

**NUTLEY ZONING BOARD OF ADJUSTMENT**  
**Public Session Meeting Minutes**  
**December 15, 2014**

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

**PRESENT:** Suzanne Brown, Thomas DaCosta Lobo, Serge Demerjian, Lou Fusaro, Frank Graziano, Gary Marino, Ralph Pastore, Mary Ryder, Paul Scrudato, Chairman, Diana McGovern, Esq., Board Attorney

**ABSENT:** None

**EXCUSED:** N/A

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**No. 1 Passaic and Kingsland (Adjourned to 1/12/2015)**

**Applicant:** North American Eagle Construction, LLC 649 Passaic Avenue, 98 Kingsland Street, and 108 Kingsland Street

**Application:** For a preliminary and final site plan and major sub-division application with variance requests to build, at the above captioned premises a three (3) story mixed use structure, having 25 one bedroom apartments (with three (3) of those units on the first floor) and 41 parking spaces, and 600 square feet of office space on the plaza level, as shown on plans prepared by Steven Corso, Architect, dated December 1, 2014, consisting of six (6) pages and the site plans prepared by Daren J. Phil, P.E., dated December 3, 2014, consisting of 14 pages (And deemed complete by the Code Official on December 4, 2014);

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**No. 2 228 Franklin Avenue Approved 7-0**

**Applicant:** Riverside Pediatrics Group, Block 6201, Lot 11

**Application:** To renovate 4,430' of the 1<sup>st</sup> floor into a medical office as shown on the plan prepared by Architect, Blanco Group dated September 1, 2014.

**Appearances:** Thomas DiBiasi, Esq., Dr. Baker, Joseph Staigar (Traffic Expert), Paul Bauman (Planning Expert).

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

The letter dated October 15, 2014, cited Chapter 700, Article V, Section 700-18A (1) of the *Codes of Nutley* which permits business offices on the 2<sup>nd</sup> level only in a B-3A district

Mr. DiBiasi explained that in 2006 Citibank came in and got a use variance to operate a bank but the space has been unoccupied and empty for two years. For two years the property owner sought retail use for the space but was unable to secure a tenant. Dr. Baker testified that the proposed use would include two

doctors, one a pediatrician that took appointments and the other an internist. The hours of operation would be 8AM to 8PM in the beginning 6 days a week. Mr. Staigar, traffic expert, testified that he did a parking study of the surrounding lots and determined that the traffic impact would be negligible and that there was sufficient parking in the municipal lots. Ms. Brown questioned the expert's calculations noting that the plans show 13 exam rooms. Mr. Staigar testified that the traffic impact based on ITE statistics is that there would be lower trip generation than if a retail establishment like a McDonald's was to go into the space. The Board members suggested that the employees should obtain parking permits so as not to take up the retail parking spaces. Paul Bauman, planning expert testified that the proposed doctor office will satisfy the MLUL because it will allow the space to be renovated and make it more safe under fire codes, that it also satisfies paragraph d of the statute because it presents a variety of uses and the space is ideal as it is adjacent to a municipal parking lot. Mr. Bauman also testified that other approved uses would generate a lot more parking need. The applicant indicated that they are not considering additional setback variances or build outs as noted on the plans. The building envelope will not be changed. There will be no x-ray facility on site. Mr. DaCostaLobo suggested that the applicant limit entrance into to facility through the Franklin Avenue door to maintain privacy of patients. Zayed Baker testified that he has been a pediatric physician for 8 years and is a contract purchaser of the building. The medical waste will be disposed of by strict protocols and all signs on the building will comply with the Nutley sign ordinance. The practice will work with the community to provide free community health screenings. No one from the audience offered a comment on this application. Mr. Graziano made a motion to grant the variance and Mr. Marino seconded the motion.

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### **No. 3 106 Ohlson Avenue APPROVED 6-1**

**Applicant:** Joseph Rilli, 106 Ohlson Avenue, Block-Lot: 5502-6

**Application:** request not to rebuild the demolished garage which was deemed unsafe by the Building Department in 2012

**Appearances:** Joseph Rilli

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

The letter dated November 17, 2014, cited Chapter 700, Article XIII, Section 700-91 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. Mr. Rilli testified that the garage is falling down and he cannot afford to build another. He has lived there 5 years and the garage was falling down when he purchased it. He agreed to purchase the property "As is" and he got a C.O. when he bought it. He removed the garage over 2 years ago.

No one in the audience had a comment on this application.

Mr. Graziano made a motion to grant the variance on the basis that the garage was in poor condition when the Applicant purchased the house, he got a C.O. and then was told to take it down. There is plenty of parking on the site. The motion was seconded by Mr. DaCostaLobo.

Mr. Demerjian voted no.

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**No. 4 705 Centre Street APPROVED 7-0**

**Applicant:** Mr. and Mrs. Paul Juarez, Block 8002, Lot 7

**Application:** request for a permit to construct a new driveway in the front yard.

**Appearances:** Paul Juarez

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

The letter dated October 29, 2014, cited Chapter 700, Article XIII, Section 700-94 A (1) of the *Codes of Nutley* which 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. Mr. Juarez testified that he wanted to expand the driveway to 20 feet so he could get to his 2 car garage. Because there is a fire hydrant to the right of the garage and parking is not permitted within 10' of a fire hydrant he wants to widen the driveway. The existing driveway is 12 feet wide. Applicant requested a 16 foot curb cut.

No one in the audience had a comment on the application.

Mr. Graziano made a motion to grant the variance that was seconded by Mr. Pastore.

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**No. 5 25 Laura Avenue Adjourned to 1/12/2015**

**Applicant:** Mr. and Mrs. Carmelo Cino, Block-Lot: 2402-25

**Application:** To construct a 10' by 14'5" carport having a zero foot setback in the side yard on the left side of the dwelling, as shown on the survey submitted and received by Code Enforcement, October 29, 2014

**No. 6 25 Wilmington Drive Approved 7-0**

**Applicant:** Mr. and Mrs. Michael Thompson, Block-Lot: 1501-7

**Application:** To install a new in-ground pool, a spa and patio with an outdoor kitchen, which will increase the impervious surface coverage to 47.66%, and to build a new pergola in the rear yard having an approximately zero foot setback to the dwelling (10' required), as shown on the survey prepared by Boswell Engineering, dated April 24, 2003, and the plan received by this department dated September 8, 2014

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

The letter dated November 19, 2014, cited Chapter 700, Article VIII, Section 700-46 A of the *Codes of Nutley* entitled *The Schedule of Regulations as to Bulk, Height and Other Requirements*, which requires a one family dwelling in a PDR district not to exceed 35% impervious surface coverage; the proposed is 47.66%, and also citing

Chapter 700, Article XI, Section 700-67 C of the *Codes of Nutley* which states no detached accessory building shall be located nearer than 10 feet to a main building; the proposed pergola has an approximately zero foot setback.

Michael Thompson testified that they want to put a pool in the rear left side of the yard and create an outdoor kitchen area. The shed already existed when applicant bought the house and he did not know that he could not move it to the side of the property. Mr. Thompson testified that he bought the house in 2003 and put an addition on and added a paver patio (Without a permit.) The pool is over the permissible lot coverage calculation. Mr. Demberjian indicated that he did not like the shed on the side of the house, he would prefer if the applicant would get rid of it or move it to the back. Mr. Graziano question the impervious coverage and possible drainage problems but Mr. Demerjian indicated that there was a catch basin on the property that would take care of drainage. The applicant agreed to move the shed to the rear of the property and comply with the Code setback requirements for the shed.

There was no comment from anyone in the audience on this application. Mr. Graziano made a motion to approve the variance and Mr. Demerjian seconded the motion.

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**BUSINESS:**

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**RESOLUTIONS:**

11 Wilson Street  
20 Forest Avenue

**MINUTES: None**

**INVOICES: None**

**LITIGATED MATTERS: None**

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Respectfully submitted,

Anjelica L. Mitchell