

**NUTLEY ZONING BOARD OF ADJUSTMENT**

**Public Session Meeting Minutes**

**May 18, 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, Lori Castro, Gary Marino, Mary Ryder, Serge Demerjian, Chairman Graziano, Thomas DaCosta Lobo, Peter Sirica, Diana McGovern, Esq., Board Attorney

**EXCUSED:** Lou Fusaro

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**No. 1 90 Msgr. Blake Plaza, Block 9205, Lot 11/10 Msgr DiLuca Plaza, Block 9205, Lot 16: CONTINUED – adjourned to June 15, 2015.**

**Applicant:** Ms. Karen Yeamans on behalf of the Nutley Board of Education

**Application:** A request to utilize a portion of the Holy Family existing parking lot for the parking of the school bus fleet, and to install a 10' high privacy fence, located in a residential zoning district.

**Appearances:** Thomas DiBiasi, Esq.

**Letter of Denial:** Not read.

Chapter 700, Article V, Section 700-7 of the *Codes of Nutley* requires uses to be listed.

Chapter 700, Article V, Section 700-12 of the *Codes of Nutley* lists the permitted uses in an R-2 zoning district. School fleets buses parking is a not a listed use.

Chapter 700, Article XI, Section 700-71 C of the *Codes of Nutley* states a fence erected along the sidelines from the rear line of a main structure to the rear property line and along said rear property line and within such lines shall not exceed six feet in height and not be of solid construction. A stockade fence is hereby deemed to be of solid construction. The proposed parking rear will be enclosed with a 10' privacy fence.

Chapter 700, Article XIII, Section 700-98 of the *Codes of Nutley* states any parking or loading area adjoins a lot in any R District, a landscaped buffered strip at least six feet in width containing plantings at least three feet high shall be provided. The five 10' x 21' spaces are adjacent to a residential zoning district.

Suzanne Brown recused herself from this matter.

Thomas DiBiasi, Esq. represented his client and requested the matter be adjourned and rescheduled to the June 15, 2015 meeting.

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**No. 2 57 Carrie Court, Block 8700, Lot 34, Approved by the Board – 7-0**

**Applicant:** Mr. & Mrs. Maurice Aarons

**Application:** A request to install a 12' PVC privacy fence for the purpose of screening the adjacent PSE&G sub-station.

**Appearances:** Mr. & Mrs. Maurice Aarons

**Letter of Denial:** was read by Thomas DaCosta Lobo

Chapter 700, Article XI, Section 700-71 C of the *Codes of Nutley* which states a fence erected along the side lines from the rear line of a main structure to the rear property line and along said rear property line and within such lines shall not exceed six feet in height and not be of solid construction.

Mr. Maurice Aarons testified that they were looking for approval for a fence for the purpose of screening the PSE&G substation. He stated that there was major construction on the PSE&G property and the sound and the visual was a nuisance. He stated that the major construction is over, but because they have a six month old son, their biggest concern is the safety for his family. They are also concerned about the noise and privacy and that it is hard for them to enjoy their backyard.

The board questioned if a twelve foot fence is needed and maybe they could place landscaping to hide the substation.

Mr. Aarons stated that the reason for the twelve foot fence is to cover the substation and that they would like to put up a chain linked fence, with grass looking inserts, because in their kitchen and their dining room, they would still be able to see the substation.

**Comments from the Public**

Ms. Poiani testified that she endorsed the request from her neighbors. She stated that when the substation was first built, the town planted twenty-six trees in the area, but however the trees have been moved for various reasons and that there is no buffer for the winds and the noise and that the substation is enormous.

The variance was granted by a vote of 7-0.

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**No. 3 7 Tremont Place, Block 9000, Lot 97 Approved the Board – 7-0**

**Applicant:** Ms. Ingrid Beket

**Application:** To leave as erected a temporary seasonal portable above ground pool 18' round and 52" height with a code compliant lockable ladder, having a 7'6" rear yard setback and a 3'6" side yard setback.

**Appearances:** Ingrid Beket

**Letter of Denial:** was read by Thomas DaCosta Lobo

Chapter 700, Article XI, Section 700-9 D of the *Codes of Nutley* which states a noncommercial swimming pool as an accessory use shall be no closer than eight feet to any side or rear lot line;

or nearer to the side street line of a corner lot than the main building on the lot; or if the abutting lot to the rear faces said street line, then the distance equal to the depth of the front yard required on said lot to the rear.

Ms. Beket testified that the portable above ground pool would be set up around Memorial Day and removed around Labor Day and stored away.

The variance was granted by a vote of 7-0.

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**No. 4 18 Glenview Road, Block 5204, Lot 22, (hearing continued to June 15, 2015)**

**Applicant:** Mr. & Mrs. Cesar Arroyo

**Application:** To park a dual wheel step van at the above reference premises for personal use.

**Appearances:** Mr. & Mrs. Cesar Arroyo

**Letter of Denial** was read by Thomas DaCosta Lobo

Chapter 700, Article VIII, Section 700-3 of the *Codes of Nutley*, titled "Definitions"; Commercial Vehicle - every type of vehicle used for commercial purposes, such as transportation of goods, 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 truck over 10,000 gross vehicle weight, tractors and/or trailer trucks, dual-wheel vehicles, tow trucks, step vans, buses, dump truck, flatbed trucks, backhoes, front-end loaders and construction equipment of any kind.

Chapter 700, Article VIII, Section 700-100 of the *Codes of Nutley*; prohibits commercial vehicles of any kind in a residential district.

Mr. Cesar Arroyo testified that the vehicle is under 10,000 gross weight and that the model of the vehicle is a Ford Star Craft. Mr. Arroyo stated that the vehicle is not being used for commercial use and has a regular registration and standard plates. The vehicle is basically a recreational vehicle for camping. They do not use for work and the vehicle stays at the home all day and do not drive the vehicle to work. The vehicle is not an eyesore and the neighbors are fine with the vehicle in the driveway.

The board recommended that the hearing be adjourned until June 15, 2015 and requested the Applicant to bring with them the survey of the property so they can determine if it is possible to park the vehicle more toward the rear of the property and also so they can have a further interpretation of the code from the Code official.

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**No. 5 24 Joerg Avenue, Block 2403, Lot 58 Approved by the Board 7 -0**

**Applicant:** Mr. Jeffery Blank

**Application:** To construct a two story addition in the rear yard, which increases the footprint, having a 4.83' side yard setback.

**Appearances:** Jeffrey Blank

**Letter of Denial** was read by Thomas DaCosta Lobo

Chapter 700, Article VIII, Section 700-46A of the *Codes of Nutley*; "Schedule of Regulations as to Bulk, Height and Other Requirements", in an R-1 zone requires a six side yard setback.

The Board questioned Mr. Blank if he was still able to use the garage and park the car in the garage. Mr. Blank responded yes. Mr. Blank testified that the addition would follow the existing setback.

The variance was granted by a vote of 7-0.

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**No. 6 37 Brookline Avenue, Block 7401, Lot 21 Approved by the Board 7 -0**

**Applicant:** Mr. & Mrs. William Padner

**Application:** To increase the width of the existing 10' driveway, 10' in front of the main dwelling for a total of 20' increasing the front yard coverage to 63%.

**Appearances:** Mr. & Mrs. William Padner

**Letter of Denial** was read by Thomas DaCosta Lobo

Chapter 700, Article XIII, Section 700-94A of the *Codes of Nutley* states no front yard of a lot upon which is located at 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 of *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.

Chapter 700, Article VIII, Section 700-478 of the *Codes of Nutley* requires landscape coverage of at least 60%.

Mr. & Mrs. Pander stated that their existing driveway is nine and half feet wide and cannot put an American car down the driveway. He stated that for 20 years they have been parking in the Holy Family parking lot and have been paying for this service.

**Comments from the Public**

Ms. Corinne Conway – testified that she owns a house next door to Mr. & Mrs. Pander and her concerns are that it will be difficult to park in the street if they extend their driveway. She stated

that Brookline Avenue is a very busy street during the school year and the parking space in the street for the cars will not be available for any company or visitors for the neighbors. She stated that she objection to this application. The Board suggested that the Applicant reduce the size of the driveway to 18' wide and the curb cut to 16', which Applicant agreed to so that available street parking would not be effected.

The variance was granted by a vote of 7-0.

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**No. 7 201 Prospect Street, Block 7803, Lot 6 Approved by the board 4 Yes /2 no**

**Applicant:** Mr. & Mrs. Mariusz Kolakowski

**Application:** To install a 12' x 18' above ground pool having a four foot rear and side yard setback.

**Appearances:** Mr. Mariusz Kolakowski

**Letter of Denial** was read by Thomas DaCosta Lobo

Chapter 700, Article VIII, Section 700-9 D(2) of the *Codes of Nutley*; states a pool shall be no closer than eight feet to any side or rear lot line; or nearer to the side street line of the corner lot than the main building on the lot; or if the abutting lot to the rear faces said street line, then the distance equal to the depth of the front yard required on said lot to the rear.

The board stated to Mr. Kolakowski that if you move the pool approximately four feet, and in addition for safety reason, you would not need a variance and be in compliance with the zoning code and you have the room in your backyard to move the pool four feet. Mr. Kolakowski stated that he would like to put the pool is a certain spot of his backyard.

**Comments from the Public**

William Cook testified that he feels the pool is too big for his backyard and feels that the pool is too close to his property.

The Board proposed to Mr. Kolakowski a six foot 6 foot side yard setback and a rear yard setback of 8' which was what the Code requires and he agreed and the variance was granted by a vote of 4-3 with Mr. Graziano, Ms. Brown and Mr. Demerjian voting no.

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**No. 8 14 Cherry Place, Block 3104, Lot 6 Approved by the Board/ 7 -0**

**Applicant:** Ms. Joanne Somnay

**Application:** To install a 12' x 16' x 10' shed, in the rear yard having a three foot rear yard setback, which will increase the rear yard coverage to 35%

**Appearances:** Joanne Somnay and John Carter

**Letter of Denial** was read by Thomas DaCosta Lobo

Chapter 700, Article XI, Section 700-67A of the *Codes of Nutley*; states 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 feet.

Chapter 700, Article VIII, 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.

John Carter testified that their house has a very strange shape and tiny. He also stated that installing the shed would give the family more storage space. He would like the placement of the shed closer to the rear lot line and has discussed the situation with the neighbors. He stated that the shed would have vinyl siding. He stated that the previous shed that was there was tore down, which was 13 feet by 17 feet, and the reason it was tore down was because the previous owner didn't have a cement slab. He stated that they have a family of five and need a shed for storage because of the size of their home.

The variance was granted by a vote of 7-0

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**No. 9 8 McKinley Avenue, Block 1601, Lot 25 Approved granted by the Board/ 7-0**

**Applicant:** Mr. & Mrs. David Long

**Application:** To demolish the existing garage and to install a 14' x 22' in-ground pool with concrete around the pool having a six foot side yard setback, and a seven foot rear year setback which will increase the required 70% impervious coverage to 71%.

**Appearances:** Mr. & Mrs. David Long

**Letter of Denial** was read by Thomas DaCosta Lobo

Chapter 700, Article VIII, Section 700-9 A of the *Codes of Nutley*; states a single family dwelling shall have two parking spaces, at least one of which is in a garage.

Chapter 700, Article VIII, Section 700-9 D(2) of the *Codes of Nutley*; requires a pool to have an eight foot side and rear yard setback.

Chapter 700, Article VIII, Section 700-46A of the *Codes of Nutley*; the "Schedule of Regulations" requires impervious lot coverage not to exceed 70%.

Mr. Long stated that the existing garage that was on the property is absolute and we would never be able to get a SUV or even a car in there. The garage is an eyesore and takes up a lot of the yard. There are no houses in the back of the yard and would like to demolish the existing garage and install an in-ground pool.

The variance was granted by a vote of 7-0.

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**No. 10 126 Washington Avenue, Block 6902, Lot 7 (Hearing will be continued at a Special Meeting on June 1, 2015)**

**Applicant:** Mr. John W. Kornick, P.E./K2 Consulting Engineering, Inc.

**Application:** To construct a 4,776 square foot building for the use of an immediate care facility.

**Appearances:** Bob Mintz, Esq., John Kornick and Eric Dietz

**Letter of Denial** was read by Thomas DaCosta Lobo

Chapter 700, Article VIII, Section 700-102A of the *Codes of Nutley*; 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 700-76B 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 environmental and the Township's ability to attract beneficial sources of economic development.

Chapter 700, Article XII, Section 700-176B(1)(a) of the *Codes of Nutley*; states awning signs shall project no more than three feet from the façade 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.

Bob Mintz, Esq. represented his client and that the first witness would be Eric Dietz.

Eric Dietz testified that the nature of the MediExpress Urgent care is a walk-in doctor's office. The office would do flu shots, physicals, minor surgical procedure, stitches, reset broken bones and x-rays. The business would be the same practice as a family practitioners' office. The hours of operations would be 8:00 a.m. to 8:00 p.m. The facility would have two front offices and an assistant check in and out with eight examination rooms. They anticipate approximately 80 patients in a day and the goal would be to have a patient in and out of the facility within 45/60 minutes. During peak hours, there would be five to ten patients with six employees and there will be adequate parking for patients and employees. Currently there are twelve facilities located in New Jersey and the design of the building is consistent with the other buildings in the state.

John Kornick testified that there will be thirty parking spaces at the building. The building width is 103.5 square feet and that the lot coverage, building coverage and side yard is all preexisting condition. He stated that the proposed ground signage is 80 square feet, the east side sign is 73 square feet, the south side signage is 73 square feet and the west side signage is 53 square feet. He also stated the proposed canopy/awning over the front door has a 48' projection.

The hearing has been scheduled to be continued at a special meeting on June 1, 2015.

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**RESOLUTIONS:**

Videotape Guidelines Resolution was read by Thomas DaCosta Lobo and approved by the Board.

**MINUTES:**

April 20, 2015 minutes approved.

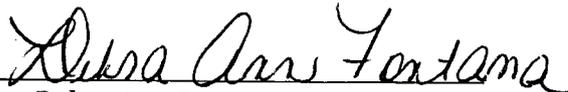
**INVOICES:**

Invoice for New Jersey Planning Officials for 2015 Essex County – Kessler Institute dated April 25, 2015 was approved by the Board.

**LITIGATED MATTERS:** None

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Minutes Approved

  
Debra Ann Fontana

Approved  
6-15-2015  
DME/H