

approved
8/17/15

NUTLEY ZONING BOARD OF ADJUSTMENT

Public Session Meeting Minutes

July 20th, 2015

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: Suzanne Brown, Lou Fusaro, Gary Marino, Serge Demerjian, Chairman Graziano, Diana McGovern, Esq., Board Attorney, Peter Sirica

ABSENT: Mary Ryder, Lori Castro, Lou Fusaro

EXCUSED:

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No. 1 211 Franklin Avenue

Applicant: Barbara Fitzgerald, Block-Lot: 5902-21

Application: request, for a sign permit, at the above referenced premises, to install two (2) illuminated signs, which are located at the corner property of Franklin Avenue and Centre Street within 100 feet of a traffic light

Appearances: None

Letter of Denial Previously read.

Mr. Thomas DiBiasi, representing Verizon Wireless, requested an adjournment for this case. The case will be held at the next regular meeting, on August 17, 2015.

With no further questions from the members and no one in the audience with questions or comments, a motion to grant the special meeting was made by Mr. Tom DaCosta Lobo, Seconded by all.

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No. 2 21 Alexander Avenue APPROVED 6-0

Applicant: Mr. and Mrs. Zawacki, 21 Alexander Avenue, Block-Lot: 5104-13

Application: request for a permit at the above referenced premises, to leave as erected the existing 18.3' driveway and curb cut with flushed paved walkways on both side giving it a total driveway width of 29.11'

Appearances: Michael Zawacki and Neema Zawacki

Letter of Denial was read by Mr. DaCosta Lobo.

Chapter 700, Article XIII, Section 700-94 A (1) of the Codes of Nutley 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.

Chapter 700, Article XIII, Section 700-94 A (3) of the Codes of Nutley limits a curb cut to sixteen feet (16') in width.

Ms. Diana McGovern recused herself from this matter. Attorney Barry Kozyra stepped in on her behalf.

Applicants Michael and Neema Zawacki testified to the board that they purchased their home in May 2014, from the bank due to a recent foreclosure. They stated that they were unaware of many issues with the house such as the driveway. Both applicants testified that they wished to keep the driveway the way it currently is. Michael Zawacki told the board that he couldn't cut the driveway down because then he wouldn't get adequate access to the garage. Mr. Serje Demerjian questioned the applicant about which part of the property was paved using pavers. Mr. Zawacki stated that the walkway was paved using pavers and they were unaware how long it has been this way.

William Carey, of 18 Alexander Avenue, testified to the board that he was concerned about this property because in the past, previous owners used to park on the walkway. He expressed that he did not want the new homeowners to park on the walkway and hoped the board would create a condition to prevent this from happening again. Dr. William VonRoth, of 30 Alexander Avenue, also testified to the board that he does not want the new homeowners to park on the walkway and hoped something could be done to discourage this.

Mr. Serje Demerjian suggested putting in shrubs to prevent the applicants from parking on the walkway. The applicant did not wish to put in shrubs but agreed to do so if the board found it necessary. Ms. Suzanne Brown suggested the applicants put in planters. The neighbors and applicants agree that planters are appropriate to discourage parking on the walkway. Alternatively, Applicants could remove pavers and plant landscaping for the same effect.

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. Tom DaCosta Lobo. The variance was granted by a vote of 6-0.

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No. 3 104 Rhoda Avenue DENIED 6-0

Applicant: Mr. Louis Tuzzino, 104 Rhoda Avenue, Block-Lot: 2603-4

Application: request for a permit, to leave as erected, at the above referenced premises, a 15' X 24' above ground pool (location of the pool was deviated from the approved permit issued July 2, 2014), having a two (2') foot setback approximately to the existing attached deck

Appearances: Louis Tuzzino

Letter of Denial: was read by Mr. DaCosta Lobo

Chapter 700, Article XI, Section 700-67 D of the Codes of states an attached accessory structure or accessory use shall be considered to be a part of the main building.

Chapter 700, Article XI, Section 700-67 C of the Codes of Nutley states no detached accessory building shall be located nearer than 10 feet to a main building.

Applicant Louis Tuzzino testified to the board that he made in honest mistake in placing the pool and said he was given a sense of security by the code department. Mr. Gary Marino asked the applicant if there was a railing on the deck. Mr. Tuzzino replied that there was a railing on the deck. Mr. Tom DaCosta Lobo asked about the height difference between the deck and the railing, to which the applicant responded 6-8 feet. Mr. Gary Marino asked Mr. Tuzzino if you could jump from the railing into the pool. Mr. Tuzzino responded that it could be possible. Mr. Serje Demerjian suggested that the applicant should simply rotate the pool. Mr. Tuzzino responded that he financially could not do that. Mr. Serje Demerjian expressed that it would be impossible any other way and advised the applicant that it is simply unsafe. Chairman Graziano asked the applicant if the pool was currently being used and the applicant responded that it was being used.

With no further questions from the members and no one in the audience with questions or comments, a motion to deny the variance was made by Mr. Serje Demerjian, seconded by Mr. Gary Marino. The variance was denied by a vote of 6-0.

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No. 4 313 Washington Avenue APPROVED 6-0

Applicant: Mr. and Mrs. M. Youssef, Block-Lot: 3900-17

Application: request for a permit at the above referenced address to install a six (6') foot privacy type fence in the side yard of a corner property which is in the front yard of the adjacent property along Nutley Avenue,

Appearances: Brad Youssef and Catherine Youssef

Letter of Denial was read by Mr. Tom DaCosta Lobo

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

Chapter 700, Article XI, Section 700-71 D of the Codes of Nutley states a fence erected on any corner lot shall conform to the fence requirements for the adjoining properties.

Applicants Brad and Catherine Youssef testified to the board that they wished to install a six foot fence for privacy and the safety of their two small children. Ms. Suzanne Brown asked the applicant what type of fence they were looking to install. The applicants answered a white, plastic, solid fence. Ms. Suzanne Brown asked the applicants whether or not they would consider a shorter fence. Mr. Youssef told the board he was unsure. The board members were curious why the applicants needed a fully solid fence. Mr. Gary Marino showed the applicants a picture of 5 foot fence with one foot of lattice. Chairman Graziano expressed concern about the applicants being able to see while backing out of their driveway and wished they would get a 50% open fence. Mr. Serje Demerjian also expressed concern about a solid fence because there isn't much of a setback. The board suggested the applicants reconsider a 4 foot picket type fence and 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 continuance was made by Mr. Gary Marino, seconded by Ms. Suzanne Brown. The variance was granted by a vote of 6-0.

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No. 5 625 Bloomfield Avenue APPROVED 6-0

Applicant: Mr. Ray Napolitano and Mrs. Natalie Lucas, Block-Lot: 2803-7

Application: request for a fence permit, at the above referenced premises, to install a six (6') foot solid type fence in the side yard adjacent to South Spring Garden Avenue which are the front yards of the homes on South Spring Garden, and to install a six (6') solid fence in between dwellings in the opposite side yard

Appearances: Ray Napolitano, Natalie Lucas, and Don Sarrota

Letter of Denial: was read by Mr. DaCosta Lobo

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

Chapter 700, Article XI, Section 700-71 B of the Codes 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 six (6') foot fence is located in the side yard along South Spring Garden and also in between dwelling in the opposite side yard.**

Applicants Ray Napolitano and Natalie Lucas testified before the board along with Don Sarrota, of Ocean County, New York. Mr. Sarrota advised the board that he was testifying based on

personal knowledge and he was not an expert. Mr. Sarrota testified that the current fence is a safety issue because it is in poor condition and is currently rusted and falling down. He stated that they are proposing replacing the first 70 feet of fencing, removing the safety issue. He stated that they were looking to put a 6 foot fence in the backyard, which is allowed by Code, and hoped to continue the six foot fence along the rest of the property. Mr. Sarrota also advised the board that most of the new fence would be covered by vegetation. Mr. Serje Demerjian asked the applicants if they would consider doing part of the fencing 4 feet. Mr. Sarrota responded that it wouldn't stop their dog from getting out and wouldn't be visually appealing. Mr. Demerjian questioned what was being put in the alcove pictured in the plans. Mr. Sarrota answered that the air conditioning unit would go in the alcove. The board advised the applicants that the alcove is undesirable. Ms. Suzanne Brown asked the applicants if they would consider a four foot fence with one foot of lattice. Exhibit A1 was introduced which was a picture of a four foot fence with one foot of lattice. The applicant agreed to the four foot fence with one foot of lattice and agreed to getting rid of the alcove.

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. Serje Demerjian, Seconded by Mr. Gary Marino. The variance was granted by a vote of 6-0.

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No. 6 81 Glendale Street APPROVED 6-0

Applicant: Ms. Mary Ann Nutzel, 81 Glendale Street, Block-Lot: 403-8

Application: request for a permit at the above referenced premises, to build a nine (9') by 11' screened in porch on the existing deck having a 23' rear yard and a 11'6" side yard setback to Franklin Avenue

Appearances: Mary Ann Nutzel

Letter of Denial was read by Mr. Tom DaCosta Lobo

Chapter 700, Article XVI, Section 700-113 B (2) of the Codes of Nutley states a non-conforming lot may be enlarged except as to height, provided that the enlargement will not increase the nonconformity of the non-conforming feature.

Chapter 700, Article VIII, Section 700-46 A of the Codes of Nutley requires a one family on a corner lot to have a minimum rear yard setback of 30' and a minimum side yard to side street of 25'.

Mr. Serje Demerjian stepped out for this application.

Applicant Mary Ann Nutzel testified to the board that she wished to screen in her deck to protect her from bugs and mosquitos. Chairman Graziano asked the applicant if the roof would be shingled. The applicant responded that it would be and that it would match the existing shingles. Chairman Graziano also asked the applicant if she would be putting in finished floors. Mary Ann Nutzel responded that she would not be putting in new floors, she would leave the

deck floor as is. The applicant testified to the board that the outside of the screen would be a decorative vinyl finish.

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 6-0.

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No. 7 204 Passaic Avenue CONTINUED to August 17, 2015

Applicant: Mr. Edwin Leon, 204 Passaic Avenue, Block-Lot: 7202-3

Application: request for a permit at the above referenced address, to pave a portion of the rear yard, which will increase the required 70% impervious lot coverage to 85%

Appearances: Edwin Leon and Marisol Zazareo

Letter of Denial was read by Mr. 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 properties in an R-1 zoning district not to exceed 70% impervious coverage. **The proposed coverage is 85%.**

Applicant Edwin Leon and girlfriend, Marisol Zazareo, testified to the board that they needed to pave a portion of their backyard because it gets extremely muddy when it rains or snows. Marisol Zazareo also stated that their cars would get muddy and then drag the mud all over their driveway which is shared with a neighbor. She stated that this would upset the neighbors. Mr. Serje Demerjian advised the applicants that they didn't need to pave such a large portion of their yard to solve their problem. Exhibit A1 was brought to the boards' attention, which was a survey of the property. The board suggested to the applicants only paving 70% of the proposed property and then putting stones where the mud would be.

Chairman Graziano explained to the applicants that they needed to come back to the board with a complete drawing of what they wanted the board to approve. Chairman Graziano expressed that the applicant should keep in mind the entire backyard cannot be paved. Mr. Tom DaCosta Lobo also advised the applicants that their drawings must have accurate measurements. This application will be heard at the next regular meeting on August 17th, 2015.

With no further questions from the members and no one in the audience with questions or comments, a motion to continue the application was made by Mr. Gary Marino, seconded by Mr. Tom DaCosta Lobo. The motion to continue was granted by a vote of 6-0.

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No. 8 29 South Spring Garden Avenue APPROVED 6-0

Applicant: Mr. Ralph Bruno, 29 South Spring Garden Avenue, Block-Lot: 2803-3

Application: request for a permit at the above referenced premises, to reconstruct an existing unroofed deck in the side yard having a 3.91' side yard, and to construct a new unroofed 16' by 18' deck having a 3.91' side yard setback

Appearances: Ralph Bruno

Letter of Denial was read by Mr. DaCosta Lobo

Chapter 700. Article VIII, Section 700-46 A of the Codes of Nutley requires a minimum side yard setback of 8' and 10' in an R-1A zoning district.

Chapter 700, Article VIII, Section 700-46 B (5) (a) of the Codes of Nutley states no uncovered porch shall project more than three (3') feet into the required side yard. The required side yard shall be five (5') feet; the proposed is 3.91'.

Applicant Ralph Bruno testified to the board that he wished to replace the existing deck and extend it along the existing deck line. He explained to the board that the existing deck had a footing of a cinderblock wall. He wished to continue this wall in a 50 foot straight line. Exhibit A1 was brought to the boards' attention, which was a picture of the existing cinderblock wall. Mr. Bruno advised the board that if he moved the wall back it would look extremely awkward and he also has a walkway, which prevents him from doing so. The applicant testified that he will be taking out the old stairs and also adding in a new deck.

There was some confusion on dimensions. The letter of denial read that the applicant wanted to construct a 16' by 18' deck, however, the applicant's plans showed a 22' by 22' deck. The board decided to go by the plans 22' by 22' deck.

With no further questions from the members and no one in the audience with questions or comments, a motion to deny the variance was made by Mr. Tom DaCosta Lobo, seconded by Mr. Gary Marino. The variance was approved by a vote of 6-0.

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No. 9 36 Weston Place APPROVED 6-0

Applicant: Mr. and Mrs. Julius Consoni, 36 Weston Place, Block-Lot: 6600-3102

Application: request for a permit, at the above referenced premises, to construct a 5'6" X 14' deck attached to the existing semi in-ground pool approximately 24" off the ground having a 4'10" setback from deck that is attached to the main structure (house), which will increase the lot coverage to 40%,

Appearances: Julius Consoni

Letter of Denial was read by Mr. DaCosta Lobo.

Chapter 700, Article XI, Section 700-67 D of the Codes of Nutley states an attached accessory structure or accessory use shall be considered to be a part of the main building.

Chapter 700, Article XI, Section 700-67 C of the Codes of Nutley states no detached accessory building shall be located nearer than 10 feet to a main building. **The proposed will have a 4'10" setback.**

Chapter 700, Article VIII, Section 700-46 of the Codes of Nutley entitled "Schedule of Regulations as to Bulk, Height and Other Requirements," states the required maximum lot coverage shall not exceed 35%. **The proposed will be 40%.**

Applicant Julius Consoni testified to the board that he had recently built a semi in-ground pool, not realizing it came 2 feet off the ground. He stated that his plans to construct a deck were denied because he didn't have the 10 foot clearance he needed from the other deck. Mr. Serje Demerjian asked the applicant if he had a fence around the pool, the applicant answered that his entire backyard was fenced in. Mr. Tom DaCosta Lobo asked the applicant how many feet were between the fence and the pool, the applicant responded there was 11 feet between the two. Ms. Diana McGovern asked Mr. Consoni why he wanted the second deck. Mr. Consoni responded that he wanted the new deck to be able to watch his children while they are swimming in the pool.

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. Suzanne Brown. The variance was granted by a vote of 6-0.

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BUSINESS:

None

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RESOLUTIONS MEMORIALIZED:

51-53 St. Mary's

652 Bloomfield Avenue

18 Glenview Road

19 Linden Place

17 May Place

11 Sunset Drive East

426 Prospect Street

15 Wilmington Drive

410 Prospect Street

MINUTES:

June 1, 2015 minutes approved

June 15, 2015 minutes approved

INVOICES:

Pennoni- \$ 1,300.00

LITIGATED MATTERS: None

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Respectfully submitted,

Anjelica L. Mitchell

Minutes Approved


