

NUTLEY ZONING BOARD OF ADJUSTMENT

Public Session Meeting Minutes

May 21, 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: Gary Marino, Tom DaCosta Lobo, Suzanne Brown, Daniel Tolve, Joseph Battaglia, Theresa Duva, Chairman Graziano and Board attorney, Diana McGovern, Esq.

ABSENT: None

EXCUSED: Greg Tolve, Peter Scirica

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No. 1: 23 Donna Court - CONTINUED to June 18, 2018

Applicant: Mr. and Mrs. Joseph Tesei, 23 Donna Court, Block-Lot: 9000-7

Application: to leave as erected, the existing attached garage that has been converted into living space, leaving the existing driveway in front of the main dwelling, as shown on the sketch received by Code Enforcement and property survey prepared by Shepard and Shepard dated June 14, 1988.

Appearances: Leslie Tesei

Letter of Denial: was read by Mr. Thomas DaCostaLobo

The Applicants sought variances from the following Code provisions:

Chapter 700, Article V, Section 700-9 A of the Codes of Nutley 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.

Chapter 700, Article XIII, Section 700-94 A (1) of the Codes of Nutley 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 garage is removed therefore; the parking will be in front of the main dwelling.***

Applicant Leslie Tesei was placed under oath and testified that she wanted to leave the garage that had been converted to living space as living space. Ms. Tesei testified that the driveway can fit 4 cars and their car never fit into the garage when it was a garage. The Applicants never took out a permit because they just took a partial wall down to create more living space for their handicapped daughter. Now Applicants are selling their house and they found out that they needed a C.O. which they cannot get if the garage remains as living space without a variance. The change to the garage was made 30 years ago. Ms. Brown pointed out that the conversion may not be structurally sound or permitted under the building codes due to window percentage and other building requirements. Ms. Brown also noted that the wall that was removed might have been a load bearing wall and in any event an engineering review would have to take place. Ms. Brown asked if the room could be changed back to a garage because it would make the house more appealing. Mr. Battaglia suggested that either the garage door be removed or covert the room back to a garage because aesthetically it would look better with those changes. Mr. Graziano suggested that in cases where the board has approved garage conversions there has been a masonry wall or something to block cars from going into living space. Ms. Brown stated that she did not think a house should have a garage door without a garage behind it so her feeling was either convert the room back to a garage or come back with drawings to show how the change to interior living space could be done with perhaps a window and a barricade for cars entering into the living space from the driveway.

The applicant agreed to come back with drawings to show how the change to living space could be safely and aesthetically accomplished. The Board voted 7-0 to carry the application to the next regular meeting to allow applicant to have drawings prepared.

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No. 2: 601 Prospect Street APPROVED 7-0

Applicant: Ms. Francesca Sanzone, 601 Prospect Street, Block-Lot: 2901-16

Application: To leave as erected a four (4') foot solid type fence in the side yard (street side) which is located in a front yard of the adjoining property on Hawthorne Avenue, having a five (5') foot setback to the side yard street side, and to install a 16' X 24' above ground pool located in the side yard (street side) which is the front yard of the adjoining property along Hawthorne Avenue, as shown on the survey prepared by AEBT Surveying dated May 13, 2015.

Appearances: Francesca Sanzone

Letter of Denial: was read by Mr. DaCosta Lobo

The Applicants sought variances from the following Code provisions:

Chapter 700, Article XI, Section 700-67 B (4) of the Codes of Nutley states No detached accessory building or accessory use shall be located nearer to the side street line of a

corner lot than the main building on the lot or, if an abutting lot to the rear faces said street line, then a distance equal to the depth of the front yard required on said lot to the rear, except in no case shall a garage on the corner lot and facing the side street be required to be set back more than 25 feet.

Chapter 700, Article XI, Section 700-71 A of the Codes of Nutley prohibits all fences of any type in any front yard.

Chapter 700, Article XI, Section 700-71 D of the Codes of Nutley states a fence erected on any corner lot shall conform to the fence requirements for the adjoining properties. The proposed fence is in the front yard of the adjoining properties along Hawthorne Avenue.

Chapter 700, Article XI, Section 700-67 A of the Codes of Nutley states detached accessory buildings and accessory uses may occupy in the aggregate an area not to exceed 30% of the area of any rear yard.

Applicant obtained a variance for this same request at a hearing on September 21, 2015 which was memorialized on October 19, 2015. The reasons that the Board granted the variances were that the property is a corner property; the Applicant had purchased the property in a short sale with the fence and pool placement already present. The backyard has a hole in it left over from a semi-in ground pool and applicant desired to place a pool into the hole that currently exists.

The Applicant explained that she did not know that there was an expiration date for the variance that was granted. She requested the same variances for the same reasons and stated that she understood that there was a time limit to apply for the permits and complete the pool.

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. Daniel Tolve. The variance was granted by a vote of 7-0.

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No. 3: 39 Hopper Avenue APPROVED 7-0

Applicant: Mr. Michael Soliman, 39 Hopper Avenue, Block-Lot: 8303-7

Application: to construct a new one family dwelling located in an R-1 zoning district, with a lot width of 52' and a lot depth of 92', having a rear yard setback of 24.20', and the front yard coverage of 54.15%, and a two (2) story front yard porch with a front yard setback of 20', as shown on the plan prepared by AS Architectural Design, LLC, dated February 28, 2018, and property survey prepared by Mann Surveying, Inc., dated March 15, 2018

Appearances: Michael Soliman and Ayman Sedra AIA.

Letter of Denial: was read by Mr. DaCostaLobo

The Applicant sought variances from the following Code provisions:

Chapter 700, Article VIII, Section 700-46 of the Codes of Nutley entitled "Schedule of Regulations as to Bulk, Height and Other Requirements," in an R-1 district.

	<u>REQUIRED</u>	<u>PROPOSED</u>
Lot Area	5,000 SF	4,784 SF
Lot Depth	100'	92'
Per Dwelling Unit	5,000 SF	4,784 SF
Rear Yard Setback	30'	24.2'

Chapter 700, Article VII, Section 700-48 of the Codes of Nutley 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. Front yard landscaping requires 60%, proposed is 54.15%.

Chapter 700, Article VIII, Section 700-46 B (4) (d) does not permit a front yard porch to be higher than the first story.

Applicant's architect, Ayman Sedra of 115 N. Spring St., Bloomfield, NJ, testified that the proposed project was a single family home on an undersized lot and that three of the requested variances were directly related to the undersized lot hardship: The lot area, lot depth and lot per dwelling unit. As for the variances for the rear yard setback, 30' is required and the proposed rear yard is 24.2' also due to the non-conformance of the lot size. As for the variance regarding a front porch that is higher than the first story, the expert explained the proposed roof over the front step platform is an aesthetic feature and the remaining variance for 60% of front yard landscaping is only off less than 6% of what is required.

The house will be a colonial style with stucco and stone front and will have two stories with a finished basement. The second floor will be four bedrooms with a master suite and bathroom and another full bathroom.

Ms. Brown and Mr. Tolve suggested that a variance for the second floor porch was not needed as the roof just extended over the front stoop and other board members agreed that a variance was not required.

Mr. Tolve noted that the basement plans showed two hot water heaters and the Applicant confirmed that he would not be renting out the basement as an apartment that he just wanted enough hot water for the whole house.

Ms. Brown noted that if the Applicant eliminated the concrete walkway on the left side of the house it would reduce the percentage of the front landscape variance that was needed. She also noted that the walkway made no sense due to the window wells on that side of the basement. The Architect agreed that the sidewalk could be removed and the windows changed to remove the window wells and make the windows smaller and above ground it would be an improvement and the Applicant agreed. The Applicant suggested

that maybe he should reduce the driveway width to also lower the front yard landscape variance but the board members indicated that the driveway should stay at 16' wide.

The Board suggested conditions that were agreed to by the Applicant: that the basement would not be used as a separate residential unit, that the attic would not be used as living space, that the applicant would remove the sidewalk that runs along the right front of the house, that the basement window wells would be removed and windows installed above grade and be of a smaller size to accommodate that change, that instead of the stone façade the applicant would construct columns as shown on the colored plans marked as Exhibit A-1, that the driveway would remain 16' wide, and that there was no need for a front porch variance as the roof over the front stoop was just an aesthetic enhancement and not a front porch that was higher than the first story.

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: 48 Brookline Avenue APPROVED 7-0

Applicant: Mr. and Mrs. Angelo Crocco, 48 Brookline Avenue, Block-Lot: 9205-1

Application: to install an additional 16' curb cut and parking area on the corner property on the Msgr. DeLuca Plaza side, as shown on the survey prepared by Anthony J. Manno, dated November 19, 1998.

Appearances: Maria Crocco Kennedy

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

The Applicants sought variances from the following Code provisions:

Chapter 700, Article XIII, Section 700-94 A (3) of the Codes of Nutley states each property shall not have more than one driveway and one curb cut.

Ms. Kennedy testified that since 1998, the property had a side entrance for tenants to park and the second driveway was used on this corner property. This past winter a plow struck the cement that created the driveway apron and macadam was removed and when the Applicant went to obtain a permit to repair it they learned that they needed a variance for a second curb cut.

Ms. McGovern noted that in 1998 corner properties were allowed to have a curb cut on each street but the Code was changed in the early 2000s to limit curb cuts to one per property. The Board noted the very irregular shape of the property and the corner lot configuration as a hardship and that fact that the property had a second curb cut before the Code was changed. The Board limited the curb cut to no more than 16'.

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 Battaglia, seconded by Mr. Gary Marino. The variance was granted by a vote of 7-0.

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RESOLUTIONS MEMORIALIZED: 434-438 Centre Street, 600 Passaic Avenue, and 35 Wilson Street

MINUTES: None.

INVOICES: 126 Washington Avenue Invoices approved to Pennoni in the amounts of: \$1,270, \$320 and \$150.00.

NEW BUSINESS: The Zoning Board of Adjustment board members went into Executive Session at 9:10 pm. Executive session ended at 9:30 pm.

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.

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Respectfully submitted,

Ceci Tramontana

Minutes Approved 6/18/2018