

**Nutley Board of Adjustment  
November 17, 2008  
Meeting Minutes**

**CALL TO ORDER:** A meeting of the Nutley Zoning Board of Adjustment was called to order at 7:39.45 by Chairman Scudato. 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, John Halligan, Michael Naughton, Ralph Pastore, Diana Petolino, Paul Scudato, Chairman and Diana McGovern, Board Attorney

**ABSENT/EXCUSED:** None.

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**APPLICATIONS:** None.

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**MEMORIALIZATIONS/MINUTES:** the following memorializations were accepted and approved:

- 141 Spatz Avenue
- 234 Harrison Street
- 31 White Terrace
- 26 North Road
- 103 Chestnut Street

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**BUSINESS:** The Chairman stated that he heard that the application for Major League Carwash was not going forward. He suggested that the matter be dismissed with prejudice for lack of prosecution. He asked the Board for their thoughts or a motion. Ms. McGovern explained that to do something with prejudice they should really advise the applicant's attorney in order that he may let his client know. The Chairman then asked for a motion to dismiss for lack of prosecution. All in favor.

The Chairman reminded the Board of a variance that was granted in July of last year (the applicant wants to change the front of the home and decrease the set back by one foot). He noted that the members are aware that the Governor signed a moratorium on a one-year time frame - one has to proceed with the building permit within one year. The applicant is within her rights. Ms. McGovern said this house and the others on Lakeside Drive are all typically short in the front and short on the side. Mr. Pastore said the house is conformance with the others in the area. Mr. Beck said the resolution specially says one of the reasons the variance was granted was that the addition would not be increasing the pre-existing setbacks; they are there already. Now, the applicant wants to move it up. When it was granted, it wasn't going to affect the setbacks. He said it is not obvious tonight what the setbacks are. Ms. Petolino thinks there should be another hearing. Mr. Beck isn't sure that one foot is *de minimus*. He said he doesn't know if the set back in the neighborhood is 25 feet and the house is set back 12 feet.

The Chairman asked for a motion, if the board agrees, to have the applicant re-notice and resubmit to the building department for a new permit. Mr. Pastore suggested that, before the Board does this, he could look at the house and the existing setback and how it conforms with the rest of the neighborhood. He will advise the Board at the next meeting of his observations. Ms. McGovern suggested the Board have the applicant amend the original variance. The applicant would have to notify the neighbors that the applicant will come before this Board again for clarification.

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**LITIGATION:** See separate minutes.

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**ADJOURNMENT:** Public session concluded at 7:54:16

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Respectfully submitted,