

NUTLEY ZONING BOARD OF ADJUSTMENT
Public Session Meeting Minutes
December 16, 2013

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, Frank Graziano, Gary Marino, Thomas O'Brien, Ralph Pastore, Mary Ryder, Paul Scrudato, Chairman, Diana McGovern, Esq., Board Attorney

ABSENT:

EXCUSED:

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No. 1 FILAN LAE attached pool deck

Applicant: Jaime Filan, 540 Kingsland Avenue, Block, Lot, Zone: 286 / 3 / R-1

Application: request to install a 16' X 20' second story deck attached to your house at the above premises, on an undersized 43.80 X 155.07 lot.

Appearances:

Letter of Denial was not read.

Ms. McGovern announced that the applicant did not publish in the newspaper; therefore, the matter will be carried over to the January 13, 2014 meeting date. A motion made, seconded, and approved to carry this matter to January 16, 2014.

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No. 2 AMBU-Trust LLC CARRIED TO JANUARY 13, 2014

Applicant: Medical Transportation Service, 40 Rev. Roberts Place, 14 Harrison Street Block-Lot-Zone: 9204-21 & 20-B2

Application: request for a zoning permit at the above referenced premises, to occupy a portion of the one- (1) story commercial building and to park ambulance vehicles for a Medical Transportation Service.

Appearances: Thomas DiBiasi, Esq.

Letter of Denial was not read.

Mr. DiBiasi stated that Marina Perna is representing the parish near the subject property. They have scheduled a meeting to discuss this application for some time before the January 13, 2014, NZBA meeting. He requested that the application scheduled for tonight be carried until that time.

A motion was made and seconded to carry this matter to January 16, 2014.

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No. 3 MOSCARA USE VARIANCE (violation)

Applicant: Mr. & Mrs. Michael Moscara, 165 Franklin Avenue, Block/Lot /Zone: 7604-21-B3A

Application: request for a zoning permit, at the above referenced premises, to operate a Medical Billing Office on the ground floor in a B-3A zoning district,

Appearances: Thomas DiBiasi, Esq.

Letter of Denial was not read.

Mr. DiBiasi said he received a call from the tenant who is seeking board approval is not feeling well enough to attend tonight’s meeting. He, therefore, requested that this matter be carried until the next schedule meeting on January 13, 2014.

A motion was made and seconded to carry this matter to January 13, 2014.

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Mr. DiBiasi advised the Board that there is an application being prepared for the January 13, 2014 meeting. Mr. Mecca is the applicant for the mixed-use project. The plans were approved by the construction department. Mr. DiBiasi said he is asking for a special meeting for Monday, January 27, 2014. If the Board can schedule that meeting, Mr. DiBiasi will have all his experts and move the application as quickly as possible. The idea is a mixed use and to have parking hidden at ground level behind retail stores and then 22 one-bedroom units designed so that there is no parking variance. It will look similar to the project that Mr. Mecca has on East Centre Street.

The Chairman asked Mr. DiBiasi is he is requesting a special meeting for an application they do not yet have. That is correct; but Mr. DiBiasi said he knows it is coming. The Chairman suggested Mr. DiBiasi have someone from his office come on January 13, 2014 and make the request at that time. Mr. DiBiasi said he will have his experts on-call for January 27. He asked if the reason he is being denied the request is that they have not filed yet. Would the board consider his representation from the construction department that the application . . . Mr. Demerjian said no.

No. 4 PATEL LAE a 22-foot driveway; bathroom in garage, converted living space

Applicant: Mr. & Mrs. Senhal Patel, 35 Nutley Avenue, Block /Lot / Zone: 5204 / 14 / R-1

Application: request for a permit, at 50 Glenview Avenue, to leave as erect, a 5.9-foot by 7.9-foot bathroom that was constructed in the existing garage, and convert in living space; and to leave as erected a 22’ driveway

Appearances: Senhal Patel; Raymond Mecca, 45 Glenview Road (sworn)

Letter of Denial was read by Mr. DaCosta Lobo.

- Chapter 700, Article XIII, Section 700-91 A of the Codes of Nutley requires two (2) parking spaces for a single family home; at least one must be in a garage.

- Chapter 700, Article XIII, Section 700-94 A (1) of the Codes of Nutley 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, except that motor vehicles may be parked upon a driveway in the front yard. The 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. The existing driveway is 22'.

Mr. Patel has been living in Nutley for about 10 years. He recently purchased this house from a bank. He bought this particular house because it has two bathrooms. The second bathroom in the house is why they are here tonight. It would be a hardship for the applicant to remove the offending bathroom. He also said he did not know there was a problem with the driveway until he submitted the application.

The chairman said this board bases its opinion and rules on hardships to the property and not the personal hardship of the homeowner.

Mr. Patel further stated that when he has guests, the guests would have to use the upstairs bathroom facility. This would be inconvenient for them to climb the stairs.

The chairman asked if the house is to remain owner occupied. It is. Where does the applicant park his cars? He parks in front of the garage.

Ms. Brown asked the applicant if he knew whether the former owners had a permit. He has no personal knowledge, but the code office said no. Ms. Brown grew up on this street. She said the houses were cookie cutters and every house had a 1/2 bath. She asked Mr. Patel if he wanted to convert the garage to something other than a garage or does he just not want to use it as such. He will use it for storage rather than to park his car, but the outside will not change. His main issue of that he does not want to lose the bathroom. Ms. Brown said there was already a 1/2 bath in the house when it was built; previous owners just decided to move it.

Mr. DaCosta Lobo said according to the sketch, the garage is 13 feet deep. The applicant could not store a car in there even if he wanted to. Mr. Patel agreed. Mr. DaCosta Lobo said it looks like on the picture submitted that a part of the car is parked partly in front of the door and the stairs. He is not a fan of that setup. He is ok about the pavers going all the way over to the front stairs, but is there some way to demarcate and keep the car from going in front of the stairs? Mr. Patel said the curb cut is only 10 feet. The previous owners widened the driveway, but not the curb cut. Mr. Patel asked if the board could grant him permission to increase the curb cut.

Mr. DaCosta Lobo does not like the fact that the cars can park so close to the front door. He would rather see a wider curb cut and have the driveway pulled back a bit, so cars will not park in front of the door and stairs. Mr. Demerjian

said the applicant is limited to a certain driveway width. Mr. Demerjian is looking at the fact that Mr. Patel bought an existing house in a short sale. This is what they are getting. They did not create this problem. They should do something to improve it. Mr. Patel said the width of the driveway is 22 feet. Mr. DaCosta Lobo said if the left hand side part of the driveway was cut off so parking was allowed, it would leave 19 feet. There should be some kind of curbing installed to prevent parking in front of the stairs. Mr. Demerjian is fine with the way it is.

The Chairman stated that there are two houses on Nutley Avenue that have converted garages into living spaces. In both cases, there is a barrier in front of the garage doors. He asked the applicant if he was changing the garage doors. He is not. The Chairman believes a barrier should be put in front of this garage door. Ms. McGovern said he would have to be able to use it to store the lawn mower and whatever held needs to be stored. The Chairman said that every house is supposed to have a garage. Ms. McGovern said this garage is too small for the applicant's car. Mr. Patel said he has a temporary CO based on the condition that he applies for a variance.

The Chairman said a barrier should be placed in front of the garage. Ms. Brown said he applicant wants a place to store his things. Ms. DaCosta Lobo said the barrier would look out of place. The chairman disagreed, saying that there are two on the street with barriers. Ms. Brown said they are not garages; Mr. Scudato said that does not make them wrong. His concern was the bathroom. Ms. Brown said the bathroom is 13 feet behind the garage door. The Chairman stated that it is his opinion that the garage door should have some sort of barrier in front of it to prevent anyone from driving into the garage through to the bathroom. Ms. Brown said that makes no sense, because if he had a car and was driving into the garage, there would be no barrier.

Raymond Mecca is confused about what the garage will be. Will there be a living space for one person, two people, or are they talking about a bathroom in the back that will be walled off from the garage and the garage will be used for storage. Ms. Brown asked he had an opportunity to see the submitted plans. He did not. Ms. Brown explained to Mr. Mecca that the garage is totally separate, there is a wall separating it from the bathroom. He just was not aware of the bathroom behind the garage. Mr. Marino said he believes it has been determined that the garage will be for storage only and not living space. Mr. Mecca said he does not understand why this matter is before the board. Ms. McGovern explained that the bathroom was installed without permits. Even though Mr. Patel bought the house with the bathroom, he still needed to have a permit. He is here to get permission to have the bathroom, so he does not have to tear it out.

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. Brown. Seconded by Mr. Marino. The variance was approved by a vote of 6-1.

Mr. Mecca asked what he needed to do now. Ms. McGovern said she will prepare a resolution, a written summary of what the board has decided here tonight.

Once the Board members approve the resolution at the January 2014 meeting, it will go to the code office and a copy will go to him for his permanent records. He may also have to fill out applications and pay for a permit and other fees that may be associated with the work that has already been done. His CO is expiring soon. Ms. McGovern said to call the code office the following afternoon and he will be advised as to what he has to do next about that.

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BUSINESS, MINUTES, INVOICES, LITIGATED MATTERS: None

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RESOLUTIONS: All Approved

- 57 Pake Street (Norton)
- 17 Edgewood Ave (Turi)
- 286 Vreeland Ave (Kane)
- 15 White Terrace (Solari)
- 53 San Antonio Ave (Nebesni)
- 21 Moore Place (Gianfrancesco)

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ADJOURNED: 8:00 p.m.

Respectfully submitted,

Marie L. Goworek

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