

AM 9/19/16

NUTLEY ZONING BOARD OF ADJUSTMENT

Public Session Meeting Minutes

August 15, 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: Daniel Tolve, Peter Sirica, Mary Ryder, Gary Marino, Tom DaCosta Lobo, Suzanne Brown, Chairman Graziano and Board attorney, Diana McGovern, Esq.

ABSENT: None

EXCUSED: Joseph Frusteri, Lori Castro, Lou Fusaro

* * * * *

No. 1 285 Hillside Avenue APPROVED 7-0

Applicant: Mr. and Mrs. Francesco Amendola, 285 Hillside Avenue, Block-Lot: 2000-28

Application: To demolish the existing garage, which is deemed “unsafe”, and not rebuild it at the above referenced premises, as shown on the survey prepared by Shepard and Shepard, dated May 27, 1970,

Appearances: Donald Rinaldi, Esq., Paul Bauman,

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 shall be required to have two (2) parking spaces and one space must be in a garage.

Mr. Donald Rinaldi, Esq., made his opening remarks to the board, stating that he was representing the applicants. He advised the board his client could not speak English, but her daughter could translate. Mr. Paul Bauman testified to the board as an expert planner on this application. He stated that the lot was narrow and because the garage was unsafe, it has to be demolished as per the building department. Mr. Bauman explained to the board that there was no other way to put a driveway in order to get to the property in the back. He explained that the neighboring properties had similar problems. He stated he needed two variances to build a

garage. Mr. Bauman stated that the retaining walls were an aesthetic improvement and fit in with the neighborhood.

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 Mr. Tom DaCosta Lobo. The variance was granted by a vote of 7-0.

* * * * *

No. 2 74 Dodd Street APPROVED 6-1

Applicant: Mr. Pasquale Custode, 74 Dodd Street, Block-Lot: 3103-3

Application: to construct a new commercial parking lot located in a residential zone district for the use of parking for Ralph's Pizzeria Restaurant, as indicated in the letter of intent prepared by Architect, Salvatore Corvino, Architect & Planner, LLC and site plan prepared by Civil Engineer, Charles Osterkorn, Jr., P.E., L.S., P.P., consisting of SP-1, SP-2, SP-3 and SP-4, dated March 15, 2016,

Appearances: Thomas DiBiasi, Esq., Salvatore Corvino, Pasquale Custode, Joseph Staigar, Charles Osterkorn, Paul Bauman, Nicholas Altieri, Ray P. Mulligan

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

Chapter 700, Article V, Section 700-7 A of the Codes of Nutley No building shall hereafter be erected and no existing building shall be moved, altered, added to or enlarged, nor shall any land or building be used, designed or arranged to be used for any purpose other than is included among the uses listed in this article as permitted in the district in which such building or land is located nor in any manner contrary to any of the requirements specified in this article..

Chapter 700, Article V, Section 700-9 of the Codes of Nutley lists permitted uses in an R-1 district. ***A commercial parking lot is not listed as a permitted use.***

Chapter 700, Article XIII, Section 700-94 (3) (a) of the Codes of Nutley states curb cuts shall not exceed 16 feet in length.

Chapter 700, Article XIII, Section 700-94 (3) (b) of the Codes of Nutley states curb cuts in all other districts shall not exceed 20 feet in length. ***The proposed curb cut shown is 24'.***

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. ***The proposed fence is six (6') foot high privacy fence.***

Chapter 700, Article VIII, 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. ***The required front yard coverage is 60%. The proposed is 53%.***

Chapter 700, Article XII, Section 700-82 of Codes of Nutley states in R-1 Zoning Districts, no sign shall be permitted except the following: a nameplate sign bearing the name of the residence or professional person residing on the premises and, in the case of a professional person, indicating his profession, provided that such sign shall not exceed 1 1/2 square feet in area; a temporary sign not exceeding 12 square feet in display area pertaining to the lease or sale of the lot or buildings on which it is placed. Not more than one nameplate for each dwelling unit or more than one "for sale" sign per lot shall be permitted. In single-structure multifamily dwellings, one identification sign shall be permitted for each multifamily dwelling. Such sign shall be a facade sign or a ground sign limited to eight square feet in area. If a ground sign, the sign shall be no higher than five feet above the ground and shall be set back 18 feet from the front property line. ***The sign is 24 square feet and on the front property line.***

Chapter 700, Article XII, Section 700-84 A (2) of the Codes of Nutley states ground signs not exceeding five feet in height, which shall not be erected within five feet of any property line and which shall have a maximum display area not exceeding 25 square feet.

Chapter 700, Article XIII, Section 700-96 of the Codes of Nutley states, except for uses specified above in **700-94** and **700-95**, parking and loading areas located in any front yard or side yard abutting a street shall not be permitted within 10 feet of the right-of-way line of a street. The minimum setback of off-street parking and loading area from any other lot line shall be five feet. The five-foot parking and loading area setback need not be provided between properties which have common access and/or common parking areas. ***The front parking space is located four (4') feet to the property line. The rear parking space is located three (3') feet to the rear line. The parking spaces on the east side has approximately 18" setback to the lot line***

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 impervious coverage not to exceed 70% in an R-1 zoning district. ***The proposed is 71%.***

Chapter 700, Article V, Section 700-15 M (6) of the Codes of Nutley requires a minimum six (6') wide landscaped strip adjoining the residential lot line.

Chapter 600-1 of the Codes of Nutley requires site plan approval. When the site plan is deemed as completed, 19 copies will be required for distribution. You may choose to bifurcate and apply first for the variances.

Chapter 600-5 A & B of the Codes of Nutley list the requirement of the plan.

Mr. Thomas DiBiasi, Esq., made his opening remarks to the board, stating that he would be representing the applicant, Mr. Pasquale Custode of Ralph's Pizzeria. He stated that Ralph's had been in Nutley for 55 years and Mr. Custode had been trying to buy the 74 Dodd Street property for 15 years. Mr. DiBiasi stated that customers had been complaining about the parking situation for years and the owner of 74 Dodd Street finally agreed to sell Mr. Custode the property. Mr. DiBiasi explained that the applicant was trying to be extremely sensitive to their neighbors in regards to lighting and water run-off. Mr. DiBiasi called his first witness, Mr. Salvatore Corvino, architect. Exhibit A1 was introduced to the board as colorized plans. Exhibit A3 was introduced to the board as a "post plan." Mr. Corvino stated that there would be two lights in the parking lot, with no light facing residents. He stated that landscaping would be in

front of the property and on the side. He explained that a fence would run along the parking lot, standing 6 feet tall for security, as well as privacy for the residents. Mr. Corvino explained that he did not believe granting this applicant would negatively impact the Nutley Zoning Code. Applicant Pasquale Custode testified to the board that the hours of operation of Ralph's Pizzeria would be: Monday 3pm-10pm, Tuesday, Wednesday, Thursday, and Sunday 11am-11pm, and Friday and Saturday 11am-12am. Mr. Custode stated that he had 15 employees and all 15 would be working on the weekends. He stated his employees currently had nowhere to park. He stated that he hoped the parking lot would help his business as well as other businesses. Chairman Graziano asked the applicant what he planned on doing with the home on the property. Mr. Custode responded that his daughter would be buying the home. He explained to the board that the employees would be responsible for closing the parking lot with a chain, and that the lights would go out when the last employee leaves. Ms. Suzanne Brown asked the applicant if he had previously tried to rent out spaces from the Ciccolini property. He explained that he explored the option but it did not work out. Mr. Joseph Staigar testified to the board as a traffic expert. He explained that he did many traffic counts and parking counts in the area. He stated that there was light traffic on Dodd Street, as well as East High Street. Mr. Staigar also stated that there was clear visibility in all directions when exiting the proposed parking lot. He described it as "optimal sight visibility," and says the parking lot would alleviate parking issues, but not eliminate them. Mr. Staigar explained that he did not think a speed bump or hump was necessary, but would agree with the board's decision. Ms. Suzanne Brown pointed out that this was a very dangerous area. Mr. Staigar agreed, but said the driveway would go with the curb, which would lead to good visibility. He introduced Exhibit A5, which was a picture of the sign they planned on putting in the parking lot. The sign would be externally lit. Mr. Charles Osterkorn testified to the board as an engineer on this project. He stated that the sign would be 4x5 and simply could not keep the sign 18 feet back as the code requires. Mr. Osterkorn expressed that the application could be approved without negatively affecting the surrounding areas. Mr. Paul Bauman testified as the planner on this application. Mr. Bauman expressed that they were not creating something, but expanding something, and changing the use from residential to commercial. He stated that this application does not go against the master plan. He described it as an irregular shaped lot, making it a hardship. He stated that the applicant did try to improve his conditions by attempting to buy the neighboring property. Co-owner of Mulligan Motors, Nicholas Altieri, testified to the board that he was realistically concerned for the children. He stated that the area is extremely dangerous and the neighborhood children would be affected negatively. He stated he didn't feel that the lot would blend in well with the neighborhood. Mr. Altieri's partner, Ray Mulligan agreed with his statements. Mr. Joseph Staigar expressed to the board that it would be safer to have a destination then to drive around looking for a parking space.

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. Mary Ryder. The variance was granted by a vote of 6-1 (Mr. DaCostaLobo voted no).

* * * * *

No. 3 49 Edgar Place APPROVED 7-o

Applicant: Mr. and Mrs. Stephen Sibilila, 49 Edgar Place, Block-Lot: 3303-3

Application: to demolish the existing one (1) car garage due to storm damage and not rebuild it, at the above referenced premises, as shown on the survey dated June 28, 1988,

Appearances: Stephen Sibilia, Michael Piromalli, Esq.

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.

Mr. Michael Piromalli, Esq., made his opening remarks to the board, stating he would be representing the applicant. He stated that the garage had been destroyed in Sandy and would be replaced with a shed. He explained that his client had an undersized lot. Mr. Piromalli called applicant Stephen Sibilia to testify, who stated that he had a small yard and hadn't used the garage in the past. He explained that he never used the garage because it was not attached to the driveway. He stated that he intended to store the same outdoor things in the shed as had been in the garage. Chairman Graziano asked the applicant how many cars could fit in the driveway. The applicant responded that he could fit 5 cars in his driveway. Chairman Graziano asked the applicant if he would remove the concrete slab under the existing garage before putting in a shed. The applicant responded that he would.

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. Gary Marino. The variance was granted by a vote of 7-0.

* * * * *

No. 4 6 McKinley Street APPROVED 7-0

Applicant: Mr. and Mrs. Ronald Ronacher, 6 McKinley Street, Block-Lot: 1601-24

Application: to demolish the existing one (1) car garage, and not to rebuild it, as shown on the survey prepared by Anthony J. Manno, dated November 29, 1994;

Appearances: Ronald Ronacher

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 dwellings shall have two parking spaces, at least one of which is in a garage.

Mr. Ronald Ronacher testified to the board that his garage was leaning badly and the boards were beginning to separate. He stated that he had small children and he was worried for their safety. He explained that the driveway could hold 5 cars and that he simply used the garage as a storage space in the past. Ms. Suzanne Brown asked the applicant if he was planning on putting in a shed. The applicant responded that he would be in the future. Ms. Suzanne Brown asked the board members if they would agree to make the shed a condition on the application. The board members agreed and made installing a shed a condition.

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

* * * * *

No. 5 27 Friedland Road APPROVED 7-0

Applicant: Mr. and Mrs. Louis Argieri, 27 Friedland Road, Block-Lot: 7100-16

Application: to construct a two (2) story rear addition, having a four (4') foot side yard setback which will increase the lot coverage to 38%, as shown on the survey prepared by Architect, Mileto-Godsall Associates LLC, dated March 15, 2016;

Appearances: Louis Argieri

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

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 in an R-2 district a six (6') side yard setback, and lot coverage not to exceed 35%. ***The proposed side yard setback is four (4') foot, and proposed lot coverage is 38%.***

Applicant Louis Argieri testified to the board that he had small children and wanted them to grow up in their current home. He stated that they currently had a very small kitchen. Ms. Suzanne Brown pointed out that the lot was short, making it a hardship.

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

* * * * *

No. 6 600 Bloomfield Avenue APPROVED 7-0

Applicant: Mr. Christopher Soldi, 600 Bloomfield Avenue, Block-Lot: 4900-1

Application: to install a six (6') foot solid style fence located in the side yard of a corner property along Poplar Place which is located in the front yard of the adjacent property along Poplar Place, as shown on the survey prepared by Morgan Engineering & Surveying dated May 4, 2016;

Appearances: Christopher Soldi, Elizabeth Dean

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

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

Chapter 700, Article XI, Section 700-71 D of the Codes of Nutley state a fence erected on any corner lot shall conform to the fence requirements for the adjoining properties. **The fence on Poplar Street side is located in a front yard of adjacent property.**

Applicant Christopher Soldi testified to the board that he had two children and two dogs and wished to get a fence for privacy and safety. He stated that he currently had a partially wooden fence, partially chain link fence, which were both in disrepair. He explained to the board that the fence would add value to the property and neighborhood. Mr. Soldi told the board he had received permission from his two adjacent neighbors. Chairman Graziano asked the applicant if he wanted a solid fence. He stated that he did. Ms. Mary Ryder asked the applicant if he would consider a 5 foot solid, 1 foot lattice fence. Mr. Soldi stated that he wished to have the six foot fence for privacy. Mr. Tom DaCosta Lobo pointed out that no similar fences were on Poplar Avenue and wished for part of the fence to be open. Mr. Soldi stated he wished for the fence to be all the same. Ms. Elizabeth Dean testified to the board that the street was hidden and felt that some odd things had been going on, on the street. Mr. Tom DaCosta Lobo suggested a shadow box style fence or a semi-private style fence. The applicants agreed.

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

* * * * *

RESOLUTIONS MEMORIALIZED: 25 Ravine Avenue, 28 Hay Avenue, 18 Dover Lane

MINUTES: June 20, 2016 and July 18, 2016 minutes approved

INVOICES: None

LITIGATED MATTERS: None

* * * * *

Respectfully submitted,

Anjelica L. Mitchell

Minutes Approved

Anjelica Mitchell