

## **NUTLEY ZONING BOARD OF ADJUSTMENT**

### **Public Session Meeting Minutes**

**March 16, 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, Mary Ryder, Serge Demerjian, Chairman Graziano, Diana McGovern, Esq., Board Attorney

**ABSENT:** Thomas DaCosta Lobo

**EXCUSED:** Thomas DaCosta Lobo

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#### **No. 1 Stockert Carryover Dismissed without prejudice 6-0**

**Applicant:** Mr. and Mrs. Michael Stockert

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

**Appearances:** None presented at this hearing

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

No appearance from Applicant. (It was speculated that perhaps the Applicants were exploring different parking solutions as were suggested by the Board at the last meeting.) A motion to dismiss this application without prejudice was made unanimously.

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#### **No. 2 Yeamans on behalf of Nutley Board of Education: CONTINUED**

**Applicant:** Mrs. Karen Yeamans on behalf of the Nutley Board of Education, 90 Msgr. Blake Plaza, Block-Lot: 9205-11, 10 Msgr. DiLuca Plaza, Block-Lot: 9205-16

**Application:** request for a permit 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:** None

**Letter of Denial:** not read

Ms. Suzanne Brown recused herself from this matter.

The Board of Education appeared without counsel. The application could not go forward without the Board of Education having counsel present.

A motion to grant the continuance of this matter was made by Mr. Gary Marino, seconded by Mr. Lou Fusaro. The continuance was granted by a vote of 5-0

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### **No. 3 Spina Approved 6-0**

**Applicant:** Carmen Spina, 304 Walnut Street, Block-Lot: 3600-21

**Application:** To construct a rear deck off the existing enclosed porch on the 1st story, having a three (3') feet setback to the existing 18' round pool

**Appearances:** Carmen Spina

**Letter of Denial:** was read by Ms. Mary Ryder

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

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

Applicant Carmen Spina stated that he wishes to build a rear deck in his backyard due to lack of access to the backyard from the back of his home.

Mr. Serge Demerjian questioned the applicant about his existing pool. Mr. Spina responded by stating his existing pool has been there for four years. Ms. Suzanne Brown questioned about the height of the deck and whether or not one could jump from the deck into the pool. Mr. Spina stated the railing will be high enough that this will not be possible. Chairman Graziano was curious as to how high the railing will be.

Mr. Spina stated to the board that the deck will be three (3') and a half to four (4') feet away from the pool so jumping from the deck into the pool will be impossible. He assured the board that his children will be supervised at all times.

The board suggested shortening the deck and collectively agreed that five (5') feet between the deck and the pool would be sufficient. Mr. Spina agreed to shorten the deck to allow for five (5') feet between the deck and 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 Ms. Suzanne Brown, Seconded by Mr. Gary Marino. The variance was granted by a vote of 6-0.

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#### **No. 4 Petagna Approved 6-0**

**Applicant:** Mr. & Mrs. Ronnie Petagna, 26 Wilmington Drive, Block-Lot: 1502-8

**Application:** To install new pavers on each side of the existing driveway flush with the top of the existing driveway which will increase the driveway width to approximately 24', and to extend the existing deck for a total size of 12' by 32' having a 22' rear yard setback and increasing the impervious coverage to 39% for the pavers installed in the front yard and the deck in the rear, as shown on the survey prepared by Richard J. Hingos, Inc., dated June 21, 2104 and the site plan prepared by the Applicant

**Appearances:** Ronnie Petagna

**Letter of Denial** was read by Ms. Mary Ryder

Chapter 700, Article VIII, Section 700-46 of the *Codes of Nutley*; the "Schedule of Regulations as to Bulk, Height and Other Requirements"; which requires maximum lot coverage not to exceed 35% in a PDR zoning district. The proposed work will be 39% lot coverage with the new pavers and deck.

Chapter 700, Article VIII, Section 700-46 B (4) (d) of *Codes of Nutley* which states extensions of a structure into a required front or rear yard shall be permitted as follows by any terrace or porch having its floor level no higher than the floor level of the first story of the building and having no railing or other member higher than three feet above floor level: six feet. The required rear yard is 30'. The allowable encroachment for an unroofed deck is six (6') feet the required rear yard setback is 24', the proposed is 22'.

Chapter 700, Article XIII, Section 700-94 A of the *Codes of Nutley* which 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

Mr. Ronnie Petagna stated that his driveway is so tight that his family must step into the mud when getting out of their car. Also, Mr. Petagna testified to the board that there is no walkway. He says his request will look pleasing and others in his neighborhood have the same look.

Mr. Petagna stated that his deck is falling apart and wants to make it full size and nice for his two small children.

Ms. Suzanne Brown was curious whether the applicant would be changing the curb cut, to which he responded that he would not.

Chairman Graziano questioned the applicant whether or not the whole thing would be in pavers. The applicant responded that it would all be pavers. Chairman Graziano also questioned why the paver walkway is off centered on the plans. He is concerned people will drive on it and park on it. Mr. Petagna stated that (exhibit A1) it is simply to avoid stepping in the mud.

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. Serge Demerjian. The variance was granted by a vote of 6-0.

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### **No. 3 Auriemma Approved 6-0**

**Applicant:** Nicholas Auriemma, 40 Milton Avenue, Block-Lot: 8401-33

**Application:** To construct a rear yard deck having a 10' – 10 ½' rear yard setback, a one (1) story addition and to install a 15' X 24' in-ground pool having a 6'7 ¾" side yard and five (5) foot

setback to the main building which will increase the lot coverage and the rear yard coverage as shown on the plans prepared by Architect, Randall Kent Schneider, AIA, LLC

**Appearances:** Nicholas Auriemma

**Letter of Denial** was read by Ms. Mary Ryder

Chapter 700, Article VIII, Section 700-46 A of the *Codes of Nutley*; the "Schedule of Regulations" which requires lot coverage not to exceed 35%. The proposed lot is 49%.

Chapter 700, Article V, Section 700-9 D (2) of the *Codes of Nutley* which requires a pool to have an eight (8') foot side yard setback. The proposed is six (6') feet.

Chapter 700, Article XI, Section 700-67 A of the *Codes of Nutley* which requires the rear yard coverage not to exceed 30%. The proposed rear yard coverage with the deck and pool is 36%.

Chapter 700, Article XI, Section 700-67 C of the *Codes of Nutley* which requires pools to have a 10' setback to a main dwelling. The proposed is six (6') feet.

Chapter 700, Article XI, Section 700-46 B (4) (d) of the *Codes of Nutley* which states by any terrace or porch having its floor level no higher than the floor level of the first story of the building and having no railing or other member higher than three feet above floor level: six feet. The proposed rear yard setback for the deck is 11.

Chairman Graziano recused himself from this matter.

Mr. Nicholas Auriemma testified to the board that his home is very old and outdated. He summarized his application stating that he wants a deck instead of the existing patio on ground level. He says that he is willing and open to changes after the long process to bettering his home. The applicant is willing to put in whatever fence necessary to adhere to the codes.

Mr. Serge Demerjian expressed concern in understanding the applicant's plans. He is curious if one is able to get to the deck from a back door of the house. The applicant said no, you would have to use the side door to get to the deck. Mr. Serge Demerjian also questioned the applicant on where the pool equipment would go. Applicant wasn't sure where the pool equipment would go.



The board expressed concern that a large portion of the yard would be concrete. Mr. Auriemma says he will adhere to whatever the board wants but requests three feet (3') around the pool of concrete. The board agreed on four feet (4') of concrete around the pool.

Mr. Demerjian suggested that Applicant should place the pool equipment under the 2<sup>nd</sup> floor overhand near the first floor powder room and Applicant agreed. Ms. Brown pointed out that there was a fence shown on the plans that appeared to be a six (6') foot solid fence. Applicant was not aware of the fence and believed it was an oversight, something that his architect had written in because a pool requires a fence. Applicant agreed that he would install a fence that would comply with Code requirements.

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 5-0.

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#### **BUSINESS:**

The board discussed potential guidelines for videotaping board meetings.

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#### **RESOLUTIONS:**

279 Washington Avenue

514 Kingsland Street

40 Milton Avenue

#### **MINUTES:**

February 9, 2015 minutes approved

#### **INVOICES:**

**LITIGATED MATTERS:** None

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Respectfully submitted,

Anjelica L. Mitchell

Minutes Approved

AM 4/20/15