

Nutley Board of Adjustment
August 17, 2009
Meeting Minutes – Public Session

CALL TO ORDER: A meeting of the Nutley Zoning Board of Adjustment was called to order at 7:46:50 p.m. by Chairman Scrudato. The Pledge of Allegiance was recited. Roll was called and the “Sunshine Act” notice was read.

PRESENT: Robert Beck, Suzanne Brown, Thomas DaCosta Lobo, Frank Graziano, Michael Naughton, Ralph Pastore, Paul Scrudato, Chairman, and Diana McGovern, Board Attorney

ABSENT/EXCUSED: John Halligan, Diana Petolino, Thomas O’Brien

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No. 1 DePRIMIO APPROVED 7-0

Applicant: Mr. and Mrs. Anthony and Alicia DePrimio, 17 Denver Street, Block 8105, Lot 4, Zone R-1

Application: to erect a five-foot solid fence, in the front and left side yards of the main structure.

Appearances: applicants (both sworn)

Hardship: Corner lot

Letter of denial was read by Mr. Da Costa Lobo. Codes of Nutley states no fences of any type shall be permitted in any front yard; no fences erected along 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 be of 50% open construction.

Mrs. DiPrimio said she spoke with the neighbor behind her property. The woman wrote a letter stating that she was not against the DiPrimios removing the existing fence and replacing it with one of their own.

Mr. Graziano noted that the application is for a five-foot solid fence with a one-foot lattice and the letter of denial says five-feet. Is the applicant looking for a five-foot plus the one-foot? Mrs. DiPrimio said they are requesting a total six-foot fence.

Mr. Da Costa Lobo asked if the applicants had a letter of consent from the next-door neighbor. Mrs. DePrimio said they did not get one, but Mrs. DePrimio said the neighbor was not opposed to it.

The Chairman asked why the applicants wanted a solid fence. Mrs. DePrimio said they liked the look of it. They want to create security. He asked if the applicants would be open to having a 50% open fence and then planting shrubbery in front of it. Mr. DePrimio prefers the idea of a solid fence, but they do not object to the Chairman’s suggestion. He said that sometimes traffic at the two corners can be dangerous and they are concerned about the safety of any children they may have in the future.

Ms. Brown suggested instead of going with a six-foot, 50% open fence, would the DePrimio’s consider five-foot total (four-foot solid with one-foot lattice)? Mr. DePrimio does not have a problem with that, but would probably opt for the lower five-foot in front of the house and the

sides being a little longer. Ms. Brown thinks it would look better the same all the way around. Mr. DePrimio said that would not be a problem.

Mr. Naughton asked what kind of fence is between the properties now. Four foot chain-link. Mr., Naughton said there aren't too many fences on that block and the surrounding neighborhood. Speaking for himself, he said they want to make the house fit in as opposed to being unique and having a front yard fence. He is glad the Chairman brought up the 50% open and that the applicants are flexible because he does understand the need for a fence.

Ms. Brown thinks that the applicants should consider putting landscaping in front of the fence on the Denver Street side facing the street. She said it would soften the whole look of the fence. Would they be open to that idea? Mr. DePrimio does not have a problem with that; but they are looking at a vinyl fence because there is less maintenance for them. They would incur more cost to clean up the trees and landscaping. Mrs. Brown said the landscaping is not that big a deal; the applicants can plant some nice skip laurels and water them for the first year and then they are fine – nothing has to be done with them again.

Mr. Graziano asked what they were going with – a six-foot or a five-foot in the back, five-foot all around . . . ? Five foot all around, four-foot with a one-foot lattice? The applicants are requesting a five-foot solid overall (four foot with one).

With no further questions from the Board members and no one else in the audience having questions or comments, Mr. Graziano made a motion to grant the variance for a five-foot overall PVC fence with a one-foot lattice top with shrubbery along the front yard fence.

Before the Chairman asked for a second, he asked the applicants if it was acceptable to them to add shrubbery along the front-yard fence. The applicants agreed that it was acceptable. Seconded by Mr. Da Costa Lobo. Approved 7-0.

The applicants asked what they needed to do next. Ms. McGovern said that after tonight's meeting she will type up the resolution. At the next meeting _ September 21 – the resolution will be introduced to the Board to be memorialized. The following day the memorialization will be brought to the code office and the applicants can make a request for a permit at that time. She will also mail a copy of the resolution to the applicants once it has been memorialized.

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MEMORIALIZATIONS/MINUTES: 625 Passaic Avenue; 324 High Street; 507 Franklin Avenue; One Blair Road; 46 Mapes Avenue; 39 Orchard Street; 49 Chase Street; 476 Harrison Street; 44 Sylvan Street. All moved and approved by the appropriate members.

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BUSINESS: The Chairman asked if any member had suggestions to speak of that may improve the way the Board works here; does anyone have a problem with anything; or just generally a comment about the Board's operation. The problem with the microphones was mentioned.

Mr. Naughton said many of the applications that come before the Board are for fences. He said as a Board, they are always trying to determine what the appropriate action should be. He said they do not want to be arbitrary in their decision. However, he said, from one application to the next, there are similarities. Sometimes there are unique instances. It is hard to find a consensus on the Board. Maybe they like half the application; some members have ideas and other members have different ideas. He thought maybe the Board could use more discussion to reach a settlement or is it just purely one vote versus the other.

The Chairman said this was a good point. Each application that comes before the Board has to stand on its own. There are no two applications that are identical. He understands, that, historically, as to the fence applications, the commissioners were the only ones who could issue them. They must have experienced the same thing this Board is going through; some people like them, some do not (he said he was not going to say where he stands). Mr. Beck had some comments, but they were not picked up on the recorder). He gave a little background on the fences. The Planning Board spent nearly eight years revamping the zoning ordinance, devoting a lot of time on fences. The issue of fences has been discussed at the joint meeting between the Planning Board and the Board of Adjustment. There is an inordinate amount of time spent on the matter of fences. One problem is corner fences. Hours were spent trying to come up with something, but it really depends on the situation of the house on the property; how much traffic is on one street and then the other; the line of sight; etc. The Board of Adjustment was charged with the duty of determining each case on its own merit and make allowances where the Board felt they should be done in the various cases.

The Chairman said fences have always been and always will be a problem.

Mrs. McGovern advised the Board that Mr. Carrino has decided to erect a 50% open fence and skip the whole of idea of going with the Board's conditions. Mr. Carrino is being faced with an application before the court from the plaintiff for reimbursement of costs (about \$5,000 or \$6,000. It was dismissed against the town.

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LITIGATION: There were no litigated matters to be discussed.

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ADJOURNMENT: Mr. Graziano made a motion to adjourn at 8:10:35 p.m.

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Respectfully submitted,

Marie L. Goworek
Recording Secretary - ZBA