

NUTLEY ZONING BOARD OF ADJUSTMENT

Public Session Meeting Minutes

June 15, 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, Lori Castro

ABSENT: None

EXCUSED: Mary Ryder

* * * * *

No. 1 90 Msg. Blake APPROVED FOR SPECIAL MEETING 6-0

Applicant: Karen Yeamans on behalf of Nutley BOE

Application: request for a permit to construct one additional ten (10') foot curb cut to the existing property.

Appearances: Mr. Thomas DiBiasi

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

Suzanne Brown recused herself from this application.

Mr. Thomas DiBiasi, representing Nutley BOE, requested a special meeting be held for this application on Monday, June 29th.

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 Gary Marino, Seconded by all.

* * * * *

No. 2 410 Prospect Street APPROVED 7-0

Applicant: Mr. and Mrs. David Grossman, Block-Lot: 4601-2

Application: request for a fence permit at the above reference premises, to install a four (4') foot 30% open type fence in the side yard, which is on the right side

Appearances: David Grossman

Letter of Denial was read by Mr. DaCosta Lobo.

Chapter 700, Article XI, Section 700-71 B of the Codes of Nutley states a fence erected along the sidelines 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. **The proposed fence shall be four (4') feet 30% open fence.**

Applicant David Grossman advised the board he wished to put up a 30% open fence which will be four feet in height. He wished to replace the current fence which has no visibility and was in bad condition. He advised the board that all his neighbors were happy that he would be improving the fence. Mr. Grossman advised the board it will be a PVC fence and said there would be no difference in where the fence would be placed.

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 7-0.

* * * * *

No. 3 18 Glenview Road DENIED 6-1

Applicant: Mr. and Mrs. Cesar Arroyo, 18 Glenview Road, Block-Lot: 5204-22

Application: request for a permit to park a dual wheel step van at the above reference premises for personal use (non-commercial use)

Appearances: Mr. and Mrs. Cesar Arroyo

Letter of Denial: was read by Mr. DaCosta Lobo

Chapter 700, Article III, Section 700-3 of the Codes of Nutley Titled "Definitions"; Commercial Vehicle-every type of vehicle used for commercial purposes, such as transportation of good, wares, merchandise and passengers excepting vehicles of a passenger car type, passenger vans and pickup trucks under 10,000 gross vehicle weight, but including pickup trucks over 10,000 gross vehicle weight, tractors and/or trailer trucks, dual-wheel vehicles, tow trucks, step vans, buses, dump trucks, flatbed trucks, backhoes, front-end loaders and construction equipment of any kind.

Chapter 700, Article XIII, Section 700-11 of the Codes of Nutley prohibits commercial vehicles of any kind in a residential district.

A letter from Mr. Pat Intindola (Construction Code Official) was read into the record regarding his interpretation of the Code and this application.

Applicants Mr. and Mrs. Arroyo both testified to the board. Mr. Cesar Arroyo introduced Exhibit A1 to the board member which was a picture of the inside of the door of the vehicle that demonstrated that the GVW was in excess of 10,000 lbs. Mr. Arroyo also introduced Exhibit A2 to the board members which was a picture of the certified weight of the vehicle. Chairman Graziano asked the applicants what the use of the vehicle was and the applicant responded that it was for camping. Ms. Diana McGovern stated that the applicants must submit proof that they should be granted a d variance and that they might have wanted to contact an attorney. Ms. McGovern also asked the applicants why their driveway was particularly suited for this vehicle. The applicant stated that the vehicle held 8 people and would be parked in the back of the house. Ms. McGovern stated that the code requires the vehicle be parked in their garage or behind dwelling without any projection if it was to be considered under the ordinance that allows campers to be parked. The applicant did not offer any expert testimony as to the requirements necessary to grant a d variance, nor did they satisfy the criteria if the application would be considered a bulk variance.

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 Ms. Suzanne Brown, seconded by Mr. Gary Marino. The variance was denied by a vote of 6-1.

* * * * *

No. 4 410 211 Franklin Avenue

Applicant: Ms. 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: Thomas Dibiasi

Letter of Denial was not read.

Chapter 700, Article XII, Section 700-89 of the Codes of Nutley states signs in which the colors red, amber or green are used in direct illumination or in high reflection by the use of special preparations such as fluorescent paint or glass shall not be located within 100 feet of any approved traffic light or other safety device using red or green.

Attorney Thomas Dibiasi testified to the board requesting to move this matter to the July 20th, 2015 meeting, in order for his client to give notice to the county

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

* * * * *

No. 5 15 Wilmington Drive APPROVED 7-0

Applicant: Dr. Emmanuel & Dr. Catherine Reyes, Block-Lot: 1501-2

Application: permit, at the above referenced premises, to construct a 13' by 22' sunroom having a 24' rear yard setback and to install a 13' by 16' cement patio

Appearances: Dr. Emmanuel & Dr. Catherine Reyes

Letter of Denial: was read by Mr. DaCosta Lobo

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*, requires a one family dwelling in a PDR district to a 30' rear yard setback; **the proposed will be 24'**, and not to exceed 35% impervious surface coverage; **the proposed addition and patio will increase the impervious coverage to 37%.**

Mr. and Mrs. Reyes both testified to the board that they wanted to build a sunroom for quality of life purposes. Mr. Reyes advised the board he was planning on changing their current deck into a sunroom. Mr. Tom DaCosta Lobo asked the applicant if the sunroom would be the same size as their current deck. The applicant answered that it will go a little beyond the current deck. Mr. Lou Fusaro questioned the applicant if the sunroom would have heating and air conditioning and the applicant advised him it would. Both applicants testified that the addition would be vinyl siding and the roof would be shingled and match the existing siding and shingles on the house.

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 7-0.

* * * * *

No. 6 426 Prospect Street APPROVED 7-0

Applicant: Mr. & Mrs. Herman Morchel, 426 Prospect Street, Block-Lot: 4601-6

Application: request for a permit at the above referenced premises, to construct a 480 square foot addition onto the existing non-conforming garage, having a one (1') foot side yard setback

Appearances: Mr. Herman Morchel and Mrs. Gail Morchel

Letter of Denial was read by Ms. Mary Ryder

Chapter 700, Article XI, Section 700-67 B (1) of the Codes of Nutley states no detached accessory building or accessory use shall be located nearer than three feet or 1/2 the height of such building up to a distance of six feet, whichever is greater, to a side or rear lot line.

Chapter 700, Article XVI, Section 700-113 A of the Codes of Nutley states no nonconforming use nor structure nor any lawful use on a nonconforming lot shall be enlarged, extended, reconstructed or structurally altered, except that such structure or use may be structurally altered to correct an unsafe condition. A nonconforming structure or a lawful structure on a nonconforming lot may be restored or repaired in the event of partial destruction thereof.

Mr. and Mrs. Morchel both testified that they were lifelong residents of Nutley and were looking to make improvements on their home. Mr. Morchel testified that he liked to work on cars as a hobby and their current garage was very poorly built and very small. The applicants advised the board that they would like to expand it wider and longer. The applicants also testified that their neighbors were very happy with the proposed plans.

Chairman Graziano asked the applicant about plumbing. The applicant responded that there would be a sink and heated floors but no bathroom. Mr. Peter Sirica asked if the applicants presently owned an RV. Mr. Morchel responded that they had an RV but it was kept in storage but if the variance was granted they would park the RV inside the garage. Mr. Tom DaCosta Lobo asked the applicant about the height of the proposed garage. Mr. Morchel responded that he wished to make the garage six feet higher. The applicant also testified that the proposed garage will have a shingled roof and vinyl siding.

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. Lou Fusaro, seconded by Mr. Gary Marino. The variance was granted by a vote of 7-0.

* * * * *

No. 7 51-53 St. Mary's Place DENIED 6-1

Applicant: Mr. Jeffery Gabriele, 51-53 St. Mary's Place, Block-Lot: 9502-20

Application: request for a permit, at the above referenced premises, to enlarge the existing 18' non-conforming driveway another 20' long by 17' in depth for a total width of 38', which will be located directly in front of the dwelling, and will reduce the required front yard coverage to zero, and to enlarge the existing 18' non-conforming curb cut to 38'

Appearances: Jeffrey Gabriele, architect Mr. Charles A. Maillet

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. 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. **The proposed constructed width will be 38' and 20' will be directly in front of the dwelling.**

Chapter 700, Article III, Section 700-3 of the Codes of Nutley entitled "Definitions"; Parking Space - An off-street space available for the parking of one motor vehicle and having minimum dimensions of nine feet by 18 feet, exclusive of passageways and driveways appurtenant thereto and giving access thereto, and having direct usable access to a street. ***Parking on the Township Right of Way is prohibited*.**

Chapter 700, Article XIII, Section 700-94 A (3) (a) of the Codes of Nutley states a curb cut for a one-car garage shall not exceed 16 feet in length. **The proposed curb cut will be 37'.**

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. **There is a zero front yard landscaping.**

Applicant, Mr. Jeffrey Gabriele advised the board that he had Power of Attorney of his mother, Margaret Gabriele. Mr. Gabriele testified that this house has been in his family for over 60 years. He stated that he had two parking spaces and wished to create one more parking space. He also advised the board he wanted to improve the aesthetics of the house with new stairs.

Architect, Mr. Charles Maillet, testified that the curb cut would be 22 feet and was written wrong in the notice. Mr. Tom DaCosta Lobo questioned the architect how 3 cars can fit into 22 feet. Mr. Maillet answered that they were proposing the driveway be slightly to the right. Mr. Tom DaCosta Lobo answered that you wouldn't be able to open car doors with 22 feet of space.

There were then questions by multiple board members on when the unit became a 4 family dwelling. Ms. Diana McGovern stated that it wasn't very clear but the code official confirmed that it was a valid 4 family dwelling. Exhibit A1 was presented to the board, which was a photograph of the property in question.

Mr. Gabriele testified that his intention is to have parking under the existing porch/storage area. Mr. Serje Demerjian asked the applicant whether it was his intention to pave the entire front yard. The applicant responded no, that was not his intention, however Mr. Serje Demerjian and Chairman Graziano agreed that according to the plans, most of the front yard would be paved. The applicant responded by saying 9 feet 4 inches would be landscaping. Exhibit A3, the architect's plans, were introduced. Mr. Serje Demerjian stated that the curb cut would be almost 27 feet. Mr., Maillet responded by stating that he is proposing not having the curb cut go the entire width. Ms. Suzanne Brown stated that the plans and verbally proposed plans did not match and were extremely confusing to the board members. Chairman Graziano suggested the applicant attain better plans and come back to the board in the future. Objector Susan Cafone, of 55 St. Mary's Place, strongly opposed the application, stating granting this application would make the neighborhood look like a "nightmare." Objector Jeff Kapow, of 45 St. Mary's Place, and Tony Picciano, of 54 St. Mary's Place, also testified and agreed with Susan Cafone.

Ms. Suzanne Brown stated that they board cannot vote on this application because they did not understand what the applicant was looking to do. Chairman Graziano expressed, again, that the applicant should attain new plans. Mr. Gabriele expressed he wanted the board to vote on these current plans.

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 Ms. Suzanne Brown, seconded by Mr. Gary Marino. The variance was denied by a vote of 6-1.

* * * * *

No. 8 19 Linden Place APPROVED 7-0

Applicant: Ms. Alexandra Miron, 19 Linden Place, Block-Lot: 5701-54

Application: request for a permit at the above referenced address to install a four (4') foot open type fence in the side yard of a corner property which is in the front yard of the adjacent property along Hazel Terrace

Appearances: Alexandra Miron

Letter of Denial was read by Mr. 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.

Applicant Ms. Alexandra Miron testified to the board that she wants to install a fence to protect her young son. Chairman Graziano asked the applicant if she was on the corner property and the applicant responded that she was. Ms. Miron introduced exhibit A1 to the board, which was a picture of the way the new fence would look and what the current fence looked like.

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. Lou Fusaro, seconded by Mr. Gary Marino. The variance was granted by a vote of 7-0.

* * * * *

No. 9 11 Sunset East APPROVED 7-0

Applicant: Mr. and Mrs. S. Fiordilino, 11 Sunset Drive East, Block-Lot: 5106-14

Application: request for a permit at the above referenced premises to install a six (6') foot fence, solid type fence in the side yard

Appearances: Mr. Sal Fiordilino and Mrs. Lori Fiordilino

Letter of Denial was read by Mr. DaCosta Lobo.

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

Applicants Lori and Sal Fiordilino testified to the board that they wished to make their fence higher because their autistic son continued to jump over their current fence. Mrs. Fiordilino testified that it was for safety reasons and introduced exhibit A1 to the board which was a picture of her son climbing over their current fence. She testified that they already had a 6 foot, lattice top fence in the back, and now they simply needed one in the front. The applicant wished to have a solid vinyl fence in the front. Ms. Suzanne Brown advised the applicant to set back the front fence in order to avoid irritating the neighbors. Chairman Graziano suggested the applicants use a lattice fence and the applicants did not object. Multiple board members suggested the applicant look into putting up a unclimbable open fence and moving it in a few feet. Ms. Fiordilino stated she could move the proposed front fence back 3 feet and put in shrubs.

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 7-0.

* * * * *

No. 10 652 Bloomfield Avenue APPROVED 6-1

Applicant: Mr. Daniel Carnicella, 652 Bloomfield Avenue, Block-lot: 2900-36

Application: request for a permit at the above referenced premises, to widen the driveway in front of the dwelling, which will decrease the front yard coverage to 56%,

Appearances: Daniel Carnicella

Letter of Denial was read by Mr. DaCosta Lobo.

Chapter 700, Article XIII, Section 700-94 A (1) of the Codes of Nutley states no front yard of a lot upon which is located in a one- or two-family dwelling shall be used for the parking of motor vehicles, except that motor vehicles may be parked upon a driveway in the front yard. The 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. ***The proposed increased***

driveway will be in front of the dwelling; the applicant is proposing to construct a two (2') foot high by the width of the driveway concrete block planter.

Chapter 700, Article VIII, Section 700-48 of the Codes of Nutley requires landscape coverage of at least 60%. **The proposed is 56%.**

Applicant Daniel Carnicella testified to the board that he had been having parking issues due to tremendous traffic. He stated that he could not bring the driveway back because it would take away his backyard. There was a question as to whether or not the applicant had been running a business out of his home and replied that he was not. Mr. Gary Marino suggested the applicant rethink plans for aesthetic reasons. Mr. Serje Demerjian agreed with Mr. Marino. Chairman Graziano stated that 16 feet was tight for 2 cars to fit into. Mr. Tom DaCosta Lobo stated that it was within code. (Mr. Demerjian stepped out of the meeting at this point and did not vote.) The board members suggested bringing the driveway back but the applicant said that would not be aesthetically pleasing to him. Mr. DaCostaLobo noted that tandem parking in the Applicant's driveway would also be a problem due to the fact that pulling cars in and out of Bloomfield Avenue, close to the intersection of High Street and the businesses at the corner was very difficult and created a hardship that would justify allowing Applicant's variance.

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. Lou Fusaro. The variance was granted by a vote of 6-1.

* * * * *

No. 11 17 May Place APPROVED 7-0

Applicant: Mr. Stephen Fullington, 17 May Place, Block-Lot: 1701-5

Application: request for a permit at the above referenced premises, to increase the existing driveway and curb cut to 18' feet, which will decrease the required 60% front yard coverage to 55%,

Appearances: Stephen Fullington

Letter of Denial was read by Mr. DaCosta Lobo.

Chapter 700, Article XIII, Section 700-94 A of the Codes of Nutley states no front yard of a lot upon which is located a one- or two-family dwelling shall be used for the parking of motor vehicles, except that motor vehicles may be parked upon a driveway in the front yard.

Chapter 700, Article XIII, Section 700-94 A (1) of the Codes of Nutley states no front yard of a lot upon which is located a one- or two-family dwelling shall be used for the parking of motor vehicles, except that motor vehicles may be parked upon a driveway in the front yard. The 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.

Chapter 700, Article XIII, Section 700-94 A (3) (a) of the Codes of Nutley states each property shall not have more than one driveway and one curb cut. Curb cuts shall not exceed 16 feet in length.

Chapter 700, Article VIII, Section 700-48 of the Codes of Nutley requires landscape coverage of at least 60%.

Applicant Mr. Stephen Fullington testified to the board that he wished to extend driveway to fit 4 vehicles. Mr. Fullington stated that he and his wife worked for the government (FBI) and were required to fit their 2 government issued work vehicles, as well as personal vehicles in their driveway. He stated that his garage didn't fit a full car, and currently he could only fit 2 cars in their driveway. He stated that the Chief of Police granted them temporary allowance to park on the street. Objector Christine Murlo, of 21 May Place, testified that she is concerned with the distance between the applicant's driveway and her property line. She stated that the proposed plans hit her property line. She also stated that the current plans create a liability problem. Mr. Serje Demerjian suggested putting shrubs on the property line. The applicant did not object. Objector Christine Murlo showed the board members a picture of her property displayed on her digital camera. She suggested the applicant build to the left. Applicant and objector agreed to 3 foot offset from objector's property and no shrubbery necessary.

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. Serge Demerjian, seconded by Mr. Gary Marino. The variance was granted by a vote of 7-0.

* * * * *

No. 12 313 Washington Avenue

Applicant: Mr. and Mrs. M. Youssef, 313 Washington Avenue, 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: none

Letter of Denial was not read.

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.

This matter was not heard due to the fact that the applicant failed to post their application in the newspaper.

* * * * *

No. 13 104 Rhoda Avenue

Applicant: Mr. Louis Tozzino, 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 Tozzino

Letter of Denial was not read.

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 Tozzino requested his matter be heard at the July 20th, 2015 meeting.

* * * * *

BUSINESS:

None

* * * * *

RESOLUTIONS:

MedExpress

MINUTES:

May 18, 2015 minutes approved

INVOICES:

LITIGATED MATTERS: None

* * * * *

Respectfully submitted,

Anjelica L. Mitchell

Minutes Approved

Anjelica Mitchell
7-20-2015