

Approved 11/16/2015  
[Signature]

**NUTLEY ZONING BOARD OF ADJUSTMENT**

**Public Session Meeting Minutes**

**October 19, 2015**

**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:** Suzanne Brown, Peter Sirica, Gary Marino, Chairman Graziano, Mary Ryder, Lori Castro, Diana McGovern, Esq.

**ABSENT:** Serje Demerjian

**EXCUSED:** Lou Fusaro, Tom DaCosta Lobo

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**No. 1 301 Harrison Street APPROVED 6-0**

**Applicant:** Nutley Board of Education, 301 Harrison Street, Block-Lot: 8901-1

**Application:** To install a six (6') foot wide by six (6') foot high, 36 square feet one sided ground sign located in the front yard of Lincoln School on Harrison Street, as shown on the tax map and rendering submitted;

**Appearances:** Thomas DiBiasi, Esq., Loraine Restel

**Letter of Denial** was read by Ms. Mary Ryder

Citing Chapter 700, Article XII, Section 700-78 D of the *Codes of Nutley* which states one bulletin board sign not exceeding 12 square feet in surface display area shall be permitted for a house of worship or private, public and parochial schools, provided that, if not attached to the facade of the building, it shall be located no closer than 10 feet to the street line and not exceeding five feet in height. Such signs may be illuminated by direct exterior lighting, provided that the latter is so screened that light is not directed or reflected toward any adjacent residence or street. The proposed sign is 36 square feet and exceeds the maximum height of five (5') feet;

Mr. Thomas DiBiasi, Esq. made his opening remarks to the board members, stating he was representing the Nutley Board of Education. Mr. DiBiasi, Esq. introduced the principal of Lincoln School, Ms. Loraine Restel. Ms. Restel testified before the board that the sign, which used to be in front of Lincoln School, had recently broken. Ms. Restel stated that the sign was necessary to let the parents know about current events. Exhibit A1 was introduced to the board, which was a

picture of the proposed sign. Ms. Restel described how she had picked out a new LED sign and how the PTO had raised \$10,000 for the new sign. Ms. Restel also described the sign as 6 feet across and sitting up on a pedestal. She testified to the board that the sign would come equipped with a lighting system, where the lighting would change depending on the lightness of the day. Ms. Restel stated that the sign could be turned on and off, describing this as a public benefit. Mr. Gary Marino asked what hours the sign would be turned on for. Ms. Restel responded that it would be lit before school started and would remain on until all after school functions are over. Ms. Diana McGovern asked what the sign would say when it was turned off. Ms. Restel responded that it would simply say, "Lincoln School." The board members set a condition of the new sign to be turned on at 6 am and turned off at 11 pm.

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. Gary Marino, seconded by Ms. Suzanne Brown. The variance was granted by a vote of 6-0.

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**No. 2 155 Washington Avenue APPROVED 6-0**

**Applicant:** Nutley Board of Education, Block-Lot: 6900-1

**Application:** To install a six (6') foot wide by six (6') feet five high, 34.75 square feet one sided ground sign located in the front yard of Washington Avenue, as shown on the tax map and rendering submitted

**Appearances:** Thomas DiBiasi, Douglass Jones

**Letter of Denial** was read by Ms. Mary Ryder.

Citing Chapter 700, Article XII, Section 700-78 D of the *Codes of Nutley* which states one bulletin board sign not exceeding 12 square feet in surface display area shall be permitted for a house of worship or private, public and parochial schools, provided that, if not attached to the facade of the building, it shall be located no closer than 10 feet to the street line and not exceeding five feet in height. Such signs may be illuminated by direct exterior lighting, provided that the latter is so screened that light is not directed or reflected toward any adjacent residence or street. The proposed sign is 34.75 square feet and exceeds the maximum height of five (5') feet;

Mr. Thomas DiBiasi, Esq. made his opening remarks to the board members, stating he was representing the Nutley Board of Education. Mr. DiBiasi, Esq. introduced the principal of Washington School, Mr. Douglas Jones. Mr. Jones testified to the board that there was little representation around Washington School, stating that it was in fact, a school. He told the board that the PTO raised the money for the proposed sign because the organization also agreed the school needed a sign. Mr. Jones stated that the sign would read "Washington School" in white. He testified that the sign would be controlled remotely. Mr. Jones testified that he wished for the sign to be lit from 6 am until 11 pm. He described the sign as having 2 circuits and 642 watts, and stated that he contacted the same sign company as Lincoln School principal, Ms. Loraine Restel, which led to the larger sign. Mr. Jones stated that he relied on the sign company to take

care of measurements. Ms. Mary Ryder asked Mr. Jones why the sign was not placed in the corner of the school. Mr. Jones responded that he was concerned about safety near the cross walk.

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. Suzanne Brown, seconded by Mr. Gary Marino. The variance was granted by a vote of 6-0.

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**No. 3 534 Prospect Street APPROVED 5-1**

**Applicant:** Mr. Christian Sebek, 534 Prospect Street, Block-Lot: 4500-15

**Application:** To convert the existing one (1) car garage into living space, to construct a 32' wide curb cut and driveway located in the side yard on a corner property (side street), which will be in front of the dwelling, to install four (4') foot privacy gate and a four (4') foot 50% open type fence in the side yard of a corner property which is in a front yard of the adjacent property along Vreeland Avenue, to install a six (6') solid type fence in between dwellings in the side yard, and to install an 10' by 12' shed in the same yard with a zero side yard setback, as shown on the survey prepared by Mid Atlantic Land Services, dated June 5, 1997;

**Appearances:** Christian Sebek

**Letter of Denial:** was read by Ms. Mary Ryder.

Citing Chapter 700, Article V, Section 700-9 A of the *Codes of Nutley* which states a single-family dwelling not to exceed one dwelling unit on each lot. No other principal use is permitted on the same lot with a single-family dwelling. Each single-family dwelling shall have two parking spaces, at least one of which is in a garage, and also citing

Chapter 700 Article XIII, Section 700-94 A (2) of the *Codes of Nutley* which states a driveway shall consist of the area directly opposite and adjacent to an attached garage, detached garage or depressed garage or the extension of the rear yard into the side yard which abuts a street. However, if there is no garage and no available rear yard, a driveway not to exceed 16' in width from the rear lot line may be constructed. By converting the garage into living space, this eliminates the garage and puts the location of the driveway in an area not permitted, also the max width for a driveway and curb cut is 16'. The proposed width is 32', and also citing

Chapter 700, Article III, Section 700-3 of the *Code of Nutley* entitled "Definitions" which states a Parking Space is an off-street space available for the parking of one motor vehicle and having minimum dimensions of nine feet in width and 18 feet in length, exclusive of passageways and driveways appurtenant thereto and giving access thereto, and having direct usable access to a street. The proposed parking space on the property is 11.4' to the property line; therefore the remainder is on the township right of way, and also citing

Chapter 700, Article XIII, Section 700-94 A (1) (3) of the *Codes of Nutley* which limits curb cuts in an R-1 A zoning districts to 16' in length, and also citing

Chapter 700, Article XI, Section 700-67 A of the *Codes of Nutley* which states a detached accessory buildings and accessory uses may occupy in the aggregate an area not to exceed 30% of the area of any rear yard. The height of a detached accessory building shall be one story not to exceed 14 feet. The proposed shed will be installed in the front yard of the adjoining properties along Vreeland Avenue, and also citing

Chapter 700, Article XI, Section 700-71 A of the *Codes of Nutley* which prohibits fences of any type in any front yard, 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, and finally 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;

Applicant, Mr. Christian Sebek testified before the board that his mother had been diagnosed with Alzheimer's Disease and he wished to his garage into a room for her special needs as it would be ground level with direct access without steps. He stated that he was concerned about her wandering off the property, which is why he also wanted a fence. Mr. Sebek introduced Exhibits A1, A2, and A3, which were pictures of the property. Ms. Mary Ryder asked the applicant to elaborate on the garage. Mr. Sebek described it as having no shower. Chairman Graziano asked the applicant if he considered adding an addition to the home. Mr. Sebek responded that he had considered it, but the cost factor pushed him to look at the garage option. Ms. Suzanne Brown stated that the hardship of the property was that it was a corner lot, however she was concerned that 32 feet seemed excessive. Chairman Graziano asked the applicant if there would be a buffer between the driveway and the home. Mr. Sebek responded that there was a brick wall around the foundation. Chairman Graziano was curious as to what type of fence the applicant wished to use. Mr. Sebek responded that it would be part solid and part solid with lattice on the top. The board members concluded that a 27 foot curb cut would be a condition on this application.

With no further questions from the members and no one in the audience with questions or comments, a motion to grant the continuance was made by Mr. Gary Marino, seconded by Ms. Mary Ryder. The variance was granted by a vote of 5-1.

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**No. 4 155 Hillside Avenue APPROVED 6-0**

**Applicant:** Mr. Timothy Warke, 155 Hillside Avenue, Block-Lot: 3002-27

**Application:** To install a 15' X 30' semi in-ground pool located in the rear and side yard of a corner property which is located in the front yard of the adjoining property along Vreeland Avenue, having an eight (8') foot rear yard setback and a 15' setback to the side line street side,

and to install a six (6') solid type fence in the side and rear yard of a corner property which is in the front yard of the adjoining property on Vreeland Avenue, as shown on the survey prepared by Richard S. Hingos dated March 22, 2013;

**Appearances:** Timothy Warke, Lori Fau

**Letter of Denial** was read by Ms. Mary Ryder.

Citing Chapter 700, Article V, Section 700-9 D (2) of the *Codes of Nutley* which states the 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 proposed semi in-ground pool is located in the front yard of the adjoining property, and has an eight (8') foot rear yard setback and a 15' side yard setback to Vreeland Avenue, and also citing

Chapter 700, Article XI, Section 700-67 A of the *Codes of Nutley* which states a detached accessory buildings and accessory uses may occupy in the aggregate an area not to exceed 30% of the area of any rear yard. The height of a detached accessory building shall be one story not to exceed 14 feet. The proposed semi in-ground pool is located in the side and rear yard, and also citing

Chapter 700, Article XI, Section 700-71 A of the *Codes of Nutley* which prohibits fences of any type in any front yard, 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;

Applicant, Mr. Timothy Warke testified to the board that his backyard was very narrow and was on a slope. He stated that he needed an additional 15 feet to have what he described as a "functional" pool and yard. The applicant stated that the pool would be 15 feet from the property line. Chairman Graziano asked the applicant where the filter for the pool would be placed. Mr. Warke stated that it would go behind the pool. Chairman Graziano asked the applicant if it was possible to move the pump away from the street. The applicant responded that that would be possible. Ms. Suzanne Brown asked the applicant if he would consider a 4 foot fence with 1 foot of lattice. Mr. Warke agreed to the fence and also agreed that the pump would be placed on the side of the pool.

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. Mary Ryder, seconded by Mr. Gary Marino. The variance was granted by a vote of 7-0

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**BUSINESS:**

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**RESOLUTIONS MEMORIALIZED:**

361 Harrison Street

104 Stanley Avenue

601 Prospect Street

37 Highland Avenue

**MINUTES:**

September 21, 2015 minutes approved

**INVOICES:**

\$250.00 refund was approved.

**LITIGATED MATTERS:** None

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Respectfully submitted,

Anjelica L. Mitchell

Minutes Approved

Anjelica Mitchell