

## NUTLEY ZONING BOARD OF ADJUSTMENT

### Public Session Meeting Minutes

June 18, 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:** Daniel Tolve, Greg Tolve, Peter Sirica, Theresa Duva, Joseph Battaglia, Gary Marino, Chairman Graziano and Board attorney, Diana McGovern, Esq.

**ABSENT:** None

**EXCUSED:** Tom DaCosta Lobo, Suzanne Brown

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#### **No. 1 23 Donna Court APPROVED 7-0**

**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 previously read at the May 21, 2018 meeting.

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.***

The applicant submitted her plans to the Board. Ms. Tesei stated the planter served as double protection. The board asked why she wanted a canopy. The applicant state that she like it. She also stated the garage would be permanently removed.

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. 2 71 Centre Street APPROVED 7-0**

**Applicant:** Mrs. Valentina Cicchino, 71 Centre Street, Block-Lot: 7000-14

**Application:** to convert an existing two (2) family dwelling into a three (3) family, as shown on the plans prepared by Architect, Salvatore Corvino, dated February 4, 2018

**Appearances:** Maria Perna, Esq., Ms. Bambina, Salvatore Corvino

**Letter of Denial:** was read by Mr. Gary Marino

Chapter 700, Article V, Section 700-12 of the Codes of Nutley list the permitted uses in an R-2 zoning district. ***A three (3) family dwelling is not a listed permitted use.***

Chapter 700, Article XVI, Section 700-113 A of the Codes of Nutley states no nonconforming use nor structure nor any lawful use on a nonconforming lot shall be enlarged, extended, reconstructed or structurally altered, except that such structure or use may be structurally altered to correct an unsafe condition. A nonconforming structure or a lawful structure on a nonconforming lot may be restored or repaired in the event of partial destruction thereof.

Chapter 700, Article VIII, Section 700-46 A of the Codes of Nutley, entitled "Schedule of Regulations as to Bulk, Height and Other Requirements," has requirements in an R-2 district (see attachment).

Maria Perna, Esq., made her opening remarks to the Board. She introduced her first witness, Mr. Salvatore Corvino as the architect and planner on this application. He stated that this home was built in 1929 and he did not intend on altering the footprint. Ms. Bambina testified that the applicant was her mother and that she handled the tenants and financials. She explained that the home was three floors. She stated that the second floor apartment had an additional fourth bedroom on the thirds floor and they wish to turn it into a third apartment. She stated the fourth bedroom was not practical. Mr. Corvino stated that there was six parking spaces and it would be taxed as a seven bedroom unit. He explained that they had a non-conforming front yard and non-conforming height of 34.3 feet. He stated that the property slopes causing a hardship. He explained the only change would be adding a kitchen to the third floor and installing a staircase down the stairs. Mr. Corvino stated that everything else would remain as is. Mr. Corvino stated that there would be no additional bedrooms and no need for additional parking. He introduced Exhibit A1, which was the site plan survey and zoning chart. Exhibit A2 was the floor plans, elevations, and photos. He stated that this would not impact the neighbors and would reduce the

amount of children in the second floor apartment. He stated that the open stairs provided light and air. Mr. Daniel Tolve asked what the width of the driveway was. He stated he was not sure, however, it was a shared driveway. Mr. Gary Marino asked Mr. Corvino about a fire door. He stated that there was one on the second floor. Mr. Marino also asked if the storage area would be used as living space. He stated that there was not enough width of height. The staircase would be pressure treated steal lumber with a Trex railing system and PVC trim. Chairman Graziano stated he wanted Trex or a similar system used for the decking as a condition.

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. Peter Sirica. The variance was granted by a vote of 7-0.

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**No. 3 31 Brookline Avenue APPROVED 7-0**

**Applicant:** Mr. Jason Solowsky, 31 Brookline Avenue, Block-Lot: 7401-23

**Application:** to construct a new single family dwelling, as shown on the plan prepared by Dassa-Haines Architecture, dated April 28, 2017, and survey prepared by George J. Anderson, dated March 7, 2017,

**Appearances:** Donald Rinaldi, Esq., Joseph Haines, Paul Bauman, Joseph Solowsky

**Letter of Denial:** was read by Mr. Gary Marino

Chapter 700, Article VIII Section 700-46 A of the Codes of Nutley entitled "Schedule of Regulations as to Bulk, Height and Other Requirements," requires the regulations listed attached in an R-2 zoning district showing variances that are required.

Donald Rindaldi, Esq., made his opening remarks to the Board and introduced his first witness, architect Joseph Haines. Exhibit A1 was the plans. Mr. Haines stated that the residence was currently a vacant lot and that his client designed a one family home to build. He stated that it would have three bedrooms and two full baths. Mr. Haines stated that it would be a 2.5 story home, standing 23.7 feet tall. He stated that they only needed two variances, the front yard setback and a landscape variance. Mr. Paul Bauman testified as the expert Planner. He introduced Exhibit A2, which was a neighborhood map. He stated that there were many similar homes in the neighborhood. He stated that the hardship was the fact that it was a small lot and there was no additional land available. Mr. Bauman stated he believed that this application would not change the character of the neighborhood. Applicant Jason Solowsky stated that he wanted to build this home for his family.

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. 4 165 Pake Street APPROVED 7-0**

**Applicant:** Mr. John Iannuzzi and Mrs. Renata Piras, 165 Pake Street, Block-Lot: 8604-5

**Application:** to leave as erected, a four (4') foot portion of the 2<sup>nd</sup> floor addition, which was enlarged during the construction having a 17' front yard setback, as shown on the survey received by the Code Enforcement, dated January 22, 2018, requires approval by the Board of Adjustment.

**Appearances:** John Iannuzzi

**Letter of Denial:** was read by Mr. Gary Marino

Chapter 700, Article VIII, Section 700-46 B (8) of the Codes of Nutley states the required minimum side, front and rear yard dimensions for the alteration of or addition to a one-family or two-family dwelling, provided that the same do not increase the existing lot coverage and/or footprint of existing building outline, shall not apply to the extent that said side, front, and rear yard dimensions (meet or exceed the requirements for side, front and rear yards set forth in the Schedule of Regulations, prior to July 25, 1987) shall be no less than 80% of the required minimum set forth in the Schedule of Regulations. **25' is the required front yard setback in an R-1 district, 80% of the required is 20'. The original permit was approved on March 21, 2017 with a 20' front yard setback, during construction it was enlarged approximately four (4') to the front leaving a 16' front yard setback.**

Applicant John Iannuzzi stated that he was before the Board because his contractor made errors. He stated that he only had an 18 foot setback, when 20 feet were required. Chairman Graziano stated he was 4 feet over the allowed limit. Ms. Diana McGovern, Esq., questioned why he was not cited for this variance in 2016 when he came before the Board for a separate variance. The applicant replied that he did not know.

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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#### **No. 5 12 Romano Street APPROVED 7-0**

**Applicant:** Mr. John Slader, 12 Romano Street, Block-Lot:

**Application:** to **leave as erected** a five (5') foot solid type fence along the left side line, and a five (5') foot solid the fence along the right side which a portion is in the front yard, and a four (4') solid type fence on the top of the wall on the right side in the front yard, as shown on the property survey received by the Code Enforcement Department January 3, 2018

**Appearances:** John Slader

**Letter of Denial:** was read by Mr. Gary Marino

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

Chapter 700, Article XI, Section 700-71 B of the Codes of Nutley 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.

***A fence permit was issued on August 24, 2017 for a four (4') foot 50% open fence in the side and rear yards.***

Applicant John Slader testified that his neighbors had a five foot fence. He stated he put a five foot fence against their fence. The applicant stated that he had a retaining wall and it was a safety hazard, so he installed the fence. Mr. Salder stated the neighbors liked the fence and it was a white PVC fence.

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 Ms. Theresa Duva. The variance was granted by a vote of 7-0.

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**No. 6 47 Cedar Street CARRIED TO THE NEXT MEETING**

**Applicant:** Mr. Adam Hamway, 47 Cedar Street, Block-Lot: 5303-10

**Application:** to construct a 21' by 24' two (2) car garage, with a mean height of 17' having a one (1') foot side and rear yard setback, and a six (6') foot setback from the attached deck, that exceeds the rear yard coverage, construct a 15' by 12' unroofed deck having a two (2') foot side yard setback, which will decrease the required lot and impervious coverage, and increase the existing driveway two (2') feet to the left which will decrease the required front yard landscaping coverage, as shown on the survey dated April 16, 2010, prepared by George Thomas Hinck, Surveyor,

**Appearances:** Adam Hamway

**Letter of Denial:** was read by Mr. Gary Marino

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. The height of a detached accessory building shall be one story not to exceed 14 feet. ***The required coverage is not to exceed 30% of the rear yard. The proposed lot coverage will be 42%. The maximum required mean height is 14'. The proposed will be 17'.***

Chapter 700, Article XI, Section 700-67 B (1) of the Codes of Nutley 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 set back will be one (1') foot from the side and rear yards.***

Chapter 700, Article XI, Section 700-67 C of the Codes of Nutley states no detached accessory building shall be located nearer than 10 feet to a main building. ***The proposed setback to the deck will be six (6') feet.***

Chapter 700, Article VIII, Section 700-46 A of the Codes of Nutley entitled "Schedule of Regulations as to Bulk, Height and Other Requirements," requires maximum lots coverage of 35% and impervious coverage of 70% in an R-1 zoning district. ***The proposed will be 41% lot coverage and 75% impervious coverage.***

Chapter 700, Article VIII, Section 700-48 of the Codes of Nutley requires 60% of the front yard to be landscape. ***The proposed is 47%.***

Chapter 700, Article VIII, Section 700-46 B (5) (a) of the Codes of Nutley states extensions into required rear yards, except that no uncovered porch or terrace shall project more than three (3') feet into any required side yard. ***The proposed deck will be two (2') feet.***

Applicant Adam Hamway testified that he would be inheriting antique cars and he would need a bigger garage to store them. He stated that he wished to remove the rock wall so he could open his car doors properly. The applicant stated he wanted to shift the deck, however, that would make the corner of the deck and the corner of the garage only two feet apart. Chairman Graziano stated that the garage was too big for such a small lot. Mr. Hamway stated that he would remove his deck if necessary. Mr. Gary Marino asked the applicant if it would look like a residential garage. Mr. Hamway that it would and it would have windows with wood siding.

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 July 16, 2018 meeting was granted.

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**PUBLIC COMMENT:** None

**RESOLUTIONS MEMORIALIZED:** 601 Prospect Street, 39 Hopper Avenue, 48 Brookline Avenue

**MINUTES:** April 16, 2018 regular session and executive session minutes approved, as well as May 21, 2018 regular session minutes.

**INVOICES:** \$1,591.50, \$3,962.00, \$1,6532.50 invoice from Pennoni on 10 Kingsland Street. \$320.00 invoice from Pennoni on MedExpress application. \$3,287.50 invoice from Pennoni on 434-438 Centre Street.

**NEW BUSINESS:** The Board went into Executive Session at 10:09 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,

Angela L. Mitchell  
Minutes Approved  
Angela L. Mitchell 7/16/18