

NUTLEY ZONING BOARD OF ADJUSTMENT

Public Session Meeting Minutes

May 16, 2016

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: Mr. Tolve, Mr. Frsuteri, Lori Castro, Peter Sirica, Mary Ryder, Gary Marino, Thomas DaCosta Lobo, Lou Fusaro, Suzanne Brown, Chairman Graziano and Board attorney, Diana McGovern, Esq.

ABSENT: None

EXCUSED: None

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No. 1 11 Edgar Place APPROVED 7-0

Applicant: Mr. James Puliatte, 11 Edgar Place, Block-Lot: 3301-5

Application: To demolish the existing two (2) car garage in the rear yard and not rebuild it at the above referenced premises, as shown on the survey prepared by Lakeland Surveying, dated August 9, 2010;

Appearances: James Puliatte

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

The Code Official having denied said permit by letter dated March 17, 2016, citing Chapter 700, Article V, Section 700-9 A of the *Codes of Nutley* which states a single family dwelling shall be required to have two (2) parking spaces and one space must be in a garage;

Applicant James Puliatte testified to the board that he wanted to take down his existing garage and not rebuild or replace it. He stated that the garage was not accessible from the driveway and was not used for cars. The applicant told the board that he wanted more backyard space and that taking down the garage would make the property look more aesthetically pleasing. Mr. Lou Fusaro asked the applicant if the garage was in disrepair. The applicant responded that it was being held up by a pole but had passed inspection. Ms. Suzanne Brown stated that the lot was

small, making it a hardship. Ms. Mary Ryder asked the applicant how many cars can fit in his driveway. The applicant responded that it fit two cars.

With no further questions from the members and no one in the audience with questions or comments, a motion to grant the variance was made by Mr. Gary Marino, seconded by Ms. Suzanne Brown. The variance was granted by a vote of 7-0.

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No. 2 42 Faber Place APPROVED 7-0

Applicant: Mr. and Mrs. Michael Weseloh, 42 Faber Place, Block-Lot: 5401-12

Application: To install a four (4') foot solid type fence on the north side yard of a corner property which is in the side yard of the adjacent property along Fischer Avenue, as shown on the survey prepared by Joseph F. Barbieri & Associates, Inc., dated July 30, 2015;

Appearances: Michael Weseloh

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

The Code Official having denied said permit by letter dated March 18, 2016, citing Chapter 700, Article XI, Section 700-71 B of the *Codes of Nutley* which 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. *The proposed four (4') foot solid type fence will be on the north side yard of a corner property which is in the side yard of the adjacent property along Fischer Avenue;*

Applicant Michael Weseloh testified to the board that he wanted to put up a fence to keep his children safe. He stated that he had a 4-6 foot retaining wall, and did not want his child to fall.

With no further questions from the members and no one in the audience with questions or comments, a motion to grant the variance was made by Ms. Mary Ryder, seconded by Mr. Lou Fusaro. The variance was granted by a vote of 7-0.

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No. 3 72 Crestwood Avenue APPROVED 7-0

Applicant: Mr. and Mrs. David Scheidel, 72 Crestwood Avenue, Block-Lot: 8801-1

Application: To leave as erected a portion of the garage which was converted into living space, and to construct a new one (1) story addition in the front yard having a 17'6" front yard setback,

and a front yard coverage of 58%, as shown on the plans prepared by Architect, Dassa & Haines, dated March 23, 2016 ;

Appearances: David Scheidel

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

AND the Code Official having denied said permit by letter dated April 4, 2016, 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 in an R-1 district a 25' front yard setback. *The proposed front yard setback is 17'6" for the new addition;* and also citing

Chapter 700, Article V, Section 700-9 A of the *Codes of Nutley* which states a single-family dwellings, 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; and also citing

Chapter 700, Article VIII, Section 700-48 of the *Codes of Nutley* which requires a front yard to have at least 60% landscaping;

Applicant David Scheidel testified to the board that he had bought his home in 2000 and he now has three children. He explained that he needed more space for his children. The applicant explained that the proposed addition would still be set back from the adjacent property. He stated that he wanted the garage closer to the bathroom to accommodate guests. Ms. Suzanne Brown asked the applicant about the current garage. He replied that it was for storage and that his driveway fit four small cars. Ms. Mary Ryder asked the applicant if the garage was heated. The applicant responded that he did not believe so. Ms. Diana McGovern asked the applicant if he had permits for the bathroom, to which he answered that he did. Mr. Thomas DaCosta Lobo asked Mr. Scheidel if he would consider pushing everything back. He stated that he had recently redone his backyard and wanted to keep it that way. Ms. Suzanne Brown asked the applicant if he had intentions of enclosing the deck. Mr. Scheidel responded that he had no intentions of doing so.

With no further questions from the members and no one in the audience with questions or comments, a motion to grant the variance was made by Mr. Lou Fusaro, seconded by Mr. Thomas DaCosta Lobo. The variance was granted by a vote of 7-0.

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No. 4 63 Brookfield Avenue APPROVED 7-0

Applicant: Mr. and Mrs. Serge Demerjian, 63 Brookfield Avenue, Block-Lot: 3400-1

Application: To construct a two (2) story addition onto the existing two (2) story non-conforming garage for the purpose of a recreation/finished space on the 2nd floor, having a 2.94' rear yard setback, as shown on the plans prepared by Architect, Serge Demerjian, dated March 28, 2016;

Appearances: Serge Demerjian

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

The Code Official having denied said permit by letters dated March 30, 2016, citing Chapter 700, Article XI, Section 700-67 A of the *Codes of Nutley* which states a 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 proposed addition to the garage will have a height of 13.92' and be two (2) stories,* and also citing,

Chapter 700, Article XI, Section 700-67 B (3) of the *Codes of Nutley* which states no detached access shall be located within six (6') feet of a rear lot line that abuts a side lot line of a contiguous lot. *The new addition will have a 2.94' rear yard setback,* and also citing,

Chapter 700, Article XVI, Section 700-113 A of the *Codes of Nutley* which 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, and finally citing,

Chapter 700, Article XVI, Section 700-113 B (2) of the *Codes of Nutley* which states the enlargement will not increase the nonconformity of the nonconforming features. *The proposed addition increases the non-conforming feature in the rear yard;*

Applicant Serge Demerjian testified to the board that he had moved the driveway off of Passaic Avenue for safety reasons. Exhibit A1 was introduced to the board, which was the actual plans of the property. He stated that he is now onto phase two of the project and wanted to shift the door of the garage to Passaic Avenue. Mr. Demerjian stated that he wished to make the second floor usable. Chairman Graziano asked the applicant if he would be using the garage as an apartment. He responded that it would not be used as an apartment but would have heating and cooling and electric.

With no further questions from the members and no one in the audience with questions or comments, a motion to grant the 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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RESOLUTIONS MEMORIALIZED: 6 Manhattan Court, 22 Colonial Terrace, 38 Centre Street, 60 Hillside Avenue, 95 Hawthorne Avenue, 96 Highfield Lane, 549 Prospect Street.

MINUTES: April 18, 2016 minutes approved

INVOICES:

LITIGATED MATTERS: The Board went into executive session at 8:13 pm. The Board ended the executive session at 8:29 pm.

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Respectfully submitted,

Anjelica L. Mitchell

Minutes Approved

Anjelica Mitchell 6/20/14