

NUTLEY ZONING BOARD OF ADJUSTMENT

Public Session Meeting Minutes

Special Meeting

June 1, 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, Mary Ryder, Serge Demerjian, Chairman Graziano, Diana McGovern, Esq., Board Attorney, Peter Sirica, Lori Castro

ABSENT: None

EXCUSED: Gary Marino

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No. 1 Mr. John W. Kornick on behalf of MedExpress Urgent Care

Applicant: Mr. John W. Kornick on behalf of MedExpress Urgent Care, 126 Washington Avenue, Block-Lot: 6902-7

Application: To construct a 4,776 square foot building for the use of an immediate care facilities, as pursuant to the boundary and topographic survey prepared by Jeffery R. Gellenthin, Surveyor, dated January 27, 2015, architectural plans A-1, A-3, A-3-1 prepared by R.W. Larson dated December 19, 2014, signage plans, 15 sheets dated March 19, 2015 prepared by Egan Sign and site plans consisting of eight (8) pages prepared by John Kornick PE dated April 14, 2015

Appearances: Eric Dietz, John Kornick, P.E., Brigitte Bogart, PP, AICP, Todd Hay, and Paul Ricci

Letter of Denial: read by Mr. Thomas DaCosta Lobo.

Chapter 700, Article XIII, Section 700-102 A of the *Codes of Nutley* which states no building or premises shall be used nor shall any building be erected or reconstructed, nor shall any building be altered so as to expand its usable floor area unless there is provided off-street loading space.

Chapter 700, Article XII, Section 700-76 B of the *Codes of Nutley* which states the attractiveness of the Township of Nutley contributes to the general welfare and economic well-being of its citizens, property owners and business enterprises. The reasonable control of signage promotes a desirable visual environment and enhances public safety. The purposes of the regulations and standards are to maintain and enhance the aesthetic environment and the Township's ability to attract beneficial sources of economic development.

Chapter 700, Article XII, Section 700-76 B (1) (a) of the *Codes of Nutley* which states awnings and awning signs shall project no more than three feet from the facade of the building to which they are attached, but not farther than the awnings on the same side of the street within 200 feet on either side. The proposed canopy/awning over the front door has a 48" projection.

Chapter 700, Article VI, Section 700-45 of the *Codes of Nutley* lists an auto repair shop as a permitted conditional use with the following requirements:

	<u>REQUIRED</u>	<u>PROPOSED</u>
Minimum lot area	10,000 SF	61,625 Complies
Minimum lot width	100'	158' Complies
Minimum lot depth	100'	264' Complies
Minimum front yard	30'	143' Complies
Minimum rear yard	10'	74' Complies
Minimum side yard	11'	1.6' Existing
Maximum coverage	20%	6% Complies
Maximum building height	15'	16' Existing

Chapter 600, Section 600-1 of the *Codes of Nutley* which requires Site Plan approval.

Applicant's attorney, Eric Dietz started the meeting discussing the driveway. He is sure the bottom of the driveway is compliant but the top part of the driveway is the issue.

Engineer, John Kornick stated that there is one utility pole on the property which has no electric. He advised the board he met with Deputy Fire Chief Paul Cafone, who asked them to gain 24 foot conforming access. Mr. Kornick also advised the board that there are certain things regarding the utility pole he must find out from PSE&G. If PSE&G says so, Mr. Kornick is certain they may have to reconstruct the retaining wall since there is a difference in grade from top to bottom. If they are not able to build, Mr. Kornick advises the board that their efforts are to maximize and improve without breaching 24 feet. He states that they are currently at about 22 feet. Mr. Kornick also advised the board the width is about 25 feet.

Mr. Demerjian asked Mr. Kornick about the features. Mr. Kornick stated that there is a retaining wall and a completely open area. Mr. Demerjian suggests using a curved angle. Mr.

Kornick says it is possible if the pole is relocated and agreed that it is all “doable.” Chairman Graziano is concerned as to what the applicant would like the board to vote on. Eric Dietz expressed he would like the board to simply approve the entire project.

Mr. Kornick used exhibit A2 to show how a tractor trailer (similar to a fire truck) can move through the property. Exhibit A3 is a similar MedExpress which they want their application to look like. Exhibit A4 is the entire packet with drawings and site plans. All exhibits were distributed to the board members. Mrs. McGovern asked the applicant about the sign. Mr. Kornick responded that the sign has been reduced to 5 feet and is currently in code. Mr. Kornick also discussed the signage issue further, stating on the south side of the application, the sign is 68.6 square feet and on the west side of the application, the sign is also 68.6 square feet. Mr. Demerjian is curious as to if they actually need two signs. Eric Dietz advised the board that the signage allows for a break in the wall and is significantly less than the previous signage. He also stated that people who will be visiting this facility may be anxious and may pass the building by if there is not enough signage. Ms. Brown also urged the applicant to reduce the amount of signage. Mrs. McGovern asks the applicant how far the front sign is from the sidewalk. Mr. Kornick responded that it is 25 feet from the sidewalk and 30 feet from the curb line. Mrs. McGovern is curious as to whether or not a child could go unseen by a moving car, while standing by the sign, since this application is across the street from an elementary school. Mr. Kornick says this is not possible.

Mr. Demerjian expressed his concern with the illuminated sign in the front of the building. He is concerned for the neighboring apartment buildings. Mr. Dietz stated that the illuminated sign is historically important for the business. Mr. Demerjian disagrees that the second sign is important for the business and expressed that it is the illumination that concerns him.

Mr. Dietz introduced exhibit A5, drawing attention to page 5 which is a traffic study run on the property. Mr. Dietz stated that the study found traffic in the area will not be negatively affected by MedExpress.

Mr. Kornick proposed a rain guard for drainage which ultimately goes to Park Street and Washington Avenue. This includes installing an inlet into the existing system, which he states will reduce run off leaving the sight. He stated that they will only lose one parking space with the reconstruction of the wall.

Planner, Mrs. Brigitte Bogart addressed the board, starting with her statement that their plans rely on the aesthetics of the sight. Her goal is to “maximize economic utility of the property.” She expressed that the sight is irregularly shaped and that MedExpress will buffer the industrial area surrounding it. Mrs. Bogart stated that there will be 33 parking spaces. She also expressed that they will need a loading variance and a D3 Conditional Use Variance, which is the most important. Mrs. Bogart stated to the Board that they don’t comply with the width requirement and that she wants to consolidate the signs to reduce visual clutter. Mrs. Bogart ended her testimony with the statement that she feels MedExpress is the perfect application following the Zoning Board’s 2012 master plan.

Mr. Todd Hay testified as the township’s engineer, stating that it is almost impossible to get the driveway to be less than 24 feet because this is the minimum which is required. He stated that the applicant will simply have to meet this requirement. Mr. Hay stated the applicant must talk to the fire officials to come up with a plan to keep the rear obstruction-free. Mr. Hay also stated that the applicant must meet the Nutley storm water ordinance and the current storm water

system plans simply must be revised, though Mr. Hay made it clear the applicant is making great efforts to revise their use of storm water.

Mr. Demerjian is curious how the Board can vote on this application with such big questions left unanswered. Mr. Dietz believes the board can vote on this application conditionally.

Mr. Paul Ricci testified as the board's witness as a planner. He began his testimony asking questions of Mr. Kornick. He asked whether they are requesting irrigation, to which Mr. Kornick answered no. Mr. Ricci suggested the board use irrigation as a condition. Mr. Kornick advised the board they will be adding shrubs to the property, to which Mr. Ricci suggested using low level shrubs. Overall, Mr. Ricci stated that he believes this is a good application and some minor adjustments need to be made.

Mr. Dietz ended testimony stating that they will add slats to the fencing and requested a special hearing in a critical timeline. Chairman Graziano stated that there are too many little things that need to be changed in this application in order to vote. He was concerned that there isn't a traffic expert present and expressed that he would like to see a full set of plans before voting. Mr. Demerjian expressed that he would like to see written answers to the township's reports. Chairman Graziano asked Mr. Dietz if he would like the board to vote on just the use variance. Mr. Dietz asked the Board to vote on the application due to extreme time constraints.

The Board determined that it could vote on the application and allow the Code Office and the Township Engineer work out the drainage plan that will comply with the Township requirements. The Board voted on the application contingent upon many conditions including: reduction in signage and lighting, that the driveway be at least 24' wide as required by the Fire Code Official and improvements to the fence in the rear property.

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. Thomas DaCosta Lobo, Seconded by Mr. Serge Demerjian. The variance was granted by a vote of 7-0.

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BUSINESS:

None

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RESOLUTIONS:

26 Wilmington Drive

201 Prospect Street

24 Joerg Avenue
37 Brookline Avenue
8 McKinley Avenue
37 Carry Court
7 Treemont place

MINUTES:

None

INVOICES:

None

LITIGATED MATTERS: None

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Respectfully submitted,

Anjelica L. Mitchell

Minutes Approved


7-20-2014