

NUTLEY ZONING BOARD OF ADJUSTMENT
Public Session Meeting Minutes
January 12, 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 Scrudato. The Pledge of Allegiance was recited. Roll was called and the Sunshine Notice was read.

PRESENT: Suzanne Brown, Thomas DaCosta Lobo, Serge Demerjian, Lou Fusaro, Frank Graziano, Gary Marino, Mary Ryder, Paul Scrudato, Chairman, Diana McGovern, Esq., Board Attorney

ABSENT: None

EXCUSED: N/A

* * * * *

No. 1 Passaic and Kingsland Carryover

Applicant: North American Eagle Construction, LLC 649 Passaic Avenue, 98 Kingsland Street, and 108 Kingsland Street

Application: For a preliminary and final site plan and major sub-division application with variance requests to build, at the above captioned premises a three (3) story mixed use structure, having 25 one bedroom apartments (with three (3) of those units on the first floor) and 41 parking spaces, and 600 square feet of office space on the plaza level, as shown on plans prepared by Steven Corso, Architect, dated December 1, 2014, consisting of six (6) pages and the site plans prepared by Daren J. Phil, P.E., dated December 3, 2014, consisting of 14 pages (And deemed complete by the Code Official on December 4, 2014);

Appearances: Thomas DiBiasi, Esq.; Joseph Staigar, testifying as Engineer, Traffic, and Planning expert, Donna Holmquist, Mr. Stephen Corso, and Mr. Todd Hay

Letter of Denial Previously read into the record.

Thomas DiBiasi summarized the progress of the application and introduced architect Stephen Corso. Mr. Corso testified that there are now 25 units, a 14 foot setback, and more privacy for the neighbors by taking away third floor windows. He stated that there are now 3 apartments on the first floor, 14 on the second floor, and 8 on the third floor. There are 33 parking spaces on the lower level and 8 spaces on the second level.

Suzanne Brown questioned Mr. Corso whether or not you would see the heating and air conditioning units on the roof of the building from the street. Mr. Corso was positive you would not see the units from the street. He stated each apartment would have landscape views and some apartments would have skylight windows.

Mr. Joseph Staigar, traffic engineer, testified that there is more than enough parking for the sight at 41 parking spaces, which is 1.5 spaces per unit and 2 spaces for the commercial unit.

Donna Holmquist, Planner, standing in for Peter Steck, testified that this structure would enhance the neighborhood and “foster the renewal of the gateway area.” She stated that the 3 story structure would be consistent in character with the area.

Mr. Hay addressed the board that he hopes to continue working with the applicant and had no other comments. Chairman Paul Scrudato questioned whose responsibility it was to fill the hole in the ground from the gas tanks. Mr. Hay assured him it was the owner’s responsibility.

Audience member and neighbor Elizabeth Mertz testified that she is pleased with the changes and hopes to keep in contact with the applicant. Mr. DiBiasi assured her they would continue to work with her.

Chairman Paul Scrudato stated that the environmental impact study be part of the record. Also, Mr. Scrudato made it part of the record that the hole be filled.

With no further questions from the members and no one in the audience with questions or comments, a motion to grant the preliminary site plan was made by Mr. Thomas DaCosta Lobo and seconded by Mr. Frank Graziano. The preliminary site plan was approved by a vote of 5-2. Ms. Suzanne Brown and Mr. Serge Demerjian voted in the negative.

* * * * *

No. 2 Crino Carryover APPROVED 6-1

Applicant: Mr. and Mrs. Carmelo Crino 25 Laura Avenue Block-Lot: 2300-9

Application: request for a permit to construct a 10’ by 14’5” carport having a zero foot set back in the side yard on the left side of the dwelling.

Appearances: Anna Costentino

Letter of Denial was read by Mr. DaCosta Lobo

Chapter 700, Article XI, Section 700-67 D of the Codes of Nutley states an attached accessory structure or accessory use shall be considered part of the main building.

Chapter 700, Article VII Section 700-446 A of the Codes of Nutley entitled “Schedule of Regulations” requires a 6’ side yard setback and a front yard minimum setback of 25’ in an R-1 district. The proposed is zero side yard setback and 19’ front yard setback.

Chapter 700, Article XVI, Section 700-113B of the Codes of Nutley states a nonconforming structure or a structure on a nonconforming lot may be enlarged

as to height, provided that the enlargement will not violate any other provisions of this chapter.

Anna Cosentino provided the board with photographs of the two options of the possible carport. She advised the board provisions were made to keep the snow off the neighbor's yard with gutters and snow guards (option A). The applicant also advised the board of another option (option B), which would put the snow and rain into their own yard.

Thomas DaCosta Lobo advised the applicant that that option A would be the more appealing option. Serge Demerjian expressed concern about the car port not fully covering a full size vehicle. Applicant advised the board that the carport would cover just their car.

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. Graziano. Seconded by Mr. Lou Fusaro. The variance was granted by a vote of 6-1. Mr. Serge Demerjian voted in the negative.

* * * * *

No. 3 Eastwick College APPROVED 7-0

Applicant: Eastwick College, 114 Park Avenue, Block-Lot: 6703-23

Application: request for a permit to utilize the existing 1st floor at the above referenced address for a resource center.

Appearances: Robert Gaccione, Thomas M. Eastwick, Thomas V. Ashbahian
Letter of Denial was read by Mr. DaCosta Lobo.

Chapter 700, Article V, Section 700-12 of the Codes of Nutley list the permitted uses in an R-2 zoning district, a resource center or a commercial school is not listed as a permitted use.

Counsel Robert Gaccione, representing M. Eastwick Education Inc., advised the court that a resource center is an inherently beneficial use. Mr. Eastwick addressed the board, stating that Eastwick College is in the process of getting their accreditation and is in need of a resource center. The center will be 1,100 square feet, complete with 2 computers. This will be used mostly by graduates working on their resume. He expects 6-8 students at a time with 1 employee. Mr. Eastwick advised the board that the hours of the resource center will be 8 am through 8 pm Monday through Thursday, 8 am to 4 pm Friday, and 8 am to 1 pm weekends. Mr. Eastwick advised the court that students will be encouraged to use the cross walk and not cross directly across the street.

Paul Scrudato questioned whether they could put a cross walk directly across the street, Mr. Eastwick agreed this could be a possibility and would be willing to pay for it if that is possible. Diana McGovern advised that this is a county road and may not be possible.

Mr. Eastwick advised the board that there will be three parking spaces across the street at the resource center. Thomas DaCosta Lobo requested that the employee park at the college, allowing three students to park at the resource center and not have to cross the street.

Architect Thomas V. Ashbahian testified that 114 Park Avenue is currently a cleaners company, which will be turned into a “low intensity” resource center with 3 computer stations and shelving. He stated there will be no modifications to the building.

Frank Graziano questioned how the students will be stopped from loitering and smoking, Mr. Eastwick answered that there is designated smoking areas on campus. Diana McGovern suggested part of the resource center employee’s job would be to stop loitering and Mr. Eastwick agreed this would be possible.

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. Graziano. Seconded by Mr. Gary Marino. The variance was granted by a vote of 7-0.

* * * * *

No. 4 Benvenuti APPROVED 6-1

Applicant: Mr. & Mrs. Michael Benvenuti, 27 White Terrace, Block-Lot: 43602-2

Application: request for a permit to construct an addition in the rear yard of property having a 21’ rear yard setback and a 5’ side yard set back.

Appearances: Michelle Benvenuti, Michael Benvenuti

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 minimum of 30’ for a rear yard setback and a minimum of 6’ for a side yard setback for one family dwelling in an R-1district. The proposed rear yard setback will be 21’ and the side yard a 5’.

Michelle Benvenuti testified to the board that she wishes to add a rear addition to her home. Serje Demerjian was concerned about the size of the addition and the lot being undersized by 9 feet. Applicant advised the board that the front setback is back 5 feet further than necessary. Suzanne Brown questioned whether the applicant would considering taking 4 feet off the addition, which the applicant denied.

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. Frank Graziano; seconded by Mr. Gary Marino. The variance was granted by a vote of 6-1. Mr. Serge Demerjian voted in the negative.

* * * * *

No. 5 Garben APPROVED 7-0

Applicant: Ms. Iwona Garben, 69 Edison Avenue, Block-Lot: 2402-25

Application: request to leave as erected a detached garage that has been converted into a garden house and the garage door was removed.

Appearances: Iwona Garben

Letter of Denial was read by Mr. DaCosta Lobo.

Chapter 700, Article V, Section 700-9A (2) of the Codes of Nutley states a single-family dwelling, not to exceed one dwelling unit on each lot. No other principal use is permitted on the same lot with a single-family dwelling. Each single-family dwelling shall have two parking spaces, at least one of which is in a garage.

Applicant Iwona Garben addressed the board stating that she bought her house in 1994 with the existing shed and no garage. Thomas DaCosta Lobo questioned the applicant whether or not there was plumbing in the shed and the applicant answered there was simply electricity.

Audience member and neighbor Brian Gibbons testified in opposition to the applicant, stating that the applicant is currently selling her home and listing the shed as a bonus family room. He also stated that he knows the shed is being used as a bedroom because he has seen the applicant’s mother going in at night and not leaving until morning. He is concerned the applicant will sublet the shed as an additional bedroom. Iwona Garben advised the board that the shed is for relaxation and enjoyment but not for living space.

The board then discussed the definition of living space. Mrs. Diana McGovern stated that the definition of a dwelling unit requires “living, cooking, heating, and sanitary” units. Thomas DaCosta Lobo was concerned that the applicant was possibly escaping taxation by not listing the shed as an additional bedroom.

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

* * * * *

BUSINESS:

Mr. Scrudato advised the Board that he was resigning after tonight’s meeting.

* * * * *

RESOLUTIONS:

228 Franklin Avenue
106 Ohlson Avenue
705 Centre Street
25 Wilmington Drive
114 Park Avenue

MINUTES: None

INVOICES: None

LITIGATED MATTERS: None

* * * * *

Respectfully submitted,

Anjelica L. Mitchell