

NUTLEY ZONING BOARD OF ADJUSTMENT

Public Session Meeting Minutes

March 19, 2018

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, Greg Tolve, Theresa Duva, Joseph Battaglia, Gary Marino, Tom DaCosta Lobo, Suzanne Brown, Chairman Graziano and Board attorney, Diana McGovern, Esq.

ABSENT: None

EXCUSED: Peter Sirica

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No. 1 434-438 Centre Street CARRIED TO THE NEXT MEETING

Applicant: Mr. Thomas DiBiasi, Esq., 434-438 Centre Street, Block-Lot: 5902-28, 29

Application: Major Site Plan

Appearances: Thomas DiBiasi, Esq., Charles Osterkorn, Stephen Corso, Todd Hay, Frank Oliver, Monica Lewis

Letter of Denial: was previously read.

We are in receipt of 24 copies of a site plan with a revision date of January 10, 2018 prepared by Charles L. Osterkorn P.E., consisting of pages SP-1 through SP-7, plus 24 copies of architecture plans, revision date of February 15, 2017 prepared by Steven Corso, Architect, pages A-1 through A-3, and the application and checklist which is certified as complete.

NOTE: Revisions consist of the 1st floor office changed from 87 sq. ft. to 780 sq. ft. and the mechanical room in the basement changed to a community room.

Mr. Thomas DiBiasi, Esq., recapped the prior decision by the board that the board had approved the application previously in a vote of 5-2. Mr. DiBiasi also noted that a new court opinion clarified the affordable housing mandate such that in order to comply with the statute a 3 bedroom apartment would be required. Mr. DiBiasi stated that they would agree to the final litigation decision. Mr. Steven Corso testified as the architect on this project. Exhibit A1 had previously been introduced into evidence. Mr. Corso explained how he would change the loft

apartment from a 2 bedroom to a 3 bedroom. He stated that he would add an extra window to the outside of the building. The board members agreed that they would like to see this drawn on the plans. Engineer Charles Osterkorn testified in summary of his previous testimony. Mr. Todd Hay testified as the town's expert engineer and planner. He stated that he wanted to see shutters shown on plans and that the applicant needed some revisions on the traffic survey previously conducted. Mr. Hay recommended that the board require the applicant to install a full asphalt curb on Centre Street. He also stated that he wanted to see a secure garbage area. Mr. Hay stated that the parking was all in code even if a 3 bedroom apartment was installed, but he stated that they must include the clearance height of the garage in the entry way. He stated that he wanted a lot consolidation plan, however, he stated that this could be done after the site plan was approved. Charles Osterkorn stated that they would comply with all of Mr. Hay's requests. Ms. Suzanne Brown stated that simply complying is not enough. She stated the board needs to see final plans. Mr. Tom DaCosta Lobo expressed concern about how they would implement a 6 foot landscape buffer. Mr. Hay responded that it would be possible but it was ultimately up to the board. Chairman Graziano stated he wanted to see finalized plan. The applicant and owner of the property, Frank Oliver, testified to the board that he had made an application to the county and received a letter from the County Planner asking him for information. He stated he would comply will all of the County Planner's requirements and recommendations. Exhibit A1 3/19/18 was a color rendering of the rear of the property, Exhibit a2 3/19/18 was a color rendering of the front of the property. Monica Lewis, 440 Centre Street, expressed her concerns regarding pollution and privacy for the neighbors.

With no further questions from the members and no one in the audience with questions or comments, a motion to carry this application to the next regular meeting was granted.

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No. 2 23 Cross Street APPROVED 5-2

Applicant: Mr. & Mrs. Jose Figueroa, 23 Cross Street, Block-Lot: 7400-8

Application: To increase the existing 10' driveway to 20' and to increase the existing 10' curb cut to 20', as shown on the survey prepared by Statewide Surveying, dated October 20, 2017;

Appearances: Jose Figueroa

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

AND the Code Official having denied said permit by letter dated November 29, 2017, citing Chapter 700, Article XIII, Section 700-94 A (1) of the *Codes of Nutley* which states no front yard of a lot upon which is located in a one- or two-family dwelling shall be used for the parking of motor vehicles, except that motor vehicles may be parked upon a driveway in the front yard. The 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 existing is 10' – the proposed is 20'*, and also citing,

Chapter 700, Article XIII, Section 700-94 A (3) (a) of the *Codes of Nutley* which states curb cuts shall not exceed 16 feet in length. *The existing is 10' – the proposed is 20'*;

Applicant Jose Figueroa testified that he had four vehicles and that his backyard was swampy. He stated that the existing driveway was 10 feet long but he wanted to make it 20 feet long. He stated that the driveway was currently 24 feet long. Ms. Suzanne Brown asked the applicant what his hardship was. The applicant stated that his property was lower than his neighbors, creating a swampy backyard. Ms. Suzanne Brown pointed out that this was an oversized lot and had ample parking for 3 cars. Mr. Figueroa agreed to downsizing his driveway to 18 feet and to extending the curb cut as far as the driveway is on the ride side.

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 5-2, with Ms. Theresa Duva and Ms. Suzanne Brown voting against the granting of the variance.

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No. 3 93 Evergreen Avenue APPROVED 7-0

Applicant: Ms. Lorraine Corneliess, 93 Evergreen Avenue, Block-Lot: 7304-5

Application: To widen the existing 12' driveway to 18', which will increase the required front yard landscaping to 55%, as shown on the survey prepared by George J. Anderson, dated February 29, 1994;

Appearances: Lorraine Corneliess, David Depolito

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

AND the Code Official having denied said permit by letter dated December 5, 2017, citing Chapter 700, Article XIII, Section 700-94 A (1) of the *Codes of Nutley* which states no front yard of a lot upon which is located in a one- or two-family dwelling shall be used for the parking of motor vehicles, except that motor vehicles may be parked upon a driveway in the front yard. The 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, 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 required front yard landscape coverage is 60%; the proposed will be 55%;*

Applicant Lorraine Corneliess testified to the board that she wanted to extend her driveway 2 feet in width. She explained that she had a handicap mother, and the extra feet would allow her to get out of the car safely because of a cement retaining wall on one side that currently prevents a car door from opening fully in the space provided. David Depolito, 83 Evergreen Place, asked the applicant where the driveway would end. The applicant responded that they would go to the property line and install a 2 foot curb at the end of 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 Ms. Suzanne Brown, seconded by Mr. Gary Marino. The variance was granted by a vote of 7-0.

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No. 4 118 Lakeside Drive APPROVED 7-0

Applicant: Mr. and Mrs. Silapaswang, 118 Lakeside Drive, Block-Lot: 1803-14

Application: To construct a one story 256 square foot breezeway addition having a 20' and 23' rear yard setback, and to reconstruct an attached one car garage in the same footprint, leaving a 2.25' side yard setback, and a 17' rear yard setback, as shown on the plans prepared by Architect, Miroslaw Lewandowski dated September 19, 2016, and survey prepared by Kellen and Pica dated July 10, 1984;

Appearances: Saksid Silapaswang, Penny Landry

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

AND the Code Official having denied said permit by letter dated February 21, 2018, citing Chapter 700, Article VIII, Section 700-46 A of the *Codes of Nutley* entitled "Schedule of Regulations as to Bulk, Height and Other Requirements," which requires a property in an R-1 zoning district to have a 30' rear yard setback and a six (6') foot side yard. The proposed setbacks are 20' and 23' and the new garage attached to the main dwelling requires 30' and a side yard of six (6') feet where the proposed is 2.25';

Applicant Saksid Silapaswang testified to the board that he had previously got approval from the board on this variance, but before he found a contractor, the variance had expired. Mr. Silapaswang stated that he wanted to remove his existing garage and install a new, vinyl sided garage in the same exact spot. He stated that in the previous application he asked to make the garage larger, but he would like to keep it the same size as the original Ms. Penny Landry, 123 Lakeside Drive, testified stating that she was in favor of the board granting this application.

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. Joseph Battaglia. The variance was granted by a vote of 7-0.

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PUBLIC COMMENT: Ms. Penny Landry, 123 lakeside drive, made public comments regarding mixed use and density issues. She stated she feels apartments are causing crowding issues in the schools and wanted the board to consider this when making zoning decisions.

RESOLUTIONS MEMORIALIZED: 143 Watchung Place

MINUTES: January 2018 minutes, February 2018 minutes

INVOICES: \$1,000 return of escrow on 20 Carteret Avenue

NEW BUSINESS: The Zoning Board of Adjustment board members went into Executive Session at 9:14 pm to discuss litigated matters. Executive session ended at 9:30 pm.

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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.

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Respectfully submitted,

Anjelica L. Mitchell

Minutes Approved

Anjelica L Mitchell 4/16/18