

NUTLEY ZONING BOARD OF ADJUSTMENT

Public Session Meeting Minutes

October 17, 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, Lori Castro, Lou Fusaro, Gary Marino, Suzanne Brown, Chairman Graziano and Board attorney, Diana McGovern, Esq.

ABSENT: None

EXCUSED: Joseph Frusteri, Peter Sirica, Mary Ryder, Tom DaCosta Lobo

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No. 1 90 Msg. Blake Plaza CONTINUED TO NEXT MEETING

Applicant: Ms. Karen Yeamans, Nutley Public Schools, 315 Franklin Avenue

Appearances: Thomas DiBiasi, Esq., Charles Kucinsky

Letter of Denial: was not read

Board Of Education of Nutley President, Charles Kucinsky, testified that they wished to continue this matter to the next Zoning Board meeting because they are attempting to find another location for the school buses.

With no further questions from the members and no one in the audience with questions or comments, a motion to continue this application to the next meeting on November 14, 2016, was granted.

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No. 2 38 Centre Street CONTINUED TO NEXT MEETING

Applicant: Mr. Thomas DiBiasi, Esq. , 345 Centre Street

Appearances: Mr. Thomas DiBiasi, Esq.

Letter of Denial: was not read.

Mr. Thomas DiBiasi, Esq. stated that he was representing the developer on this application and that they were requesting an adjournment until November 14, 2016.

With no further questions from the members and no one in the audience with questions or comments, a motion to continue this application to the next meeting on November 14, 2016, was granted.

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No. 3 78 Yantacaw Place APPROVED 5-0

Applicant: AD Properties Corporation, 777 Passaic Avenue-Clifton, NJ

Application: To construct a 2nd floor add-a-level to the existing one (1) family dwelling having a 7.05' rear yard setback, as shown on the survey prepared by George J. Anderson, dated 6/28/16, and plan A-1 dated 6/24/16;

Appearances: John D'Alessandro, Esq., Michael Ponce

Letter of Denial: was read by Ms. Lori Castro

AND the Code Official having denied said permit by letter dated July 13, 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 30' rear yard setback. *The proposed rear yard setback is 7.05';*

John D'Alessandro, Esq., made his opening remarks to the board that he would be representing AD Properties Corporation in this application. Owner of the company, Michael Ponce, testified to the board that a new set of plans were distributed to each of them. He stated the previously proposed fifth bedroom had been removed. He also stated that he removed the closets and set up a French door accessing the backyard. Mr. Ponce stated that the roof was changed to a shed type roof. Ms. Suzanne Brown introduced Exhibit Board 1 (10/17/16), which was the board's suggestion of minor tweaks they felt should be made. The applicant agreed to the changes, which Ms. Suzanne Brown described as a minor roof and gable change. Ms. Suzanne Brown asked that it be made a condition that the basement was not to be converted into living space. The board members and the applicant 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 Ms. Suzanne Brown, seconded by Mr. Gary Marino. The variance was granted by a vote of 5-0.

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No. 4 32 Highfield Lane APPROVED 6-0

Applicant: Mr. and Mrs. Angelo Gencarelli, 32 Highfield Lane, Block-Lot: 3701-14

Application: To construct a 12' X 12' 2nd story unroofed deck in the side yard along Conduit Court, having a 14' setback, and to install a six (6') foot solid type fence on the street side along Conduit Place in the front and side yard, as shown on the survey dated March 8, 1989 and plans submitted;

Appearances: Angelo Gencarelli

Letter of Denial: was read by Ms. Lori Castro

AND the Code Official having denied said permit by letter dated July 11, 2016, citing Chapter 700, Article XI, Section 700-67 D of the *Codes of Nutley* which states an attached accessory structure or accessory use shall be considered to be a part of the main building, and also citing

Chapter 700, Article VIII, Section 700-46 A of the *Codes of Nutley*, The Schedule of Regulations, which requires a 25' side yard setback on a street side of a corner property. The proposed deck on the Conduit Court side will have a 14' side yard setback, and also citing

Chapter 700, Article VIII, Section 700-46 B (4)(d) of the *Codes of Nutley* which states any terrace or porch having its floor level no higher than the floor level of the first story of the building and having no railing or other member higher than three feet above floor level: six feet, and also citing

Chapter 700, Article III, Section 700-3 B of the *Codes of Nutley*, Definition, which states any story having its finished floor surface entirely above grade, except that a basement shall be considered as a story above grade where the finished surface of the floor above the basement is more than six feet above the finished ground level for more than 50% of the total building perimeter. The ground floor shall be considered a story (1st). The deck will be constructed at the 2nd story level, and also citing

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

Chapter 700, Article XI, Section 700-75 of the *Codes of Nutley* which states on every corner lot within the triangle formed by the street lines on such lot and a line drawn between points on such lines at the distance from their intersection specified below, there shall be no fence or wall higher than 2 1/2 feet nor any other obstruction to vision other than a post, column or tree not exceeding in cross section one square foot or one foot in diameter between a height of three feet and a height of 10 feet above the established grade of either street, and also citing

Chapter 700, Article XI, Section 700-75 A of the *Codes of Nutley* which states for a lot having an interior angle of 90° or more at the street corner thereof: 20 feet;

Applicant Angelo Gencarelli testified to the board that he was retired and wished to sit outside on a deck. He stated that the house needed work and that the deck was currently infested with poison ivy. He wanted to remove the existing hedges, and replace them with evergreens and a new fence. The Board members and applicant agreed on a wrought iron type fence with a height of 5 feet. The applicant testified that the plants would be on the inside of the fence. He stated that the deck will be looking over his own property and not his neighbor's. The Board members and applicant agreed the deck would be no taller than the first floor and no larger than 12 x 12.

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. Lou Fusaro. The variance was granted by a vote of 6-0.

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No. 5 26 Wilmington Drive APPROVED 5-1

Applicant: Mr. and Mrs. Ronnie Petagna, 26 Wilmington Drive, Block-Lot: 1502-8

Application: To construct a new 12' X 17' sunroom onto a portion of the existing deck which was approved by the ZBA on March 16, 2015 having a 22' rear yard setback, as shown on the survey prepared by Richard J. Hingos Inc., dated June 21, 2014 and plans by Cirangle, Architects, dated June 17, 2016;

Appearances: Ronnie Petagna

Letter of Denial: was read by Ms. Lori Castro

AND the Code Official having denied said permit by letter dated July 18, 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" requires a 30' rear yard setback in a PRD zoning district. The proposed is 22';

Applicant Ronnie Petagna testified to the board that he wished to put a sunroom over a deck which the board had previously granted a variance. Ms. Diana McGovern asked the applicant if he was ripping down the deck. The applicant responded that he would not, he would be building a sunroom over half of the existing deck. Mr. Petagna stated the sunroom would have heat and air conditioning for his children to play in. Chairman Graziano asked the applicant what type of roof he planned on using. Mr. Petagna responded that it would be shingled and match the existing roof.

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. Loy Fusaro, seconded by Ms. Lori Castro. The variance was granted by a vote of 5-1 (Chairman Graziano voted no).

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No. 6 25 Woodland Avenue APPROVED 6-0

Applicant: Mr. John Turner-Challenger Fence Inc., 53 Kentucky Avenue-Paterso, NJ

Application: To install a four (4') foot chain-link fence located in the rear yard of a corner property along Race Street which is located in the front yard of the adjacent property along Race Street, as shown on the survey submitted to the Code Enforcement department, July 22, 2016;

Appearances: John Turner, Steve Castagna, Sharon Simpson

Letter of Denial: was read by Ms. Lori Castro

AND the Code Official having denied said permit by letter dated August 11, 2016, citing Chapter 700, Article XI, Section 700-71 A of the Codes of Nutley which prohibits any front yard fences, 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;

Property owner Steve Castagna testified to the board along with Sharon Simpson, stating that they wished to install a 4 foot fence. Ms. Simpson stated that they needed the fence because they had two dogs and children, and the fence would not negatively impact neighbors. Family friend, John Turner described the fence as chain-link and 50% open. Mr. Turner stated that it would allow them to use their backyard safely. Chairman Graziano pointed out that the application was a very narrow lot. The Board members and applicants agreed on a white fence with white slaps.

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. Lou Fusaro. The variance was granted by a vote of 6-0.

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RESOLUTIONS MEMORIALIZED: 17 Msrg. Owens Place, 20 Albany Avenue, 49 Cross Street, 70 Overlook Terrace, 71 Joerg Avenue, 165 Pake Street.

MINUTES: October 16, 2016 minutes approved.

INVOICES: None

LITIGATED MATTERS: None

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 Mitchell

11/14/2016

approved

APM