

NUTLEY ZONING BOARD OF ADJUSTMENT

Public Session Meeting Minutes

March 20, 2017

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, Mary Ryder, Lou Fusaro, Gary Marino, Tom DaCosta Lobo, Suzanne Brown, Chairman Graziano and Board attorney, Diana McGovern, Esq.

ABSENT: None

EXCUSED: None

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No. 1 434-438 Centre Street APPROVED 5-2

Applicant: Frank Oliver, Summit Properties, LLC, 434-438 Centre Street, Block 5902 Lots 28 & 29

Application: To build a mixed use building at the above referenced premises, as shown on the preliminary plans prepared by Architect, Steven Corso, dated June 8, 2016, consisting of pages A-1, A-2 and A-3 and site plans dated August 8, 2016 prepared by Charles Osterkorn Jr., P.E., L.S., P.P., consisting of pages SP-1, SP-2, SP-3, SP-4, SP-5 and SP-6, having a first floor 870 SF office space with 40 parking spaces, a second floor having three (3) two bedroom and nine (9) one bedroom apartments, a third floor having two (2) two bedrooms and nine (9) one bedroom apartments. An average building height of three (3) stories, 35'4";

Appearances: Thomas DiBiasi, Esq. on behalf of Frank Oliver (Applicant), Steven Corso (Architect), and Paul Bauman (Planning Expert). Members of the public: Carmine Alessio, 81 E. Centre Street, Brenda Sherman, 10 Vine Street, Michael Odria, 133 High Street, William Algieri, 11 Cathedral Avenue. Board Experts: Paul Ricci (Planner).

Letter of Denial: was previously read

AND the Code Official having denied said permit by letter dated September 29, 2106 citing Chapter 700, Article V, Section 700-7 C of the Codes of Nutley, which requires a minimum rear yard setback of 30'. *Plans shows a rear yard setback of 20.7'*; and also citing

Chapter 700, Article VII, Section 700-40 of the Codes of Nutley which requires side yards of at least four (4') feet and 10'. *The side yards are six (6') feet each side*; and also citing

Chapter 700, Article VII, Section 700-40 E of the Codes of Nutley which requires a maximum height of two stories. *The height is three (3) stories*; and also citing

Chapter 700, Article VII, Section 700-40 F of the Codes of Nutley which requires a maximum lot coverage of 45%. *The lot coverage is 58%*; and also citing

Chapter 700, Article XIII, Section 700-3 (a) of the Codes of Nutley states curb cuts in an R-2 zone shall not exceed 16' in length. *The curb cut is 30'*.

AND the Project being located in an R-2 District as shown on the Township of Nutley Zoning Map;

AND Applicant having filed an application with the Zoning Board of Adjustment of the Township of Nutley (the "Board"), requesting a variance from the terms of the *Zoning Ordinance*;

Mr. DiBiasi, Esq., made his opening remarks to the board, stating they had a full color rendering of the application, as well as a letter from the Board of Education on the school issues. Architect Steven Corso introduced Exhibit A6 to the board, which was the full color rendering. He went on to describe the fitness center, complete with large screen televisions. Mr. Corso explained that they moved the electric gate back, creating 42 feet of space between the gate and the sidewalk. Mr. Tolve asked if the application would be brick all around. Mr. Corso said it would be, with the exception of shingles and limestone trim. Ms. Suzanne Brown pointed out that there were a large amount of windows in the rear of the property, to which Mr. Tom DaCosto Lobo added that the neighbors had asked for a 7 foot wall as well as window glazing. Neighbor Carmine Alessio asked the board if the applicant will have to abide by the resolutions if the application was granted. Chairman Graziano responded that they would have to abide by the resolutions. Mr. Paul Bauman advised the board he felt this application promoted general welfare because it was suited for a mixed use building near the downtown business district with similar properties in the surrounding area. Mr. Bauman stated that the variances they were seeking were not out of character with the neighborhood, as well as efficient use of land. He stated that this application will not detrimentally effect the public good, supports the Master Plan, and would not be a monstrosity of a building. Ms. Mary Ryder expressed she felt there was a need and desire for apartments in the township. Neighbor Carmine Alessio stated that he did not wish to see apartment buildings on every corner. Paul Ricci expressed to the board that there is a clear departure from the Master Plan and that the size of application was concerning for the area. Mr. Carmine Alessio asked Mr. Ricci what size front yard setback he would approve of. Mr. Ricci responded that the front yard setback was consistent with the neighboring properties. Neighbor Brenda Sherman expressed similar concerns to Mr. Alessio, and expressed she doesn't feel the application fits the character of the community. Neighbor Michael Odria also made similar comments to the board. Neighbor William Algieri stated he liked the application and planned on selling his home and eventually buying an apartment in Nutley.

With no further questions from the members and no one in the audience with questions or comments, a motion to grant this variance was made by Mr. Peter Sirica, seconded by Mr. Lou Fusaro. This application was granted by a vote of 5-2, with Mr. Tom DaCosta Lobo and Ms. Suzanne Brown voting against the granting of the variance.

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No. 2 71 Harrison Street CARRIED TO NEXT MEETING

Applicant: Mr. Thomas DiBiasi, Esq., Block-Lot:

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 the architect had a prior business application and neighbors wished to meet with the applicant.

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 April 17, 2017 was granted.

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No. 3 14 Essex Street APPROVED 7-0

Applicant: Mr. Mohammad Khokhar, 14 Essex Street, Block-Lot: 9101-11

Application: To leave as erected a front canopy roof over the existing front stairway having a zero front yard setback, as shown on the plans prepared by Carola Z. Rosas KPC, Architect/Consultants/Planner, dated November 12, 2016, and survey prepared by George J. Anderson LLC, dated June 25, 2016;

Appearances: Mohammad Khokhar

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

AND the Code Official having denied said permit by letter dated December 2, 2016, citing Chapter 700, Article VIII, Section 700-46 B (4) (d) of the *Codes of Nutley* which states by any terrace or porch having its floor level no higher than the floor level of the first story of the building and having no railing or other member higher than three feet above floor level: six feet. *Extensions of a structure into a required front yard in an R-2 zoning district requires 25'. The allowable encroachment is six (6') feet. The required front yard setback for a roofed porch is 19'. The proposed is zero;*

Applicant Mohammad Khokhar testified to the board that he had purchased this home in 2016 and wished to upgrade the property. He explained he simply wants coverage over his stairs. Ms. Suzanne Brown pointed out that the applicant also had an irregular shaped property. Mr. DaCostaLobo expressed concern that the roof canopy extended into the Township right-of-way. Mrs. McGovern suggested that a hold harmless agreement could be made as a condition as has been done in previous similar situations which was accepted by the Board and the applicant as a condition.

With no further questions from the members and no one in the audience with questions or comments, a motion to grant this variance was made by Ms. Suzanne Brown, seconded by Mr. Gary Marino. This application was granted by a vote of 7-0.

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No. 4 53 Emily Avenue APPROVED 7-0

Applicant: Mr. Patrick Sweeney & Ms. Mercedes Garcia, 53 Emily Avenue, Block-Lot: 2301-2

Appearances: Patrick Sweeney, Jose Gennero

Application: To construct a one (1) story addition having a 20.33' side yard setback to Edison Avenue, as shown on the plans prepared by Architect, Jose Gennaro, AIA, dated December 13, 2016;

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

AND the Code Official having denied said permit by letters dated January 24, 2017, citing Chapter 700, Article VIII, Section 700-46 A of the *Codes of Nutley* entitled "the Schedule of Regulations as to Bulk, Height and Other Requirements" which requires a 25' side yard setback on a corner property on the side-street side in a |R-1 Zoning District. The proposed is 20.33', and also citing

Chapter 700, Article XVI, Section 700-113 B (2) of the *Codes of Nutley* which states the enlargement will not increase the nonconformity of the nonconforming features;

Mr. Lou Fusaro exited the meeting at the beginning of this application and Ms. Castro became a voting member.

Applicant Patrick Sweeney and architect/planner Jose Gennaro testified to the board that Mr. Sweeney had been living in this home for 14 years and wished to expand the kitchen and upgrade the bathroom. Mr. Sweeney stated it would be expanded approximately 10 feet. Ms. Suzanne Brown pointed out that the applicant would actually be in more compliance with the addition.

With no further questions from the members and no one in the audience with questions or comments, a motion to grant this variance was made by Ms. Suzanne Brown, seconded by Mr. Gary Marino. The variance was granted by a vote of 7-0.

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No. 5 37 Chase Street APPROVED 7-0

Applicant: Mr. Peter Centanni, 37 Chase Street, Block-Lot: 7606-5

Application: To leave as erected the existing 16' driveway to 20' and to LAE increased legal non-conforming 16' curb cut to 20', as shown on the survey prepared by Morgan Engineering, dated July 8, 2010;

Appearances: Peter Centanni

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

AND the Code Official having denied said permit by letter dated February 17, 2017, citing Chapter 700, Article XIII, Section 700-94 A (1) of the *Codes of Nutley* which states a driveway width shall not exceed 16 feet. The proposed driveway will be 20', and also citing, Chapter 700, Article XIII, Section 700-94 A (3) (a) of the *Codes of Nutley* which states a curb cut for a one-car garage shall not exceed 12 feet in length. The proposed curb cut will be 20';

Applicant Peter Centanni introduced Exhibit A1 to the board, which was a picture of his driveway. He explained to the board that he wished to leave as erected his driveway. He stated he wished to do this for comfort and not to park multiple cars. Mr. Centanni stated that he had an elderly tenant who had trouble getting in and out of her car. He expressed that a two family home with a one car garage is a hardship to his property.

With no further questions from the members and no one in the audience with questions or comments, a motion to grant this variance was made by Mr. Tom DaCosta Lobo, seconded by Ms. Mary Ryder. The variance was granted by a vote of 7-0.

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RESOLUTIONS MEMORIALIZED: 40 Enclosure, 4 Corsay Road, 71 Quarry Street, 207 Hillside Avenue

MINUTES: February 13, 2017 minutes approved.

INVOICES: Invoice for Paul Ricci for \$810.00

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 Mitchell 4/17/17