

NUTLEY ZONING BOARD OF ADJUSTMENT

Public Session Meeting Minutes

December 12, 2016

CALL TO ORDER: A meeting of the Nutley Zoning Board of Adjustment was called to order at approximately 7:30 p.m. by Chairman Frank Graziano. The Pledge of Allegiance was recited. Roll was called and the Sunshine Notice was read.

PRESENT: Joseph Frusteri, Daniel Tolve, Lori Castro, Peter Sirica, Lou Fusaro, Mary Ryder, Gary Marino, Tom DaCosta Lobo, Suzanne Brown, Chairman Graziano and Board attorney, Diana McGovern, Esq.

ABSENT: None

EXCUSED: None

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No. 190 Msg. Blake Plaza CONTINUED TO NEXT MEETING

Applicant: Ms. Karen Yeamans, Nutley Public Schools, 315 Franklin Avenue

Appearances: Thomas DiBiasi, Esq.

Letter of Denial: was not read

Thomas DiBiasi, Esq., testified that they wished to continue this matter to the next Zoning Board meeting because they are attempting to find another location for the school buses.

With no further questions from the members and no one in the audience with questions or comments, a motion to continue this application to the next meeting on January 23, 2017, was granted.

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No. 3345 Centre Street CONTINUED TO NEXT MEETING

Applicant: Mr. Thomas DiBiasi, Esq. , 345 Centre Street, Block-Lot: 7800-1,2,3 & 25

Application: to build a three (3) story mixed use building consisting of the 1st floor/ground level, 1,200 SF of retail space, 948 SF mechanical room and lobby area, and a parking area, the 2nd floor with 11 one (1) bedroom units, and the 3rd floor with 11 one (1) bedroom units for a total of 22 one (1) bedroom units, as shown the plans prepared by Dassa-Haines, Architectural Group LLC, dated August 15, 2016,

Appearances: Mr. Thomas DiBiasi, Esq., Paul Bauman, Joseph Staiger, Joseph Haines, Karen Cucci, Micheal Beck, Diane Cibilli, Joseph Cucci, Penny Landry

Letter of Denial: was read by Mr. Tom DaCosta Lobo

These properties are located in the following zoning districts as shown on the Nutley Zoning Map:

<u>Block/Lot</u>	<u>Zoning District</u>
7800/1, 2, & 25	B-2
7800/3	R-2

Chapter 700, Article V, Section 700-12 of the Codes of Nutley, list the permitted uses in a R-2 zoning district. Residential above business is not listed as a permitted use.

Chapter 700, Article VIII, Section 700-46 of the Codes of Nutley entitled "The Schedule of Regulations" requires the following in an B-2 zoning district for residential above business:

	<u>Required</u>	<u>Proposed</u>
Stories	2	3
Height	25'	34'6"
Lot Coverage	45%	59.8%

Chapter 700, Article XIII, Section 700-94 A (3) of the Codes of Nutley states each property shall not have more than one driveway and one curb cut.

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Proposed Mixed Use Building/Corner Property
Centre Street & Bloomfield Avenue
Block-Lot: 7800/1, 2, 3, & 25

Chapter 700, Article XIII, Section 700-94 A (3) (b) of the Codes of Nutley states curb cuts in all other districts shall not exceed 20 feet in length. **Proposed curb cuts are 24' each.**

Chapter 600, Section 600-1 of the Codes of Nutley requires site plan review, see attached site plan checklist which will indicate all required information to be required on the site plan for review.

With no further questions from the members and no one in the audience with questions or comments, a motion to continue this application to the next meeting on January 23, 2017, was granted.

Ms. Mary Ryder recused herself from this matter. Architect Joseph Haines testified to the board that he went back to the drawing board on this project. He stated that he relocated the trash area, which created another parking space (40 in total), as well as pushed the second floor walls in. Mr. Haines explained that there would no longer be any units over 1000 square feet. He also stated that he put more residential characteristics into the property, including stone, brick, and stucco. Exhibit A5 is the view of the property from Bloomfield Avenue, showing one story roof with screened in parking. Exhibit A3 was the building setback of 10-12 feet to allow for landscaping, which he felt would enhance the look of the neighborhood. Neighbors Karen and Joseph Cucci,

40 Ackerman Street, Michael Beck, 32 Ackerman Street, Diane Cibilli, and Penny Landry, 135 Lake Drive, all testified before the board with their concerns regarding height, lot coverage, garbage pickups. Expert Planner Paul Bauman discussed variances and stated that he felt they permit general welfare. He stated that they will improve public safety by reducing the number of driveways from 4 to 2, as well as meeting all the required setbacks. Ms. Suzanne Brown asked Mr. Bauman if they should have a loading zone, to which he responded that traffic expert would discuss that issue. Mr. Gary Marino asked the expert planner if he felt one bedroom apartments were needed in the community. Mr. Bauman responded that there were similar apartment communities in the town, and the height of the application was not out of character for the town. Mr. Bauman stated that he felt the benefits of this application outweighed the detriments. It was also discussed that 4 of the units would be Affordable Housing. Mr. Bauman stated that the variances would satisfy the criteria under the statute for improving general welfare.

With no further questions from the members and no one in the audience with questions or comments, a motion to continue this application to the next meeting on January 23, 2017, was granted.

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No. 3 434-438 Centre Street CONTINUED TO NEXT MEETING

Applicant: Mr. Thomas DiBiasi, Esq.

Appearances: Thomas DiBiasi, Esq.

Letter of Denial: was not read

Thomas DiBiasi, Esq., testified that they wished to continue this matter to the next Zoning Board meeting.

With no further questions from the members and no one in the audience with questions or comments, a motion to continue this application to the next meeting on January 23, 2017, was granted.

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No. 4 11 Cathedral Avenue APPROVED 7-0

Applicant: Mr. William Alegieri, 11 Cathedral Avenue, Block-Lot: 300-54

Application: To install a six (6') foot solid type fence located in the North side, side yard, and a four (4') open picket in a portion of the front yard, North side line, as shown on the survey dated November 22, 1993 prepared by Shepard and Shepard, Inc.;

Appearances: Mr. William Algieri

Letter of Denial: was read by Mr. Tom DaCosta Lobo

AND the Code Official having denied said permit by letter dated October 11, 2016, citing Chapter 700, Article XI, Section 700-71 A of the *Codes Nutley* which prohibits front yard fences,

and also citing Chapter 700, Article XI, Section 700-71 B of the *Codes 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 feet in height and shall be not 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 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;

Applicant William Algieri testified to the board that he wished to install a side yard fence on his property. He introduced Exhibits A1 and A2, which were pictures of the neighbor's property. He stated that he wanted a solid 6 foot fence that would be 32 feet long. Mr. Algieri explained that the fence would not go in front of his home and will not block any vision.

With no further questions from the members and no one in the audience with questions or comments, a motion to grant this application was made by Mr. Gary Marino, seconded by Mr. Lou Fusaro.

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No. 5 384 Bloomfield Avenue APPROVED 7-0

Applicant: Mr. George Ghour, 384 Bloomfield Avenue, Block-Lot: 5702-2

Application: To install a six (6) foot solid type fence in the rear yard and side yard which is in a portion of a front yard of the adjoining property along Valley Road as shown on the survey prepared by Eric P. Silvestro, PLS, dated July 18, 2016.;

Appearances: George Ghour, Tara McCormack

Letter of Denial: was read by Mr. Tom DaCosta Lobo

AND the Code Official having denied said permit by letter dated October 17, 2016, citing Chapter 700, Article XI, Section 700-71 A of the *Codes of Nutley* which states no fence of any type in any front yard shall be permitted, and also citing

Chapter 700, Article XI, Section 700-71 B of the *Codes of Nutley* which states any 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 be not 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 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, and also citing

Chapter 700, Article XI, Section 700-71 D of the *Codes of Nutley* which states a fence erected on any corner lot shall conform to the fence requirements for the adjoining properties. *The proposed six (6') foot solid type fence in the rear yard which is in a portion of a front yard of the adjoining property along Valley Road;*

Applicant George Gouhr testified to the board that he had purchased this home and now he needs to move to Florida. He stated that he would like to install a fence for either the next home owner, or himself, depending on the moving situation. Ms. Suzanne Brown requested a 4 foot picket fence. Which would be 50 percent open. Neighbor Tara McCormack explained to the board that she felt her home might look weird with the fence. Mr. Gary Marino asked Ms. McCormack if she would feel more comfortable with a picket fence. She said that would make her more comfortable.

With no further questions from the members and no one in the audience with questions or comments, a motion to grant this application was made by Mr. Tom DaCosta Lobo, seconded by Mr. Lou Fusaro.

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RESOLUTIONS MEMORIALIZED: 115 Raymond Avenue

MINUTES: November 14, 2016 minutes approved.

INVOICES: None

NEW BUSINESS: None

LITIGATED MATTERS: None

NOTE: THE PROCEEDINGS IN THIS MATTER WERE VOICE RECORDED. THE RECITAL OF FACTS IN THE MINUTES IS NOT INTENDED TO BE ALL-INCLUSIVE, BUT IS A SUMMARY AND HIGHLIGHT OF THE COMPLETE RECORD MADE BEFORE THE ZONING BOARD.

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Respectfully submitted,

Anjelica L. Mitchell

Minutes Approved

Anjelica L. Mitchell 1/23/17