

NUTLEY ZONING BOARD OF ADJUSTMENT

Public Session Meeting Minutes

November 14, 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, Gary Marino, Tom DaCosta Lobo, Suzanne Brown, Chairman Graziano and Board attorney, Diana McGovern, Esq.

ABSENT: None

EXCUSED: Joseph Frusteri, Lori Castro, Lou Fusaro, Mary Ryder

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No. 1 115 Raymond Avenue APPROVED 5-0

Applicant: Mr. and Mrs. Andrew Ponzoni, 115 Raymond Avenue, Block-Lot:8105-8

Application: To demolish the existing one (1) car garage and to install a new 10' X 16' by approximately 12' in height shed, having a 2'2" side yard setback and a rear yard setback of 3'9", as shown on the site plan prepared by Architect, Dassa-Haines;

Appearances: Andrew Ponzoni

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

AND the Code Official having denied said permit by letter dated September 12, 2016, citing Chapter 700, Article V, Section 700-9 A of the *Codes of Nutley* which requires each single family dwelling to have two (2) parking spaces at least one of which is in a garage; and also 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'. The required side and rear yard setbacks are six (6') foot each. The proposed shed will be installed in the existing rear and side yard footprint which has a 2'2" side yard setback, and a rear yard setback of 3'9";

Applicant Andrew Ponzoni testified to the board that his family bought this home 12 years ago and that there was a one car garage at the end of the driveway. He stated it was virtually impossible to park in his garage. Mr. Ponzoni stated that he wished to replace the garage with a

10 x 16 shed for storage. Ms. Suzanne Brown pointed out that the lot was narrow, making it a hardship. Chairman Graziano asked the applicant if the shed would follow all the necessary set backs. The applicant said it would. Chairman Graziano asked the applicant what was behind his shed, to which he responded his neighbor's garage was behind his shed.

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.

Please note: Mr. Tom DaCosta Lobo arrived after this application was heard and therefore, did not vote on this application.

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No. 2 90 Msg. Blake Plaza CONTINUED TO NEXT MEETING

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

Appearances: Thomas DiBiasi, Esq.

Letter of Denial: was not read

Thomas DiBiasi, Esq., 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 December 12, 2016, was granted.

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No. 1 38 Centre Street CONTINUED TO NEXT MEETING

Applicant: Mr. Thomas DiBiasi, Esq. , 345 Centre Street, Block-Lot: 7800-1,2,3 & 25

Application: to build a three (3) story mixed use building consisting of the 1st floor/ground level, 1,200 SF of retail space, 948 SF mechanical room and lobby area, and a parking area, the 2nd floor with 11 one (1) bedroom units, and the 3rd floor with 11 one (1) bedroom units for a total of 22 one (1) bedroom units, as shown the plans prepared by Dassa-Haines, Architectural Group LLC, dated August 15, 2016,

Appearances: Mr. Thomas DiBiasi, Esq., Paul Bauman, Joseph Staiger, Joseph Haines, Karen Andros, Anne Turano, Mr. Arias, Penny Landry

Letter of Denial: was read by Mr. Gary Marino

These properties are located in the following zoning districts as shown on the Nutley Zoning Map:

Block/Lot
7800/1, 2, & 25

Zoning District
B-2

Chapter 700, Article V, Section 700-12 of the Codes of Nutley, list the permitted uses in a R-2 zoning district. Residential above business is not listed as a permitted use.

Chapter 700, Article VIII, Section 700-46 of the Codes of Nutley entitled "The Schedule of Regulations" requires the following in an B-2 zoning district for residential above business:

	<u>Required</u>	<u>Proposed</u>
Stories	2	3
Height	25'	34'6"
Lot Coverage	45%	59.8%

Chapter 700, Article XIII, Section 700-94 A (3) of the Codes of Nutley states each property shall not have more than one driveway and one curb cut.

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Proposed Mixed Use Building/Corner Property
Centre Street & Bloomfield Avenue
Block-Lot: 7800/1, 2, 3, & 25

Chapter 700, Article XIII, Section 700-94 A (3) (b) of the Codes of Nutley states curb cuts in all other districts shall not exceed 20 feet in length. **Proposed curb cuts are 24' each.**

Chapter 600, Section 600-1 of the Codes of Nutley requires site plan review, see attached site plan checklist which will indicate all required information to be required on the site plan for review.

Mr. Thomas DiBiasi, Esq., made his opening remarks to the board, stating he wished the transcripts of this meeting be distributed to the board members who were not present. Mr. DiBiasi opened, stating he represented Dr. Michael Russ in this application. He explained this application as a 22 one-bedroom apartment complex, with adequate parking. He introduced his first witness, neighbor Karen Andros, who explained the board that she had been concerned with her privacy, driveway, and security. Mr. DiBiasi stated that his client would widen the neighbor's driveway, as well as install a private security system in Ms. Andros' home. Ms. Diana McGovern, Esq., asked Mr. DiBiasi where the fence would be going, to which he responded that it would be on Dr. Russ' property. Mr. DiBiasi introduced Mr. Joseph Haines, the architect on this application. Mr. Haines introduced Exhibit A1, which was a sight plan. He explained that there would be 22 apartments, 1 retail store, and 39 parking spots. He also stated that there would be tasteful landscaping and a privacy fence. Mr. Haine stated that there would be 11 units on each floor, with smaller units on the third floor so the building wouldn't look out of place. Exhibit A2 was introduced to the board, which was the elevations of the project, as well as Exhibit A3, which was a color copy of the plans. Chairman Graziano asked Mr. Haines what type of retail would be going there. He stated that it would be a small store and not a full restaurant. Chairman Graziano asked why they wished to have metal roofing on the property. Mr. Haines replied that he liked the look and the roofing lasted a long time. Ms. Suzanne Brown stated that the building did not fit in with the neighborhood due to the height and roof style. Exhibit A4 was introduced to the board, which was a tax map of the application. Mr. Daniel Tolve asked if there would be balconies, to which Mr. Haines responded that there would not be. The Board members suggested Mr. DiBiasi and his

experts change the size and look of the proposed building. Neighbor Anne Turano, 24 Ackerman Street, expressed her concerns regarding the garbage dumpsters, rodents, and privacy, to which Ms. Penny Landry expressed similar concerns. Joseph Staigar testified to the board as the traffic expert on this application. He stated that he had performed a traffic impact study between the hours of 7 am to 9 am, as well as 4 pm to 6pm. He rated the intersection fairly well at Level B. Mr. Staigar explained to the board that, through his study, the application would increase by 13 additional trips in the morning, and 19 additional trips in the afternoon. Mr. Staigar stated that delays at the traffic light would go up, but it would not change the level of service. He explained that there would be 6 parking spaces for the retail store at 33 parking spaces for the apartment units, which he felt would be adequate. He stated that to access the garbage area you would have to go through the building, and that no garbage truck would be going through the property. Mr. Tolve asked about the lighting plan for the complex, to which Mr. DiBiasi responded he would discuss that at a later phase in the project. Ms. Penny Landry asked Mr. Staigar if he had taken traffic counts and what method he used. Mr. Staigar responded that he had taken traffic counts and he had counted the cars. Ms. Landry expressed that she wished to have additional traffic counts completed. Mr. Thomas DiBiasi, Esq., requested that this matter be carried to the next meeting.

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 December 12, 2016, was granted.

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RESOLUTIONS MEMORIALIZED: 25 Woodland Avenue, 26 Wilmington Drive, 32 Highfield Lane, 78 Yantacaw Place

MINUTES: October 17, 2016 minutes approved.

INVOICES: None

NEW BUSINESS: 2017 Zoning Board of Adjustment schedule approved

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 12/12/16