

**NUTLEY ZONING BOARD OF ADJUSTMENT**

**Public Session Meeting Minutes**

**April 16, 2018**

**CALL TO ORDER:** A meeting of the Nutley Zoning Board of Adjustment was called to order at approximately 7:30 p.m. by Vice Chairperson, Ms. Suzanne Brown. The Pledge of Allegiance was recited. Roll was called and the Sunshine Notice was read.

**PRESENT:** Daniel Tolve, Greg Tolve, Joseph Battaglia, Gary Marino, Tom DaCosta Lobo, Suzanne Brown, and Board attorney, Diana McGovern, Esq.

**ABSENT:** None

**EXCUSED:** Joseph Frusteri, Theresa Duva, Chairman Graziano

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**No. 1 434-438 Centre Street APPROVED 5-0**

**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, Joseph Staigar, Paul Ricci, and members of the public, Rory Moore, and John Vicchiarello

**Letter of Denial:** was previously read.

The first witness, Mr. Steven Corso, testified to the board as the architect on this application for preliminary and final site plan approval. He explained that he inserted windows and shutters. He introduced new color renderings, new plans, and the county Planning Board's conditions (Exhibits A1 4/16/18, A2 4/16/18, and A3 4/16/18). Mr. Corso explained they changed one unit to a three to comply with HUCA, however, Mr. DiBiasi, Esq., stated that the applicant only wanted to add the 3 bedroom if he absolutely had to. Mr. Daniel Tolve stated that they should add shutters on back, and Ms. Suzanne Brown stated that they should add shutters to the sides as well, and to make them black. The applicant agreed. Mr. Charles Osterkorn, engineer, testified that he narrowed the driveway, added a site triangle, and redesigned the wall into an L shape. Exhibit A5 4/16/18 was introduced, which were new plans dated April 13, 2018. He stated that they complied with all previous requests of Mr. Hay. Mr. Osterkorn stated that there would be no light spillage. Neighbor, Mr. Vicchiarello, requested a 6 foot wall. However, the Board stated that this would make the wall 10 feet on the applicant's property. Joseph Staigar,

traffic expert, testified that he redid vehicular and pedestrian counts. He stated that he did the studies from 7 am to 9:30 am and 2:30 pm to 6 pm. He stated that the morning created 23 trips. He also stated that the afternoon only had 15 pedestrians. He stated that these were relatively low numbers and that this property had clear visibility. Mr. Staigar stated he felt the board can vote for site plan approval. Member of the public, Rory Moore, asked if the sidewalks would be marked. Mr. Staigar responded that there would be concrete sidewalk and then asphalt. Mr. Todd Hay stated he wished to see the height clearance on plans and that he was worried about garbage pickup. Mr. DiBiasi, Esq., stated that the garbage would be collected privately. Ms. Suzanne Brown expressed that she would like to see the actual grade, and Mr. Hay agreed. Applicant, Frank Oliver, stated that he would put in a pvc fence above the wall in order to make it impossible for someone to jump the fence. He stated that the bottom of the wall would match the brick of the structure. He stated that the pvc piping would be beige. Mr. Vicciarello agreed to Mr. Oliver's suggestions. Mr. Hay suggested a pre-construction meeting to ensure resolution compliance will be done prior to construction. Mr. Paul Ricci, the Board's planning expert, testified that he felt this project would help the township meet its affordable housing requirements. Mr. DiBiasi, Esq., concluded that the applicant would accept all conditions set by the Board.

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 site plan was approved by a vote of 5-0, with Mr. Tom DaCosta Lobo abstaining from the vote.

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**No. 2 180 Mountainview Avenue WITHDRAWN**

**Applicant:** Mr. & Mrs. Paul Ramos, 23 Mountainview Avenue, Block-Lot: 5301-27

**Application:** to convert the existing attached one (1) car garage into living space as shown on the letter of intent received February 15, 2018, and floor plan and property survey, prepared by Richland, Lupo, Associates, Inc., dated July 30, 2012,

**Appearances:** Paul Ramos

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

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 removal of the garage will have the driveway adjacent to a main dwelling not a garage.**

Applicant Paul Ramos testified that his garage was too small for his cars. He stated that he used the garage mostly for storage. Mr. Ramos stated that his home was small and this application would be cheaper than extending the house. Ms. Diana McGovern stated that this did not qualify as a hardship. Mr. Ramos stated that his basement floods and that he needed more living space for his children. Ms. Brown stated that this was a normal sized lot and that the applicant could add a second story or addition. Mr. Gary Marino added that they would be parking directly in front of the proposed living space, creating a hazardous situation.

With no further questions from the members and no one in the audience with questions or comments, this application was withdrawn by the applicant.

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**No. 3 600 Passaic Avenue APPROVED 7-0**

**Applicant:** Mr. and Mrs. Jack Bermeo, 600 Passaic Avenue, Block-Lot: 1803-03

**Application:** To park two (2) commercial vehicles in the driveway of a corner property in an R-1 district, and to install a four (4') foot 50% open style fence located in the side yard along Cleveland Avenue which is in a front yard of the adjacent property, as shown on the survey, pictures submitted, and information received by the Code Enforcement department;

**Appearances:** Jack Bermeo

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

AND the Code Official having denied said permit by letter dated February 22, 2018, citing Chapter 700, Article III, Section 700-3 of the Codes of Nutley titled "Definitions"; Commercial Vehicle - every type of vehicle used for commercial purposes, such as transportation of goods, wares, merchandise and passengers, excepting vehicles of a passenger car type, passenger vans and pickup trucks under 10,000 gross vehicle weight, but including pickup trucks over 10,000 gross vehicle weight, tractors and/or trailer trucks, dual-wheel vehicles, tow trucks, step vans, buses, dump trucks, flatbed trucks, backhoes, front-end loaders and construction equipment of any kind; and also citing,

Chapter 700, Article XIII, Section 700-99 of the Codes of Nutley which states no commercial vehicle or truck having lettering exceeding three inches in height, having racks, platforms, ladders or other equipment affixed thereto shall be parked in a residential zone between 10:00 p.m. and 7:00 a.m. except in a completely enclosed garage. Any lettering on a permitted commercial vehicle shall contain only the information required by state law; 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 finally citing,

Chapter 700, Article XI, Section 700-71 D of the Codes of Nutley which states no fences of any type shall be permitted in any front yard;

Applicant Jack Bermeo testified that his company was moving to Nutley and he needed somewhere to park his commercial truck for just one year. Ms. Diana McGovern stated that the Board cannot grant a variance for just a specific amount of time. Ms. Suzanne Brown stated that the applicant had plenty of space to fit the vehicle on the property and that this was not a

hardship. The Board stated that if the size of the lettering was changed on his work van he wouldn't need a variance. The applicant withdrew the commercial vehicle portion of the application without prejudice and agreed to change the lettering on his van to comply with the statute. Mr. Bermeo stated that he wanted the fence for safety and security, as well as aesthetics. He explained the fence would look wrought iron, but would actually be aluminum. He also stated that he would be leaving the existing car port. Mr. Bermeo agreed to install shrubbery in front of the fences on the Passaic Avenue side of the property. The only entrance into the property would be on Cleveland Avenue.

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

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**No. 435 Wilson Street APPROVED 7-0**

**Applicant:** Mr. Nick Auriemma, 35 Wilson Street, Block-Lot: 8401-18

**Application:** To build a 14' by 16'1" rear one story addition, a having a rear yard setback of 28'8", as shown on the plans prepared by Anthony Guzzo, Architect, with revision date of March 9, 2018;

**Appearances:** Nick Auriemma

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

AND the Code Official having denied said permit by letter dated March 14, 2018, citing Chapter 700, Article VIII, Section 700-46 B of the Codes of Nutley entitled "*Schedule of Regulations as to Bulk, Height and Other Requirements,*" which adopts the regulations for each district and which it is stated in Attachment 2 that a minimum 30' foot rear yard setback for a one family on an interior lot is required;

Applicant, Nick Auriemma, testified that his property was an oversized lot. He stated that there was existing foundation and would build directly on top of that foundation. Mr. Auriemma stated that he was 16 inches short and 100 feet shallow, making this a hardship. The applicant introduced Exhibits A1, A2, and A3, which were photos of the existing foundation.

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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**PUBLIC COMMENT:**

**RESOLUTIONS MEMORIALIZED:** 23 Cross Street, 93 Evergreen Avenue, 118 Lakeside Drive

**MINUTES:** March 19, 2018 minutes approved

**INVOICES:** \$1,735 to Pennoni for 434-438 Centre Street, as well as \$510 to Mr. Todd Hay for 434-438 Centre Street

**NEW BUSINESS:** The Board went into Executive Session at 9:50 pm

**LITIGATED MATTERS:** None

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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