from other towns, and also included the typographical mistakes and inconsistency in certain sections. Mr. Del Tufo and the Committee would like to have a workshop session in the next couple of weeks to review their recommendations with the Code Officials and Paul Ricci, the Board Planner. The Committee would like to get a sense of their recommendation as to the collateral effects that these changes may have and do some testing by example of the practical limitations of these changes.

Ms. Tangorra suggested that at the next meeting scheduled on March 7, 2018, the Planning Board have a workshop meeting to go over the Committee recommendations, and request that the Code Enforcement Department and Mr. Ricci attend. Mr. Intindola and Mr. Berry indicated they would attend and provide copies of their comments ahead of time.

Commissioner Petracco stated that he never received nor was privy to any density recommendations from the Planning Board. Commissioner Evans stated that the Code Enforcement Department had reviewed the Committee recommendations, and has some serious issues with the recommendations. Since the issues have not been resolved, the recommendations were not brought before the Commissioners.

Commissioner Tucci stated that at the last Commission meeting, he offered a Resolution to look at the effects the multi-family units are having on the Township. He wanted to review how much the Township can absorb and what the actual impact will be of more apartments. He did not think the Township has taken a comprehensive look at density. He said he would be happy to collaborate with the Planning Board, address their ideas and review what the impact would be on the water system, the sewerage system, and the schools. He said Nutley needs a much more comprehensive look at what is going on and what is happening without changing the character and nature of the Township.

Mayor Scarpelli said he applauded Commissioner Tucci's Resolution and feels it is a step in the right direction to not only put a pause on where we are going, but to examine what impact fees the town may be able to give to the developers. Mayor Scarpelli clarified that he had distributed the Committee recommendations to the Commissioners but it was never brought up for discussion because there were some concerns by the Code Enforcement Department.

Mayor Scarpelli questioned Pat Intindola, the Township Construction Code Official to explain the difference in treatment between a residence above a business and a mixed-use application.

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Mr. Intindola stated that his office took a survey of all the mixed-use buildings in the town. His office has a chart of essentially every mixed-use building that is located in Nutley. When an applicant applies for a mixed-use building, the developer advises the Code Enforcement Department what section of the code to use, the schedules or Section 700-40. This has been the biggest problem for his department because right now you cannot take one portion out of the schedules, and then take another portion out of Section 700-40. In Section 700-40, it does not allow residences on the first floor, where it does not even say that in the schedules. David Berry, Zoning and Building Subcode Official stated that there should not be two different ways to figure out and review an application.

Carol Tangorra requested that a copy of the schedules used by the Code Department and the Resolution that was approved by the Commissioners be distributed to the Planning Board prior to the work shop meeting scheduled on March 7, 2018.

Daniel Carnicella, President, reviewed a chart that was distributed which reflects student enrollment for the years 2016 and 2017. Mr. Carnicella stated on one side of the chart you can review the student enrollment numbers as of October 15, 2016, and on the opposite side of the paper you can review the student enrollment as of October 15, 2017. When you compare the years 2016 to 2017, you will see an increase in the total number of student enrollment from 4104 to 4128. If you look at the breakdowns, all the apartment buildings that listed are scattered throughout the district. There is a ten-student difference between 2016 and 2017 and the biggest impact was a five-student decrease at Cambridge Heights, a three-student decrease on River Road at Arbor Hills, and then an increase at 113 Center Street. He stated that when they prepared the chart they were asked to include Cambridge Heights since it is one of the larger town developments. The reason Cambridge Heights was included in the student enrollment calculations is because the conversation has always been that Cambridge Heights would have no impact on the schools. The original estimate of students for Cambridge Height was sixty students, and now there are 153 enrolled students. The student enrollment numbers have not changed much, this increase is tiny, and they will continue to track it. One of the reasons they are facing an overcrowding issue is because of the "state mandates" which include all day kindergarten and special education classes.

**Public Comments:**

Michael Odria  
Tammy Rossi  
Matt Brown  
Amy Celento  
Penny Landry  
Eric Buset  
Rory Moore

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Neil Henning

These individuals addressed the Boards with their questions and concerns.

Based on comments from the public, the Code Enforcement Department per Mr. Intindola was to conduct an investigation into questions involving conversion of approved 1 bedroom/1 bath apartments to unapproved 2 bedroom/2 bath apartments at a Franklin Avenue building and report back to the Board as to the findings.

The meeting concluded at 9:07 p.m.

The next meeting is scheduled for Wednesday, March 7, 2018 at 7:00 p.m.

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