

**NUTLEY ZONING BOARD OF ADJUSTMENT**  
**Public Session Meeting Minutes**  
**February 9, 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, Thomas DaCosta Lobo, Lou Fusaro, Gary Marino, Mary Ryder, Chairman Graziano, Diana McGovern, Esq., Board Attorney

**ABSENT:** None

**EXCUSED:** Serge Demerjian

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**No. 1 Stockert**

**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:** Mr. Corvino, architect and planner, and applicant Mrs. Stockert

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

Chapter 700, Article 700-94 A (3) of the Codes of Nutley states that a property shall not have more than one driveway and one curb cut approved by the Township.

Mr. Corvino addressed the board and testified that the applicant's lot has 75 percent coverage when 50 is required, this application being granted would increase this by 13 percent. He showed the board a picture of what the new driveway would look like (Exhibit A1) and stated that the application is on the property of a two family home and the tenants are inconvenienced by the constant moving of cars with the current driveway. He also stated that the driveway meets all requirements for setback.

Mrs. Stockert testified that her side of the two family home does not have a driveway and since there is no parking on their side of the street, parking four cars is a problem for them.

Suzanne Brown addressed concern about how many cars could fit in the new driveway, if granted. Mr. Corvino stated three cars at the most could fit. Suzanne Brown suggested widening the existing driveway, however, Mr. Corvino stated there are too many trees to do so.

Thomas DaCosta Lobo also suggested widening the existing driveway. Mr. Corvino expressed concern that all he could do to the existing driveway is make it thirteen (13') feet, which would not be enough.

Chairman Graziano suggested moving the AC unit and widening the existing driveway.

The board collectively suggested widening the existing driveway but that because that was not what the applicant requested in his initial application and his notice did not include such a request that the Board attorney advised the applicants they would need to post it again in the newspaper if they chose to request to widen the driveway as a new variance request.

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

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**No. 2 Santuoso APPROVED 6-0**

**Applicant:** Mr. Michael Santuoso 279 Washington Avenue Block-Lot: 3900-29

**Application:** request for a permit to replace an existing A/C condenser in the side yard and to install a new A/C condenser in the side yard located within the six (6') foot required side yard.

**Appearances:** Michael Santuoso

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

Chapter 700, Article III, Section 700-3 B of the Codes of Nutley titled "Definitions"; the definition of a SIDE YARD is an open unobstructed space between the building and the side line of the lot extending through from the front yard to the rear yard or to another street, into which space there is no extension of the building above the grade level.

Mr. Santuoso advised the board that he recently made an addition on his home, which now requires a second air conditioning unit.

Mr. Thomas DaCosta Lobo questioned what is located near where the new unit, if approved, would be. Mr. Santuoso answered there is a shared driveway next to the unit

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. 3 Auriemma APPROVED 5-0**

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

**Application:** request for a permit to construct a 2<sup>nd</sup> story addition and 1<sup>st</sup> story addition to be used as a shed, having a four (4') foot side yard setback and a 26' rear yard setback, to install a 15' X 24' in-ground pool having a six (6') foot side yard setback and six (6') foot setback to the main dwelling, and to construct a new 16'8" X 15'6" deck in the rear yard having an 11' rear yard setback, increasing the lot coverage and rear yard coverage as shown on the plans prepared by Architect, Randall Kent Schneider, AIA, LLC, revision date of January 7, 2015, and plans dated November 11, 2014;

**Appearances:** Nicholas Auriemma

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

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 VIII, Section 700-46 A of the *Codes of Nutley*; the "Schedule of Regulations" which requires a 30' rear yard setback. The proposed is 26', and also citing

Chapter 700, Article VIII, Section 700-46 B (8) of the *Codes of Nutley*; the "Schedule of Regulations" which requires an addition that does not increase a foot print to meet 80% of the required setback which is 4.8'. The proposed is four (4') feet,

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.

Mrs. Diana McGovern advised the applicant that the pool he was applying for was not pictured in the plans. Mr. Auriemma stated that he brought the wrong plans with him, however, the pool was approved in a previous zoning board meeting. Ms. McGovern then advised the applicant that the time on those plans had

expired because he did not apply for a permit within one year as required by the Code.

Suzanne Brown advised Mr. Auriemma that she needed to see the pool on the plans.

The applicant advised the board he would like to withdraw the request for the pool. Ms. McGovern stated that because he voluntarily eliminated the pool he can come back at another time for that matter after filing a new application and with proper notice to neighbors.

The board advised the applicant that they would need to eliminate all variances in the letter of denial that related to the pool. Mr. Auriemma also requested to eliminate the deck from his application.

Mr. Thomas DaCosta Lobo was curious about the shed, which is connected to the house and insulated. He considered the room. The Applicant advised the board that this shed was for outdoor furniture.

Mrs. Diana McGovern suggested this matter be continued until March 16<sup>th</sup> and the applicant should returned with finished plans. The Applicant expressed a request for the board to review the second floor of the plans. Mrs. Diana McGovern stated that this will not coincide with the current letter of denial. Mr. Thomas DaCosta Lobo stated that the board could go forward with just the second floor addition.

With the consent of the Mr. Auriemma, the Board decided that the only request they could decide was the second floor addition due to the insufficiency of the application submitted on the other requested variances.

Mr. Lou Fusaro asked Mr. Auriemma is he came before the board to make his home a two family house and the applicant responded that he had. Mr. Auriemma testified that he was requesting only a second floor addition now and that his house was one of the oldest houses on the block and in need of a facelift. The addition would be to the second floor only and would not increase the pre-existing non-conforming features of the house. Applicant testified that he wanted to make an ugly house into a nice house and that he planned to move the current bedrooms located on the first floor up to the second floor and create a family room space on the first floor.

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. Gary Marino. The variance was granted by a vote of 5-0.

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**No. 4 Taurus Group, LLC APPROVED 5-0**

**Applicant:** Mr. & Mrs. Barawoski, 514 Kingsland Street, Block-Lot: 102-12

**Application:** request for a permit to construct an addition on the existing dwelling on a corner property, having a 2.5' rear yard setback, to construct a three (3') foot portico roof over the front steps, having a 17.31' front yard setback, and to install a four (4') foot solid fence in the front yard, as shown on the survey prepared by Lakeland Surveying, dated August 29, 2014 and plans prepared by Bogdan Szacillo Architect dated November 18, 2014

**Appearances:** Henry Walentowicz, attorney, Bogdan Szacillo, architect, and Kasia Nowakuwska, applicant.

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

Chapter 700, Article VIII, Section 700-46 B (8) of the *Codes of Nutley* ("The Zoning Ordinance") the "Schedule of Regulations" which requires the rear yard setback to be 80% of 30' which is 24'. The proposed is 2.5' for the second floor addition,

Chapter 700, Article VIII, Section 700-46 A of the *Codes of Nutley*; the "Schedule of Regulations" which requires a 30' rear yard and 25' foot front yard setback to Kenzel Avenue,

Chapter 700, Article VIII, Section 700-46 B (4) (d) of the *Codes of Nutley*; the "Schedule of Regulations" which requires 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 25' less six (6') feet encroachment gives a required front yard setback of 19'. The proposed front yard setback is 17.3',

Chapter 700, Article XI, Section 700-71 A of the *Codes of Nutley* which prohibits a four (4') foot solid front yard fence,

Chapter 700, Article XI, Section 700-71 D of the *Codes of Nutley* which states a fence erected on any corner lot shall conform to the fence requirements for the adjoining properties. The fence is the front yard of the adjoining property on Kenzel Avenue

Mrs. Suzanne Brown recused herself from this matter.

Mr. Walentowicz questioned the applicant about the condition of the home when she bought it. Mrs. Kasia Nowakuwska described it as being abandoned and destroyed. She stated that the town gave the applicant a temporary certificate of occupancy in order to close on the home. The applicant expressed her belief that the proposed construction is the only option to fix the home. Mr. Walentowicz advised the board that the home will remain a one family home and gave the board pictures of the house and the surrounding properties (Exhibit A1). He also testified that the house will have four bedrooms and three parking spots (1 car in the garage and 2 in the driveway).

Mr. Szacillo testified as the architect in this matter and advised the board that the lot is more narrow than the code requires, which makes the side setbacks smaller. Mr. Walentowicz stated that the lot has an irregular shape, and therefore he sees nothing but beneficial aspects of this variance being granted.

Ms. Mary Ryder questioned the purpose of the fence in the front yard. The applicant advised the board that this was for privacy and protection of the children. Applicant stated that the fence would be a vinyl, picket-style fence.

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. Mary Ryder, seconded by Mr. Lou Fusaro. The variance was granted by a vote of 5-0.

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**BUSINESS:**

The board voted for the new positions of the Nutley Zoning Board for 2015. The Board voted unanimously as follows: Chairman-Frank Graziano. Vice Chairman-Suzanne Brown. Secretary-Thomas DaCosta Lobo. Attorney-Diana McGovern. Recording secretary-Marie Goweck. Alternate Recording secretary-Anjelica Mitchell.

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**RESOLUTIONS:**

25 Laura Avenue  
27 White Terrace  
69 Edison Avenue  
649 Passaic Avenue

**MINUTES:**

January 12, 2015 minutes approved

**INVOICES:**

Invoices from Pennoni and planner Ricci were approved to be paid from the Applicant's escrow fees

**LITIGATED MATTERS:** None

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Respectfully submitted,

Anjelica L. Mitchell

*Approved on 3/16/15*  
*AM*