

NUTLEY ZONING BOARD OF ADJUSTMENT
Public Session Meeting Minutes
REGULAR MEETING
June 16, 2014

CALL TO ORDER: A regular 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, Gary Marino, Mary Ryder, Paul Scrudato, Chairman, Diana McGovern, Esq., Board Attorney

ABSENT: Frank Graziano

EXCUSED: Lou Fusaro, Ralph Pastore

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No. 1 ANZALDI Adjourned to July 21, 2014

Applicant: Jennifer Anzaldi, 209 Raymond Avenue, Block/Lot/Zone: 5602/2/R1

Application: Continuation of an application to install a five (5') foot privacy fence in the side yard along Summit Way of a corner property which is the front yard of the adjoining property on Summit Way, as shown the survey dated June 3, 1986. Applicant is working with the town engineering department to see if an agreement by way of lease can be worked out to permit Applicant to put a fence on Township right-of-way (if the Board approves). More time is needed to work out the agreement and therefore applicant was granted an adjournment to the July 21, 2014 meeting.

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No. 2 AURIEMMA Adjourned to July 21, 2014

Applicant: Nicholas Auriemma, 40 Milton Place, Block/Lot/Zone: 8202/10/R1

Application: To convert the existing one (1) family dwelling into a two (2) family dwelling as shown on the plans prepared by Architect, Randall Kent Schneider, AIA, LLC, dated April 24, 2014. Due to the fact that Applicant had submitted new plans dated May 30, 2014 that the Code Official had not had the opportunity to review, the Applicant requested that the matter be adjourned to the next meeting, July 21, 2014. Ms. McGovern told the applicant that if additional variances were necessitated by the new plans then Applicant would have to serve all new notices to the neighbors and in the newspaper.

Mrs. Ryder made a motion to carry the matter over to July 21, 2014; seconded by Mr. DaCosta Lobo. All approved.

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No. 3 ABREU Approved 4-2

Applicant: Mr. and Mrs. Abreu, 31 Linden Place, Block/Lot/Zone: 5701/50/R1

Application: For a request not to replace the existing detached garage at the above reference premises. The Code Official's letter dated April 8, 2014, citing Chapter 700 of the *Code of the Township of Nutley* (the "Zoning Ordinance, Article V, Section 700-9 A which requires each single family dwelling to have two (2) parking spaces at least one of which is in a garage was read into the record.

Appearances: Darsia Abreu, George Hayes, Suzanne Beadle, 571 Passaic (sworn)

Letter of Denial was read by Mr. DaCosta Lobo

Chapter 700, Article V, Section 700-9 requires each single family dwelling to have two parking spaces, at least one of which is in a garage.

Applicant testified that he was thinking of installing a shed instead. Neighbor, George Hayes of 2 Plane Street testified that one problem that Mr. Abreu was facing was that the neighbor adjacent to applicant has a large tree that would be in the way of the garage. Mr. Demerjian said that he didn't see how that tree was a hardship. Suzanne Beadle testified that there was no request for removal of that tree which she knows because she is on the shade tree committee.

Ms. Brown made a motion to deny the variance because there was no hardship to the property and that the property width has no bearing on this application. The motion to deny did not pass (only Ms. Brown and Mr. Demerjian voted to deny.) Mr. DaCostaLobo then made a motion to grant the variance stating that he does not like the ordinance and there is more than enough driveway in the rear to park cars. The variance was granted 4-2 with Ms. Brown and Mr. Demerjian voting no.

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No. 4 KANE Approved 6-0

Applicant: Mr. & Mrs. Kane, 144 Highfield Lane, Block/Lot/Zone: 3502/12/R1AA

Application: To install a four (4') foot picket fence in the side yard along Walnut Street which is the front yard of the adjacent property along Walnut Street, as shown on the survey prepared George J. Anderson, LLC, dated September 25, 2007.

Appearances: John F. Kane (sworn)

Letter of Denial was read by Mr. DaCosta Lobo.

Chapter 700 of the *Code of the Township of Nutley* (the "Zoning Ordinance), Article XI Section 700-71 A which prohibits fences of any type in any front yard, and also citing Chapter 700, Article XI Section 700-71 D which states a fence erected on any corner lot shall conform to the fence requirements for the adjoining properties.

John F. Kane testified that his property is a corner lot and he seeks to replace an existing fence with a Nantucket scalloped style fence. There was no one in the audience that wanted to be heard on this application.

A motion to grant the application was made by Board Member Suzanne Brown who noted the property hardship is that it is a corner lot and the style of fence proposed is in keeping with the character of the house and will replace the old fence. Mr., Marino seconded the motion. The variance was approved 6-0.

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No. 5 POLIO Approved 4-2

Applicant: Rolando Polio, 564 Bloomfield Avenue, Block/Lot/Zone: 4904/1/R1A

Application: To erect a six (6') foot solid fence in the side yard of the property, as shown on the survey dated July 25, 2011.

Appearances: Rolando Polio (sworn)

Letter of Denial was read by Mr. DaCosta Lobo.

The Code Official's letter dated March 31, 2014, was read into the record citing Chapter 700, Article XI, Section 700-71 B of the *Codes of Nutley* which states a fence erected along the side lines from the front line of a main structure to the rear line of such structure and within such lines shall not exceed four (4') feet in height and shall be of 50% open construction. The proposed fence is a solid type fence.

Mr. Polio testified that he wants privacy and that he is a law enforcement officer in the City of Paterson and throughout his career he's arrested numerous persons and on a couple of occasions while he was in the backyard with his family he saw one of those suspects pass by his house. He also testified that the fence would make the house look more attractive. Ms Brown suggested that the Applicant consider a picket fence with landscaping to get the privacy he desired, but Applicant said that he wanted a solid fence because he has a four-year-old and wants privacy. Applicant also would not consider reducing the height of the fence. Mr. Scrudato pointed out that the back corner is open. Applicant agreed to a board on board style fence with the condition that landscaping be placed outside the fence on the Bloomfield Avenue side. There was no one in the audience that wanted to be heard on this application.

A motion was made by Mrs. Ryder to approve the variance with the Board on Board style fence and landscaping in front as a condition. Mr. Marino seconded the motion. The variance was approved 4-2 with Mr. Scrudato and Mr. Demerjian voting no.

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No. 6 MORRISON Approved 6-0

Applicant: Mr. and Mrs. R. Morrison, 13 Cottage Place, Block/Lot/Zone: 2203/11/R1

Application: to leave as erected, a 2nd story addition to the existing one (1) story garage, having a rear yard setback of five (5') feet and a side yard setback of four (4') feet, as shown on the survey dated, March 10, 2011, and plans prepared by Architect, PRO-ARCH LLC, January 14, 2014.

Appearances: Robert Sneddon, Stacy Morrison (sworn)

Letter of Denial was read by Mr. DaCosta Lobo.

The letter issued by the Code Official dated March 13, 2014, was read into the record citing Chapter 700 of the *Code of the Township of Nutley* (the "Zoning Ordinance"), Article XI, Section 700-67 A which states a detached accessory building 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. The proposed garage is 2 stories with a height of 18'2", and also citing Chapter 700, Article XI, Section 700-67 B 1 which 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. The maximum rear and side yard requirement for an accessory structure is six (6') feet. The existing garage has a rear yard setback of five (5') feet and a side yard setback of four (4') feet.

Robert Sneddon, husband of the property owner Stacey Morrison, testified that a tree landed on the garage during the October snow storm a few years ago and they had the money to repair the house roof but not the garage. When he went to begin the repair on his home roof, he had the roof pulled off, but then he had an accident and was injured so he was disabled. His friends came to his house to finish his roof and thought they were doing him a favor by repairing the garage. The repairs ended up raising the roof of the garage higher than what the Code allows. His house is one of the few houses on his block that have a garage and so he is the one in the neighborhood that has the snowblower and lawn mower that the others use. The garage was made 14" higher than what it had been. Applicant also testified that because of his disability he has difficulty going up and down stairs so some of the things that he would have otherwise stored in his basement or attic he now stores in the garage. There was no one in the audience that wanted to be heard on this application.

A motion to grant the variance was made by Mr. Marino who noted that the change to the roof was only to the pitch of the roof by a little over a foot, and that because of the Applicant's disability he requires the storage space in the garage to avoid going to the basement or attic. Mr. Demerjian seconded the motion. The variance was granted 6-0.

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No. 7 TOMA Approved 6-o

Applicant: Raymond Toma- 169 Frank Street, Block/Lot/Zone: 8202/10/R1

Application: For a relief of condition as described in the 2005 Board of Adjustment resolution as the plans as submitted shall include a driveway dimension of sixteen (16') feet wide and a twelve (12') foot wide curb cut, and to leave as erected 16' curb cut.

Appearances: Raymond Toma (sworn)

Letter of Denial was read by Mr. DaCosta Lobo.

The letter from the Code Official dated April 28, 2014, was read into the record citing a condition to a previous variance granted at a public hearing that included a condition that stated that "The plans as submitted shall include a driveway dimension of sixteen (16') feet wide and a twelve (12') foot wide curb cut."

Applicant testified that the 16' curb cut was already there when he purchased the property and he understood when he bought the property from the bank "as is" that it would be his burden to get a variance if he wanted to keep the driveway this width. Applicant was given a temporary C.O. Mr. DaCostaLobo noted that the widened driveway does not effect on street parking because no parking is permitted there as it is near a stop sign and a corner. No one in the audience wanted to be heard on the application.

A motion was made by Mrs. Ryder to grant the variance because the applicant did not do the widening himself, he knew when he purchased the property that he would have to come before the Board. The motion was seconded by Mr. Marino. The variance was granted 6-0.

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No. 8 CASALE Approved 5-1

Applicant: Gina Casale- 472 Prospect Street, Block/Lot/Zone: 4500/5/R1A

Application: For a request not to rebuild the two (2) car garage, which was demolished due to being unsafe, and to erect a eight (8') foot by eight (8') foot shed attached to the main dwelling having a seven (7') foot setback to the side property line, at the above referenced premises, as shown on the survey prepared by Landmark Surveys, dated October 7, 2010.

Appearances: Gina Casale, Bill Paro, Fischer Ave. (sworn)

Letter of Denial was read by Mr. DaCosta Lobo.

The Code Official's letter dated May 7, 2014, citing Chapter 700, Article XIII, Section 700-91 A of the *Codes of Nutley* which states a single family dwelling shall be required to have two (2) parking spaces and one space must be in a garage was read into the record.

William Paro testified that the original garage was removed because it was unsafe during major renovations to the existing house. The Code office approved the building plans for that renovation and the Applicant did the renovations with effectively prevented a garage from being built- at least a garage that could be accessed from the driveway. The driveway holds 6-7 cars. Applicant's position was that because of the building department's oversight in permitting the house remodeling that they would have to remove the new rear porch in order to build a garage. Applicant, instead, requested that they be permitted a variance to build an 8' x 8' shed attached to the corner of the home. No one in the audience wanted to be heard on the application.

A motion was made to approve the variance by Mr. DaCostaLobo who cited that the request was occasioned by the renovation and if a garage was installed that the driveway would not connect to it so there is a hardship. The motion was seconded by Mr. Marino. The variance was approved 5-1 with Ms. Brown voting no.

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No. 9 ALESSIO Approved 6-0

Applicant: Anthony Alessio- 157 Ridge Road, Block/Lot/Zone: 5205/20/R1.

Application: To leave as erected a widened curb cut at 15' and to increase the existing 16' driveway four feet in front of the house as shown.

Appearances: Anthony Alessio (sworn)

Letter of Denial was read by Mr. DaCosta Lobo.

The letter dated April 4, 2014, by the Code official citing Chapter 700, Article XIII, Section 700-94 A (3) (a) of the *Code of Nutley* which limits a curb cut for a one car garage to a maximum width of twelve feet (12'), and also citing Chapter 700, Article XIII, Section 700-94 A (1) of the *Code of Nutley* which states a driveway shall consist of the area directly opposite to an attached garage. The proposed driveway will increase four (4') feet to the left side of the garage in front of the house was read into the record.

Mr. Alessio testified that he wants to widen the driveway to 20 feet but keep the existing curb cut of 15'. He reason he wants to widen the driveway in front of his house is due to a telephone pole that makes it difficult to get into the driveway. Mr. Demerjian said that the telephone pole does not make a difference as after a driver gets past the pole they can move the car to the right instead of in front of the house. Mr. Alessio said that he wants to be able to fit 6 cars. Mr. Alessio withdrew his request for a wider driveway admitting that there was no hardship by the property and asked the board to consider the request to leave the curb cut at 15'. There was no one in the audience that wanted to be heard on the application.

A motion was made by Mr. DaCostaLobo to grant the variance to leave the 15' curb cut. The motion was seconded by Mr. Marino. The variance to leave the curb cut was approved 6-0.

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BUSINESS, INVOICES, LITIGATED MATTERS: None

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RESOLUTIONS:

Resolutions from the meeting dated May 19, 2014 regarding:

274 E. Passaic Ave.

54 Margaret Ave.

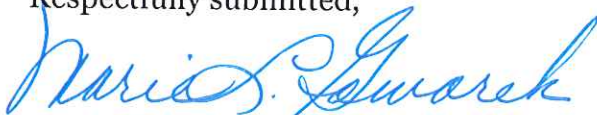
25 Nairn Pl.

82 Hopper Ave.

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ADJOURNED: 9:13 p.m.

Respectfully submitted,



Marie L. Goworek