

**NUTLEY ZONING BOARD OF ADJUSTMENT**

**Public Session Meeting Minutes**

**November 16, 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:** Peter Sirica, Gary Marino, Chairman Graziano, Lori Castro, Diana McGovern, Esq., Serje Demerjian, Lou Fusaro, Tom DaCosta Lobo

**ABSENT:** None

**EXCUSED:** Mary Ryder, Suzanne Brown

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**No. 1 325 Park Avenue APPROVED 6-0**

**Applicant:** Mr. and Mrs. Sirica, 325 Park Avenue, Block-Lot: 7202-8

**Application:** To increase the number of dwelling units from two (2) to three (3) dwelling units, as shown on the plans prepared by Architect, Mileto-Godsall Associates, revised date of June 10, 2015, and survey prepared by George Anderson, dated May 22, 2012;

**Appearances:** Thomas DiBiasi, Esq., Mrs. Sirica, Frank D. Mileto, Paul Baumann, Loretta and Robert Ruthnen, and Chris Blazeski

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

Citing Chapter 700, Article VIII, Section 700-46 A of the *Codes of Nutley* which requires the following:

|          | <u>REQUIRED</u> | <u>PROPOSED</u> | <u>VARIANCE REQ'D</u> |
|----------|-----------------|-----------------|-----------------------|
| Lot Area | 43,560 SF       | 15,554 SF       | X                     |
| Width    | 150 FT.         | 75FT            | X                     |
| Depth    | 100 FT          | 207.16 FT       |                       |

|                   |          |          |   |
|-------------------|----------|----------|---|
| Per Dwelling Unit | 2,178 SF | 5,185 SF |   |
| Front             | 35 FT    | 22.17FT  | X |
| Rear              | 50 FT    | ±81FT    |   |
| Side              | 15 FT.   | 4.06 FT  | X |
| Other Side        | 15 FT.   | 10.03FT  | X |
| Stories           | 2 1/2    | 2        |   |
| Height            | 30'      | +30 FY   |   |
| Lot Coverage      | 25%      | 31%      | X |

And also citing Chapter 700, Article XIII, Section 700-102 A of the *Codes of Nutley* which states no building or premises shall be used nor shall any building be erected or reconstructed, nor shall any building be altered so as to expand its usable floor area unless there is provided off-street loading space in accordance with the following schedule: Garden apartment or multifamily dwelling requires 1 space for each development of 50 or more units at least 10' feet wide and 25' long;

Mr. Peter Sirica recused himself from this matter.

Mr. Thomas DiBiasi made his opening remarks to the board, stating that he would be representing Mr. and Mrs. Sirica in this matter. He stated that they have been owners of this property since the 60's and they now wished to create a separate apartment on the second floor. Mr. DiBiasi expressed that the outside would look the same and only the interior would look different. Mr. DiBiasi called Mr. Frank D. Mileto to testify as the architect and professional planner on this application. Mr. Mileto introduced Exhibit boards A1, A2, and A3 to the board. Exhibit A1 was the outside of the home. Mr. Mileto described the project as two homes right behind one another with a small connection. He described the site as very wide for the area. Exhibit A3 was the site plan taken from a survey done by his licensed surveyor. He stated that there will be 10 vehicle spaces. Mr. Mileto testified to the board that they would be putting a small one bedroom apartment in front on the top and bottom, but the other dwelling would not be touched. He stated that he was under density requirements and all the buildings will be up to code. Chairman Graziano asked Mr. Mileto if each apartment would have their own entrance. He responds that they would. Mr. Serje Demerjian asked Mr. Mileto what was currently out of code. He responded that they needed sprinklers. Mr. Serje Demerjian asked Mr. Mileto if it was already a 3 family. He responded that it was. Mr. Tom DaCosta Lobo asked Mr. Mileto what was going on with the basement. Mr. Mileto responded that it had a bathroom and closets.

Professional planner Paul Baumann testified to the board that he conducted a planning study on this property. He stated that he wished the board to consider that this application will allow the property to be broken into conformity. He also stated that it was permitted by right and was located nearby many other multi-family dwellings. Mr. Baumann expressed that they were allowed up to 7 units, but were only asking for 3 units. He stated that he saw no detriments on this application.

Neighbor Lorette Ruthnen, 48 Oakridge Avenue, testified to the board that there were constantly trucks in and out of the Sirica's backyard. She stated that Mrs. Sirica was running a daycare in the building and was extremely concerned about the town being congested. Mr. Robert Ruthnen, 48 Oakridge Avenue, testified to the board that the applicants had built a 2 family house from the beginning and he was very upset about what had been occurring on the applicant's property. Neighbor Chris Blazeski also testified negatively toward the application. He stated that he did not understand how 10 cars would fit in this property due to the constant construction vehicles going in and out.

Applicant Mrs. Sirica testified to the board that she was taking care of her nieces, 3 children in total. She told she board she was not renting parking spaces to other people. Mrs. Sirica stated that her husband had been in the construction business for many years. She expressed that her children were also in the construction business and would bring their truck over almost every evening. However, Mrs. Sirica stated that the truck will not interfere with the 10 parking spaces. Mr. Tom DaCosta Lobo asked Mrs. Sirica if the construction vehicle used one of the 10 spaces. Mrs. Sirica responded that it did.

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

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**No. 2 42 East Passaic Avenue APPROVED 6-0**

**Applicant:** Mr. Paul Fen, 42 East Passaic Avenue, Block-Lot: 8606-17

**Application:** To install a four (4') foot chain-link type fence in the side yard of a corner property which is in the front yard of the adjoining property along Briar Lane, as shown on the survey prepared by Fred W. Gardner, dated May 16, 1955;

**Appearances:** Danielle Fen

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

Citing Chapter 700, Article XI, Section 700-71 A of the *Codes of Nutley* which states no fences of any type shall be permitted 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. The proposed fence is in the front yard of the adjoining property along Briar Lane;

Applicant's wife, Danielle Fen, testified to the board that her property was on a corner not. She expressed that she had two young children and did not feel safe with them in the front or side yard due to cars speeding. Mr. Serje Demerjian asked the applicant to highlight on the survey where she would like the fence. Exhibit A1 was introduced, which was the survey. Mr. Tom DaCosta Lobo asked the applicant what the orange area represents. Mrs. Fen responded that the orange represented the existing chain link 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 Mr. Seje Demerjian, seconded by Mr. Gary Marino. The variance was granted by a vote of 6-0.

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**No. 3 39 Kenzel Avenue APPROVED 7-0**

**Applicant:** Ms. Jerri-Ellen Budzinski, 39 Kenzel Avenue, Block-Lot: 2503-29

**Application:** To install a six (6') foot type fence; five (5') foot solid and one (1') foot scallop type fence in the side yard (right side), as shown on the survey prepared by Rubin L. Kurens, dated August 2, 1999;

**Appearances:** Jerri-Ellen Budzinski

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

Citing Chapter 700, Article XI, Section 700-71 B of the *Codes of Nutley* which 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 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 Jerri-Ellen Budzinski testified to that board that she wanted to put a 6 foot solid fence with an open top on her property. She stated that she wanted it for privacy reasons as well as to protect her small dogs. The applicant told the board she has a side door and wished to be protected by a fence. Mr. Tom DaCosta Lobo asked the applicant if the neighbors approved of her plans. She replied that she had approval from the neighbors on both sides and one was actually splitting the cost of the proposed fence with her. Ms. Budzinski stated that the yellow area on the survey is where the existing fence was and that the red area is where she had wished the new fence to extend to. Mr. Peter Sirica asked the applicant if you could see through the scalloping on the fence. The applicant responded that the top of the fence is actually picket style. Ms. Budzinski introduced Exhibit A1, which was a picture of the existing fence. The board agreed that the fence would be 5 foot solid, 1 foot picket.

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

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**No. 4 40 Hawthorne Avenue APPROVED 7-0**

**Applicant:** Mr. and Mrs. Mark Di Antonio, 40 Hawthorne Avenue, Block-Lot: 3001-23

**Application:** To widen the existing driveway to 16', of which six (6') feet will be in front of the dwelling, and increase the curb cut to 20', as shown on the survey prepared by Shepard and Shepard, Inc., dated August 29, 1992;

**Appearances:** Mark Di Antonio

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

citing Chapter 700, Article XIII, Section 700-94 A (1) of the *Codes of Nutley* which states no front yard of a lot upon which is located in a one- or two-family dwelling shall be used for the parking of motor vehicles, except that motor vehicles may be parked upon a driveway in the front yard. The driveway shall consist of the area directly opposite to an attached garage, detached garage or depressed garage or the extension of the side yard into the front yard. The driveway width shall not exceed 16 feet. However, if there is no garage and no available side yard, a driveway not to exceed 16 feet in width from the side lot line may be constructed. *The proposed increased driveway will be in front of the dwelling*, and also citing,

Chapter 700, Article XIII, Section 700-94 A (3) of the *Codes of Nutley* which states curb cuts shall not exceed 16 feet in length. *The proposed increased curb cut will be 20'*;

Applicant Mark Di Antonio testified to the board that he had lived in his home since 1992. Exhibit A1 was introduced to the board, which was a packet of pictures of the property. Chairman Graziano asked the applicant if the Belgium blocks would stay. Mr. Di Antonio said yes and that he was told it was necessary. Chairman Graziano asked the applicant why the curb cut went to the end of the walkway. The applicant responded that he previously had an oil leak, which caused his driveway to be ruined. Mr. Di Antonio described to the board how he continued to have an extremely hard time pulling out of his driveway, resulting in 3 minor accidents throughout the years. Mr. Serje Demerjian stated that it was uncommon for the board to approve a curb cut where the walkway is. Mr. Serje Demerjian asked the applicant if a 16 foot curb cut would work and if he could move the wall. Mr. Di Antonio responded that he could not move the wall because of the tree but he stated that he was willing to go to a 16 foot curb cut. Mr. Serje Demerjian expressed to the board that he wished to limit the depth to 25 feet from the side walk. The applicant also agreed to install a masonry planter.

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. Serje Demerjian, seconded by Mr. Lou Fusaro. The variance was granted by a vote of 7-0.

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**No. 5 118 Lakeside Drive APPROVED 7-0**

**Applicant:** Mr. and Mrs. Silapaswang, 118 Lakeside Drive, Block-Lot: 1803-14

**Application:** To construct a one story 256 square foot breezeway addition having a 19' rear yard setback, which will be attached to the existing garage, leaving a 2.25' side yard setback, and a 17' rear yard setback, as shown on the survey prepared by Kellen and Pica, dated July 10, 1984;

**Appearances:** Saksid Silapaswang

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

Citing Chapter 700, Article VIII, Section 700-46 A of the *Codes of Nutley* entitled "Schedule of Regulations as to Bulk, Height and Other Requirements," which requires a property in an R-1 zoning district to have a 30' rear yard setback. The proposed setback is 20' for the new addition and 17' from the garage, and also citing Chapter 700, Article XI, Section 700-67 D of the *Codes of Nutley* which states an attached accessory structure or accessory use shall be considered to be a part of the main building. The attached garage requires a six (6') foot side yard setback;

Applicant Saksid Silapaswang testified to the board that he had lived in his house for 31 years and the kitchen floor was destroyed over time. He stated that he wished to add a breezeway for a mud room. The applicant also told the board he wished to upgrade the upstairs bathroom. Mr. Silapaswang stated that he saw the proposed addition as being beneficial to the neighborhood and that his home was distanced from the other homes. Mr. Tom DaCosta Lobo stated that nothing being done in this application would affect the neighbors. Mr. Serje Demerjian asked the applicant if there would be heating and cooling. The applicant responded that he would put in a space heater.

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 Mr. Lou Fusaro. The variance was granted by a vote of 7-0.

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**No. 6 91 Brookfield Avenue APPROVED 6-0**

**Applicant:** Mr. and Mrs. Turcios, 91 Brookline Avenue, Block-Lot: 3203-6

**Application:** To construct a second driveway and curb cut on Brookfield Avenue as shown on the survey prepared by James Pica dated June 5, 2015;

**Appearances:** Elvin Turcios, Colleen Turcios

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

Citing Chapter 700, Article XIII, Section 700-94 A (3) of the *Codes of Nutley* which states each property shall not have more than one driveway and one curb cut. The proposed secondary driveway and curb cut complies with the width requirements pursuant to section 700-94 of Codes of Nutley;

Mr. Serje Demerjian recused himself from this matter.

Applicants Elvin and Colleen Turcios testified to the board that their driveway is 40 feet from their home, which made it very difficult to transport their baby to and from the car. Mr. Turcios said he also wished to have his application granted for safety reasons and that this would not interfere with the neighbors in any way. Mr. Tom DaCosta Lobo asked the applicants about their garage. The applicants both responded that they recently spent \$4,000 to repair it. Mr. Tom DaCosta Lobo asked the applicants how wide they intended the curb cut to be. Mr. Turcios responded that they wished the curb cut to be 20 feet. Chairman Graziano stated that he did not see any dimensions on the application and that it was necessary for the applicants to have a

straight driveway and a 16 foot curb cut or less

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 Mr. Lou Fusaro. The variance was granted by a vote of 6-0.

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**BUSINESS:** 2016 Zoning Board schedule approved

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**RESOLUTIONS MEMORIALIZED:**

534 Prospect Street

301 Harrison Street

155 Washington Avenue

155 Hillside Avenue

**MINUTES:**

October 19, 2015 minutes approved

**INVOICES:**

\$940.00 to Dr. John Rhee

**LITIGATED MATTERS:** None

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Respectfully submitted,

Anjelica L. Mitchell

Minutes Approved

