

NUTLEY ZONING BOARD OF ADJUSTMENT
Public Session Meeting Minutes
July 15, 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: None

EXCUSED: None

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No. 1 ROTA WITHDRAWN

Applicant: Mr. & Mrs. Carmen Rota, 74 Hastings Avenue, Block/Lot/Zone: 8103-3-R-1

Application: request for a permit to widen the existing 12' curb cut to 16' and to leave as erected the 22' non-conforming driveway which was increased for a total width of 25'.

Appearances:

Letter of Denial was not read.

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No. 2 GALOP DECK DENIED 7-0 FENCE/POOL APPROVED 7-0

Applicant: Ms. Virginia Jean Galop, 25 Moore Place, Block-Lot-Zone: 9202-1 R-2

Application: request for a permit, at the above referenced premises, to leave as erected, a 12' by 18' foot above ground pool, having a 4'2" rear yard setback and a 3'2" side yard setback, and approximately seven (7') from the main dwelling; pool equipment located 1'10" from the rear yard and 1'5" from the side yard; a second story deck (14' by 11'7") with a 16'8" rear yard setback, and a six (6') foot solid type fence in the side yard of the existing house (North side)

Appearances: Manny Grillo, 25 Moore Place (son-in-law) (sworn); Virginia Jean Galop

Exhibits: A1/A2 (photo of stockade fence)

Revised 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, require a 30' rear yard setback in an R-2 district.

Chapter 700, Article VIII, Section 700-46 B (4) (d) of the Codes of Nutley 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 required rear yard setback is 24', and 2nd story decks are prohibited.

Chapter 700, Article V, Section 700-9 D (2) of the Codes of Nutley states a pool shall be no closer than eight feet to any side or rear lot line; or nearer to the side street line of a corner lot than the main building on the lot; or if the abutting lot to the rear faces said street line, then the distance equal to the depth of the front yard required on said lot to the rear. However, in no case shall a swimming pool on a corner lot be required to be set back more than 25 feet from a side street. The existing pool setback is 4'2" and side yard 1'.5".

Chapter 700, Article XI, Section 700-67 C of the Codes of Nutley prohibits an accessory structure (pool) to be located within 10' of a main structure.

Chapter 700, Article V, Section 700-9 D (6) of the Codes of Nutley states all pumps, heaters and filtration systems shall be kept at a maximum distance from all property lines and shall be at least eight feet from any property line. The existing pool filter setback is 1'10" and the side yard setback is 3'2".

Chapter 700, Article XI, Section 700-71 B of the Codes of Nutley states that 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 feet in height and shall not be less than two feet in height and shall be of 50% open construction (i.e., the open spaces in the fence shall be at least the same width as the width of each picket, slat or other construction element of such fence). The setback for any such fence shall be in line with the furthest setback of the adjacent property or the property upon which the fence is being erected, whichever setback is greater. The existing fence is solid type in a side yard; consent from the adjacent property owners for the rear yard fence will be required.

Mr. Grillo said there was a stockade fence in place; but, because of Hurricane Irene, the already rotted fence came down. They were going to replace it with another wood stockade fence of the same height, but decided to go with a PVC because it would last longer. His late father-in-law had a recreational vehicle in the corner where the pool is now located. As to the deck, he said there is an existing 12'x12' overhang with a type of porch under it. In response to the chairman, Mr. Grill said he has lived in the house for 20 years.

Mr. O'Brien asked how wide the property is. Mr. Grillo said it is 50'x100'.

Mr. Scudato asked Mr. Grillo if he had with him a copy of the variance that was granted to the father-in-law. Mr. Scudato said the variance was granted, but misunderstood by the applicant. Mr. Grillo had a picture of the original stockade fence marked A-1.

Mrs. Galop said the original stockade fence was eight feet high. She got a variance for the PVC fence and lowered it to six feet. Ms. McGovern asked Mrs. Galop if the variance was for a white vinyl fence. Mrs. Galop said it was. In 1986 a variance was approved for the stockade fence. She then came back for a variance for the white vinyl fence.

Mr. O'Brien said there are multiple issue with the documents they are looking at. He is not clear how all of these things came to pass because they are not the same – the fence, the pool, the deck. He asked the applicant, if he were to make all of this code compliant, would he understand all that he has to do. Mr. O'Brien said of the Board did not approve to leave as erect, the applicant would have to take down the fence, take out the pool, take out the deck . . . His job as he sits on the board is to have these items meet the code or have a reason why not. He is struggling with finding "why not." The fence may have a history; the applicant explained the deck, but Mr. O'Brien is not sure that he fully understands the reason to leave it being that it is prohibited. The pool has issues with the proximity to other things. The yard seems large enough . . . The applicant said there isn't much yard. They discussed the deck. Mr. O'Brien asked if there was ever an issue with the building department regarding the deck. Mr. Grillo said there was not until recently. Mrs. Galop said she just got the variance for the front of the house. She said there was a guy there that she did not use; he told her she needed permits for several things. She said that is how all this came about; she didn't give him the job and this is what he did to her.

The Chairman said he is sure the applicant wants to do what is right. They need permits for all the items that are in violation of the building code. If the applicants have the paper work, it will be easy; if they don't, they need to ask for a variance. More than likely it will be granted, but there is no guarantee. The applicant said he is here tonight to get variances for the things they have done. The roof was existing, the fence was existing, they just replaced it. It is a matter of ignorance. Mrs. Galop said she knows she has a variance for the fence.

Ms. McGovern asked the applicant if, when she bought the property in 1965, was there already a stockade fence in place. Mrs. Galop said no, she had to put it up because she had a motor home. She received variance in 1986 for the motor home and to put up the stockade fence. She no longer has the motor home.

Mr. O'Brien asked if the motor home was parked where the pool is now situated and the applicant got a variance for the motor home to park there. So with the fence in place and having permission to put the motor home there, it was the assumption of the applicant that, without the motor home it was a great place to put a pool. Mr. Grillo said is the ideal spot for it.

Mr. Marion asked if the deck was built 5 years ago and if there were steps coming off the back. Yes.

Ms. McGovern enumerated the variances requested:

- 12'x18' above ground pool right where it is;
- Pool equipment located 1'10" from the rear yard and 1'5" from the side yard;
- a second story deck (14' by 11'7") with a 16'8" rear yard setback;
- and a six (6') foot solid type fence in the side yard of the existing house (north side)

With no further questions from the members and no one in the audience with questions or comments, the Chairman asked for a motion.

Mr. Demerjian said he had a problem with the fence, the pool, and the deck, but hif it came to taking down all three, he would say no. A six-foot high fence around the side yard is not necessary.

Mr. O'Brien doesn't see how the deck can be approved. He made a motion for the approval of the fence to stay erected and the location of the pool to be approved not only because the fence seems to be an existing condition. He does not think there is any detriment to the neighborhood and it likely does increase the use of the property without a detriment to the town's Master Plan. The location of the pool, although in violation of some setbacks, there is a solid fence. It does help the use of the yard, it is not favorable, but it is existing and he is inclined to accept the location of the pool and the equipment. There may be some restrictions a board member may want to put on that. Regarding the deck as built, Mr. O'Brien said he cannot find any mitigating circumstances to allow the board to approve a second story deck, which is prohibited; so for that reason, he suggests the board deny the deck.

The chairman said to make it clear, Mr. O'Brien made a motion for the approval of the fence and the pool and a denial for a second story deck.

A motion to grant the variance for the fence and the pool and to deny the deck was made by Mr. O'Brien and seconded by Mr. Graziano. The variance for the pool and the fence was granted by a vote of 7-0.

Ms. McGovern advised the applicants they have to take the deck down and explained what to do if they felt they wanted to appeal the denial of the deck.

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No. 3 ROMERO APPROVED 7-0

Applicant: Mr. Angel Romero, 550 Bloomfield Avenue, Block/Lot/Zone: 4904-13-R-1A

Application: request for a fence permit, at the above referenced premises, to install a four (4') solid fence in the side yard along Coeyman Avenue which is the front yard of an adjoining property along Coeyman Avenue

Appearances: Angel Romero (sworn); Jacqueline Romero (sworn)

Hardship: Corner lot

Letter of Denial was read by Mr. DaCosta Lobo

Chapter 700, Article XI, Section 700-71 A of the Codes of Nutley states no fences of any type shall be permitted in any front yard.

Chapter 700, Article XI, Section 700-71 D of the Codes of Nutley states a fence erected on any corner lot shall conform to the fence requirements for the adjoining properties. The proposed fence being installed on the Coeyman Avenue side will be installed in the front yard of an adjoining property on Coeyman Avenue.

Mr. Romero said he has two young children. He lives at the intersection of two busy streets. In the two years he has lived in this house, there have been at least three accidents. The property is completely open so the children cannot use the yard.

Ms. Brown said based on the survey provided with the yellow highlight, it appears that the Coeyman Avenue side, the fence will be set back a certain amount of feet from the property line. How many feet does the applicant plan on setting it back. Mr. Romero said he thinks 25 feet from the sidewalk. Ms. Brown wanted to know what the distance is between the property line and the highlighted line on the survey. He thinks its 10 feet from the sidewalk. Ms. Brown asked him if he was looking to put the fence 10 feet off the sidewalk. Mr. Romero said that was correct.

Mr. DaCosta Lobo said the yellow line is not drawn right on the property line, so Ms. Brown was trying to find the distance between the property line and how far back the applicant was going to put the fence. Mr. DaCosta Lobo pointed out the sidewalk and the path actually goes off the property into the right of way. So the closest he can put the fence is right on the line. Mr. Romero said, if he was allowed to put it right on the line, that is what he would like to do.

Mr. O'Brien asked if, instead of a solid fence, would he be agreeable with a partially open fence. He said when he went for the variance, he was told to ask for the max. Privacy fence or not a privacy fence, he would be happy with any fence. Mr. O'Brien explained that a front yard fence is not allowed because some people may think it is not a friendly condition; it doesn't make for a good neighborhood. In some cases it does warrant it. It is generally the consideration of the board that an open fence and a lower-open fence, if set back, with some shrubs in front of it would be more favorable. A solid fence right on the line, up-in-your-face is more aggressive and it is not desirable. This is kind of where this board goes in the way of fences.

Ms. Brown said she cannot add much to that, but that is exactly where she was going with her thoughts. She said the applicant should think about a 50% open fence, setting it back about five feet off the line, so there is plenty of room to plant shrubs. This is her recommendation.

Mr. and Mrs. Romero were not happy about the suggestions from the board. They feel they will have the privacy they need and desire. Ms. Brown said that is why the shrubs are suggested. Ms. Romero said then they would have to get a lot of plantings and they are expensive. So, what other kind of fence can they get?

The Chairman asked if they would have any objection to a white picket fence with open slats. Ms. Romero said there is no privacy with that type of fence. They really want more privacy. The Chairman said privacy does have its benefits and asked if the applicants ever considered the detriments? If there is ever an emergency, emergency personnel would not be able to see through it. The

After more discussion, Ms. Brown suggested a four-foot, 50% open fence, set four feet off the line, with suggested planting and shrubbery. The applicants asked for a five-foot 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. Brown for a four-foot 50% open fence. The fence will be placed as submitted on the survey submitted today, along the property line, parallel to Bloomfield Avenue; four feet off the Coeyman Ave. property line and it will return to the rear of the house. This is necessary because it is a corner property and it will provide safety. Mr. Marino seconded the motion. The variance was approved by a vote of 7-0.

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No. 4 TOWEY APPROVED 6-1

Applicant: Mr. & Mr. James Towey, 81 Povershon Rd, Block-Lot-Zone: 5600-2-R-1

Application: request for a permit, at the above referenced premises, to construct a 26' by 20' (520 sq. ft.) one (1) story addition at the rear of the property having a 22' rear yard setback nits

Appearances: James Towey (sworn)

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, requires a rear yard setback of 30' in an R-1 district. The purposed rear yard setback will be 22'.

Mr. Towey said he is looking to increase the space of his one family home. He has a small kitchen he would like to expand into a larger family room, improve the flow of the house for entertaining.

Mr. Pastore asked if the siding will match. It will. He asked if there will be any lighting outside. Mr. Towey said they might have an outdoor light on the porch area, but he does not have anything now.

Mr. O'Brien said the plans look very nice, but if the applicant were to stay within the codes, he would not be able to get near these dimensions. Mr. Towey agreed. The codes only give him 12 feet which limits what he is trying to accomplish. The position of the house on the lot limits the ability to do anything without a variance.

Ms. Brown asked Mr. Towey if he went out and tape off 22 feet in his yard to see what that feels like. It is actually really small. He said he has. Ms. Brown said she believes there is a happy medium here, the lot is four short. Would Mr. Towey consider reducing his addition by four feet to 16 feet vs. a 20-foot addition. Mr. Towey counted with and 18-foot addition. Ms. Brown repeated as to whether he would consider a 16-foot addition. He has looked at a number of different options and the 20-foot addition really gets him what he needs to get. He is not trying to be unreasonable, but he feels 16 feet would be limiting him.

Mr. O'Brien said it appears what he wants to do is nice. The home is going to be very nice. His opinion is if the addition was shortened, the interior rooms would not be as nice as the plan. Mr. Towey said the way the house is positioned on the property he believes, even with the addition, he is still within the coverage percentage. The set back is really the problem.

Mr. Graziano said the setback does not go all the way across the whole yard. It cuts off at maybe ¾ across. So, there is a 33'6" setback on one side. The setback is really 23 feet or 22 with the fireplace. Mr. Graziano doesn't see a problem with the sideline.

Mr. Demerjian said it may not be a problem for the applicant, but it may not work for the neighbors, projecting into the whole rear lot line across the neighborhood. He is really impacting everyone's yard. If he was the neighbor behind, he would want to know what the addition is so close to the property line. To him, 23 feet is very tight.

Mr. Towey said there are houses around him with additions that are visible and probably needed variances to be done. As far as the neighbor behind him, Mr. Towey has a high row of shrubs that provide a lot of privacy. They can't see the other house. Mr. Demerjian said he understands that, but if the board started allowing everyone variances, most people wouldn't have yards. He is looking at the scale of the other rooms in the house and says the addition is out of proportion. It appears that there is a lot of extra space for oversized furniture, but he feels the addition can go 18 feet without a problem.

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, as exists, and seconded by Mr. Pastore. The variance was granted by a vote of 6-1. Ms. Brown voted against the variance.

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No. 4 MANIERI APPROVED 7-0

Applicant: Mr. Robert Manieri, 21 Weston Street, Block-Lot-Zone: 6505-14 -R1

Application: request for a permit, at the above referenced premises, to widen the driveway and curb cut to 21' and have approximately 51% of front yard landscaping s one for each apartment as described in the 1991 Board of Adjustment resolution.

Appearances: Mrs. Manieri (sworn)

Letter of Denial was read by Mr. DaCosta Lobo.

Chapter 700, Article XIII, Section 700-94 A (1) and (3) (a) of the Codes of Nutley limits a driveway width to 16' and a maximum curb cut for a one car garage to 12' in width.

Chapter 700, Article VIII, Section 700-48 of the Codes of Nutley requires at least 60% of the front yard to be landscaped.

Mrs. Manieri said that the garage was too small for any of her family vehicles. It has been a bit of a challenge juggling trucks into a two-car driveway. Her husband is lucky enough to park halfway onto the gravel. It is an eyesore in the neighborhood. She doesn't like it and she is sure her neighbors don't like it either. She would like to pave the driveway and widen it and the apron.

Ms. Brown asked if the applicant was proposing to change the existing curb cut. She is and she would like to make it 21 feet from the current 16 feet to match the proposed 21-foot driveway. Ms. Brown asked if she really needed to have the curb cut extended to 21 feet. Mrs. Manieri said that people park right up to the driveway, it is difficult to maneuver out of the driveway. The street is very narrow and parking is allowed on both sides of the street adding to the difficulty of backing out of the driveway with little room to maneuver.

The Chairman asked which of the three vehicles cannot fit in the garage. Mrs. Manieri said all of them. When the garage was empty of storage it was tight getting the smallest vehicle in there. Now it is used only for storage.

Mr. O'Brien asked if this variance was granted, how many cars would the applicant be able to fit in the driveway at 20 feet wide. Mrs. Manieri said it would allow for four. Mr. O'Brien asked if the curb cut were not to change from the 16 feet it is now, would the applicant still be able to get the cars in and out on that. Mrs. Manieri said they would, but it is more challenging when people are parked in front of her house right up to the end of the curb. Mr. O'Brien said one of the considerations the board has to keeping curb cuts narrower is to allow more parking on the street. Mrs. Manieri understands, that is why she is here. She said there are business in the area and people park on her street because there is no parking on Park. She does have a pickup truck in her driveway, but it is not a commercial vehicle.

Mr. DaCosta Lobo noted that there are two spaces in front of the neighbor's property to the left. This is part of Mrs. Manieri's property. Mr. DaCosta Lobo said if the curb cut is widened from 16 to 21, you are taking away five feet; now there is not enough room for two cars to park on the street. Mrs. Manieri said two cars fit very comfortably and doesn't think the curb cut will affect it very much. Mr. DaCosta Lobo said parking lot parking spaces are nine feet wide two would be 18; would this be enough for her driveway instead of 21 feet? Mrs. Manieri said anything is better than the eyesore she has now. Mrs. Manieri said a big reason she is asking for a full 21 feet is because, on the right side of the driveway, when looking at the house, there is a small Belgium block retaining wall. They try to park a little further from it because the car hit it.

Mr. Graziano said there will be an extra three feet on the other side where they can park. The door clearance is on the side of the wall. On the opposite side there is no wall to hit. In a parking lot, you can't open your door fully and that is with 9 foot wide parking areas. Here the car on the left will be able to open fully with more space between the two cars.

Mr. O'Brien asked if a walkway could be put next to the driveway. Mrs. McGovern said the board would have to differentiate between the walkway and the driveway, i.e. Belgium block bur. She does not know what the lot coverage situation is, but it has to be a definite walkway and distinctly different from the driveway. Mr. O'Brien asked if that is needed to be a part of this variance. If the Board approved an 18-foot driveway, could the applicant then put a walkway next to it. Mrs. McGovern said it would depend on the lot coverage and the like. He asked Mrs. Manieri if she understood his thought process. She would have a piece of the property to the left of the driveway as a walkway. She said

it is an expense they would have to consider. Mr. O'Brien said the issue is that Nutley does not like to see a lot of pavement all over the front lawns.

With no further questions from the members and no one in the audience with questions or comments, Mr. O'Brien made a motion to grant the variance for an 18-foot driveway and curb cut, as discussed, stating that it will facilitate parking of additional vehicles and it will not be a detriment. Mr. Pastore seconded the motion. The variance was granted by a vote of 7-0.

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No. 5 LONG APPROVED LAE 7-0

Applicant: Mr. and Mrs. Long, 113 Pershing Avenue, Block-Lot-Zone:

Application: for a permit, at the above referenced premises, to leave as erected, approximately a five (5') foot by six (6') foot portico roof over the existing platform and steps having a nine (9') foot front yard setback.

Appearances: Louis Long (sworn)

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, requires a front yard setback of 25' in an R-1 zoning district. The existing front yard setback is approximately 14'.

Chapter 700, Article VIII, Section 700-46 B (4) (d) of the Codes of Nutley allows a six-foot (6') porch to encroach into a required 25-foot front yard setback. The proposed front yard setback will be nine feet (9').

The applicant stated on his application that there was an existing enclosed porch which was in disrepair and is being rebuilt within the same footprint with the addition of portico being the only change.

Mr. Long added that this is an entry to the front of the house.

Mr. Long responded to Mr. O'Brien's questions that he has lived at this address for 13 years and that he added the front step. He did not have a permit to build it. He did not; he didn't realize it would be encroaching on any setbacks. When he had his roof replaced, he had a portico built over the steps. Now he would like to have it approved.

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. Pastore. He said that it's there and it looks good. Mr. Graziano seconded the motion. The variance was granted by a vote of 7-0.

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No. 6 LEVIS APPROVED 7-0

Applicant: Mr. & Mrs. Levis, 37 Howard Place, Block/Lot/Zone: 5601-29-R1

Application: request for a permit, at the above referenced premises, to construct (2) unroofed decks, 10' X 31' and five (5') feet x 15' around the existing semi in-ground pool which will be attached to the existing 14' x 14' unroofed deck attached to the house, which increases the lot coverage to 40%, and having a rear yard setback of 11'.

Appearances: Mrs. Levis (sworn)

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 to be a part of the main building. The existing semi in-ground pool, the proposed deck and the existing deck shall be considered to be part of the building.

Chapter 700, Article VIII, Section 700-46 A of the Codes of Nutley; the "Schedule of Regulations as to Bulk, Height and Other Requirements;" requires a 30' rear yard setback to a main dwelling and lot coverage not to exceed 35% in an R-1 zoning district.

Mrs. Levis explained the fence that she was permitted last year is a lot nicer than the one she had sought a variance for, but it is a lot a work because nearly every weekend she has to clear out the brush that is growing through it. As to the pool that was installed last year, the back of it is sloped, but the front of the pool, facing the house, is very high. They cannot access the pool as they had expected to. She has not been able to find the type of ladder she needs, so the other only alternative is to have a deck.

Mr. O'Brien asked if the pool is in place now – it is. He asked if a permit was required for the pool – it was. So there the location of the pool is not an issue. Mr. O'Brien is a big fan of decks; he wants to deck half the world! The 10'x31' and the 5'x25' deck gives a wrap-around condition to the pool. He asked if it would be terrible if the deck wasn't 31 feet, if it was 10 feet by the width of the pool. He is just suggesting something that may be easier for the board to accept because there are issues of lot coverage and issues of setback in the rear. If the deck isn't going back any further . . . Mrs. Levis said it is just going from the existing deck to the pool. She said she is willing to compromise the right side. She said on the other side she is supposed to have a shed for the equipment. She did not ask for it in the application, but she is willing to compromise as to the 5'x15' portion of the deck, if the board will allow her to have a shed. Ms. McGovern said the board cannot consider this because the applicant needs to give notice to her neighbors and make notice in the newspapers. Also, the code official would have to review the application as to what variances might pop up.

Mr. Graziano said he is having a little trouble with the explanation for needing all this deck because she couldn't find a ladder. He thinks she could have gotten a little platform into the pool. She is aware that anything can be built for access to the pool, but she thought that the deck would look better. Mr. Graziano understands how the deck makes a nice idea to get in and out of the pool, but he thinks one section of the deck is more than adequate.

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. O'Brien. He stated that the revised deck size would be between the existing deck and the pool, the approximate size of the new deck to be 10'x26'. He thinks that is a reasonable compromise and it allows for good use of the backyard and access to the pool. It reduces the lot coverage close to what is allowed without doing more formal calculations. Mr., Graziano seconded the motion. The variance was granted by a vote of 7-0.

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No. 8 MERCADO APPROVED 7-0

Applicant: Mr. & Mrs. Abner Mercado, 49 Montclair Avenue, Block/Lot/Zone: 5304-2-R1

Application: request for a permit at the above referenced premises, to install a 12' x 17' above ground pool in the rear yard as shown on the survey dated June 6, 2011

Appearances: Abner Mercado (sworn)

Letter of Denial was read by Mr. DaCosta Lobo.

Chapter 700, Article XI, Section 700-67 A of the Codes of Nutley states detached accessory building may occupy in the aggregate an area not to exceed 30% of the area of any rear yard. The rear yard has an area of 1,120 square feet. The pool is 204 sf. plus the

garage of 216 sf. for a total of 420 sf. The rear yard has coverage of 37.5 sf. The maximum permitted is 30 sf.

Chapter 700, Article V, Section 700-9 D (2) of the Codes of Nutley states a pool shall be no closer than eight feet to any side or rear lot line. The proposed 12'x 17'x52' above ground pool will have a six (6') foot side yard setback and a six (6') foot rear yard setback.

In his application, Mr. Mercado stated that he has an undersized lot. He addressed the board stating that he would like to install a pool for his family's use.

Mr. O'Brien asked if he owns this pool already or does he intend to buy it. He has already purchased it to Tucci. He said Tucci drew the plans and made the mistake of drawing it bigger than it is. A smaller pool would be just like a bathtub. If he cannot have this pool, he would rather not have one. He said this is a decent size pool. He said the back of his yard is Hoffman LaRoche, so there is nothing back there at all. Mr. O'Brien asked then, with the pool supplier, that the applicant sized the pool to fit into the small area. The applicant said yes, it is the appropriate size for the back yard.

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 and seconded by Mr. Pastore. The variance was granted by a vote of 7-0.

Mr. Mercado thanked the Board and asked when he might get the permit. Ms. McGovern said technically, the applicant would need to wait until the resolution is approved at the next meeting, which isn't until August 19. She told the applicant to call the code office the next day and she will try her best to get the resolution to them very soon, and if the code office so chooses, they will issue the permit based up on the resolution submitted.

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BUSINESS, INVOICES, LITIGATED MATTERS: None

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RESOLUTIONS:

- 4 Hudson Street (Isreal)
- 5 White Terrace (Marinelli)
- 22 Laura Ave (Navin)
- 26 Franklin Ave (Burbank)
- 64-66 Franklin Ave (RJC 64 Realty)
- 150 Washington Ave (Raceway Gas)
- 165 Raymond Ave (Meisch)

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ADJOURNED: 9:19 p.m.

Respectfully submitted,

Marie L. Goworek