

NUTLEY ZONING BOARD OF ADJUSTMENT

Public Session Meeting Minutes

June 19, 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, Gary Marino, Suzanne Brown, Chairman Graziano and Board attorney, Diana McGovern, Esq.

ABSENT: None

EXCUSED: Peter Sirica, Lou Fusaro, Tom DaCosta Lobo

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No. 1 71 Harrison Street CARRIED TO NEXT MEETING

Applicant: Mr. Savalia, 71 Harrison Street, Block-Lot: 9200-10

Application: to construct a new two (2) family dwelling on an existing vacant property with a lot size of 50' X 102', at the above referenced premises, as shown on the plans prepared by Mileto-Godsall Associates LLC, with revised plans dated April 24, 2017, and property survey prepared by George Anderson, dated August 8, 2016,

Appearances: Thomas DiBiasi, Esq., Frank D Mileto,

Letter of Denial: was previously read

Chapter 700, Article VIII, Section 700-46 A of the Codes of Nutley, entitled "Schedule of Regulations as to Bulk, Height and Other Requirements," has requirements in an R-2 district (see attachment).

Chapter 700, Article VIII, Section 700-46 B (4) (d) of the Codes of Nutley 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. ***The ground floor is considered a story; therefore, the proposed deck is a 2nd floor deck.***

Mr. Thomas DiBiasi, Esq. made his opening remarks to the board and introduced the architect, Mr. Frank D Mileto. Mr. Mileto testified that Exhibit A4 was the new rendering, and Exhibit A5

was the revised site plan. He explained the following changes to the application to the board; one single entry to the garage, one single stair case to the entrance, one single entrance. He also explained that they changed the building materials to stone and vinyl, and made the rear deck to be a platform only. Mr. Mileto stated that the project would be 3,354 square feet and a normal one family home would be 3,500 square feet. He stated that the only difference between this application and a one family home is the fact that there would be 2 kitchens. Mr. Mileto stated that the lot coverage is 1.6 percent over what the code allowed, however he explained that it was a short lot and that was their hardship. Mr. Mileto expressed that if the board requested, they would make the driveway more conforming. He stated that he would reduce the footprint by 96 square feet, however the remaining variances were out of his control. Mr. Mileto expressed to the board that he felt this application would create no negative impact on the community and that they would be installing over 18 shrubs. Mr. Tolve questioned the height of the building and Ms. Suzanne Brown stated she felt the height was incorrectly calculated. Mr. DiBiasi responded by stating that Mr. Intindola expressed no concern with the proposed height of the project. Member of the public, Mr. Salvatore Ferraro, asked Mr. Mileto what the exact dimensions of the application were. Mr. Mileto responded with 50 feet wide (east), 110.63 feet deep, 53 feet wide (west), and 113 feet deep. Mr. DiBiasi suggested that Mr. Intindola review the height to confirm that it was as represented.

A motion to carry this application to the next meeting was granted.

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No. 2 108 King Street CARRIED TO THE NEXT MEETING

Applicant: Mr. Muhammaed Muhaysin, 108 King Street, Block-Lot: 9404-20

Application: to **LEAVE AS ERECTED** a 19' wide driveway and curb cut which a portion of the driveway will be in front the main dwelling, and will reduce the required 60% front lot coverage to approximately 44%, as shown on the survey prepared by Control Layouts, Inc., dated September 12, 2013,

Appearances: Thomas DiBiasi, Esq.

Letter of Denial: was not read.

A motion to carry this application to the next meeting was granted.

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No. 3 2 Devausney Place CARRIED TO THE NEXT MEETING

Applicant: Ms. Puricello, 2 DeVausney Place, Block-Lot: 7700-11

Application: to convert the existing one (1) family dwelling into a new two (2) family dwelling, at the above referenced premises, as shown on the plans prepared by Mileto-Godsall Associates

LLC, dated March 22, 2017, and survey prepared by George Anderson, LLC, dated September 30, 2016,

Appearances: Thomas DiBiasi, Esq.

Letter of Denial: was not read.

A motion to carry this application to the next meeting was granted.

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No. 4 132 Rhoda Avenue APPROVED 6-0

Applicant: Mr. Steven Michalek, 132 Rhoda Avenue, Block-Lot: 5102-2

Appearances: Thomas DiBiasi, Esq., Stephen Michalek, Paul Bauman

Application: not to construct a new one (1) story garage as part of the construction permit and letter of intent (see attached

Letter of Denial: was read by Ms. Suzanne Brown

Chapter 700, Article V, Section 700-9 A of the Codes of Nutley states a single family dwelling shall be required to have two (2) parking spaces and one space must be in a **garage**.

Mr. Thomas DiBiasi, Esq. made his opening remarks to the board, stating he wished the garage must not be rebuilt because there were 4 parking spaces without the garage. Applicant Stephen Michalek testified that this property had been in his family since 1970 and he wished not to rebuild the garage for financial reasons and because there was adequate parking. Exhibit A1 (on the iPad, required to be printed) was a picture of the property on June 19, 2017. Mr. Michalek stated that they have been without a garage since August 2014, Mr. Paul Bauman testified as an expert planner. He stated that the lot was pie shaped and a garage wouldn't make sense. He stated that the granting of this application would support general welfare by providing extra parking spaces, as well as more appealing, visually. Mr. Bauman testified that the benefits of this application outweigh the negatives, and that at least one other home in the neighborhood did not have a garage.

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

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No. 5 28 Ridge Road APPROVED 6-0

Applicant: Ms. Kerry O'Keefe, 28 Ridge Road, Block-Lot: 5600-7

Application: to install a six (6') foot solid type fence located in the side yard, and to install a six (6') foot solid type fence in the rear yard line without your neighbors consent, due to the house being vacant,

Appearances: Kerry O'Keefe

Letter of Denial: was read by Ms. Lori Castro

Chapter 700, Article XI, Section 700-71 B of the Codes Nutley 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.

Chapter 700, Article XI, Section 700-71 H of the Codes of Nutley states a solid type fence may be erected with a written consent of the adjoining property owner boarding the solid type fence.

Applicant Kerry O'Keefe testified that she wished to replace her 4 foot fence with 5 foot solid 1 foot lattice fence. Exhibits A1-A5 were photos of Ms. O'Keefe's neighbor's fence, which was in disarray.

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 6-0.

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PLEASE NOTE MR. JOSEPH FRUSTERI RECUSED HIMSELF FOR THE 582 PROSPECT STREET APPLICATION.

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No. 6 582 Prospect Street APPROVED 5-0

Applicant: Mr. Joseph Haines, 16 Portland Place-Montclair, NJ, Block-Lot: 3000-7

Application: to construct a new 23' driveway in front of a new dwelling, as shown on the plan prepared by Architect, Dassa-Haines Architectural Group, LLC, dated April 27, 2017,

Appearances: Vincent Locurcio

Letter of Denial: was read by Ms. Lori Castro

Chapter 700, Article XIII, Section 700-94 A (1) of the Codes of Nutley 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.

Applicant Vincent Locurcio, 14 Coeyman Avenue, testified that he wished to make the driveway wider because it was too narrow to accommodate the two car garage. Ms. Suzanne Brown pointed out that it would be necessary to widen the driveway for the applicant to be able to pull into his garage. Chairman Graziano pointed out that the driveway would be a better fit for the property with the wider driveway.

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 5-0.

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No. 7 33 Raymond Avenue APPROVED 6-0

Applicant: Mr. Ryan Depersio, 33 Raymond Avenue, Block-Lot: 4801-16

Application: to demolish the existing garage in the rear yard and not rebuild it, and to construct a driveway in front of the main dwelling for a total width of 15' to the front corner of the building, as shown on the survey prepared by Richard J. Hingos, Inc., dated March 10, 2017,

Appearances: Ryan Depersio

Letter of Denial: was read by Ms. Lori Castro

Chapter 700, Article V, Section 700-9 A of the Codes of Nutley states a single family dwelling shall be required to have two (2) parking spaces and one space must be in a **garage**.

Chapter 700, Article XIII, Section 700-94 A (1) of the Codes of Nutley states a 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 driveway will be in the front corner of the dwelling and will be in front of the main dwelling.***

Applicant Ryan Depersio testified that he had 2 young children and a baby on the way. He wished to demolish the garage, which took up 60 percent of his backyard, so that there would be more backyard room for the children. Mr. Ddepersio stated he would put a small shed in the yard for the kid's bikes. He also stated that he would be able to fit 4 cars in his driveway with the demolished garage. The applicant also stated that he had a shared driveway and he and his neighbor planned to repave the driveway in the future. Ms. Suzanne Brown suggested the applicant install a landscape buffer to which he agreed.

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

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No. 8 275 Harrison Street APPROVED 6-0

Applicant: Ms. Christina Scala, 275 Harrison Street, Block-Lot: 8902-1

Application: to demolish an existing accessory structure, which is 16' wide and 18'5" deep, which the Code Enforcement department determines it to be a garage,

Appearances: Christina Scala

Letter of Denial: was read by Ms. Lori Castro

Chapter 700, Article V, Section 700-9 A of the Codes of Nutley 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.**

Applicant Christina Scala testified that she bought the property in August and that the garage was too small to fit a car, as well as in major disarray. Exhibit A1 was pictures of the property and garage. Chairman Graziano stated that rebuilding a garage would make the property very tight.

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 6-0.

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No. 9 21 Erie Place APPROVED 6-0

Applicant: Ms. Maryann Lore, 21 Erie Place, Block-Lot: 3306-1

Application: to install a four (4') foot picket type fence located in the front yard along Erie Place, as shown on the survey prepared by Shepard & Shepard dated March 22, 1983,

Appearances: Maryann Lore, and member of the public Sally Ross

Letter of Denial: was read by Ms. Lori Castro

Chapter 700, Article XI, Section 700-71 A of the Codes of Nutley states no fences of any type shall be permitted in any front yard.

Chapter 700, Article XI, Section 700-71 D of the Codes Nutley states a fence erected on any corner lot shall conform to the fence requirements for the adjoining properties

Applicant Maryann Lore testified that she was renovating her mother's home and would like to install a fence to keep the school children out of her yard. Ms. Suzanne Brown suggested a 3 foot tall fence. Ms. Lore responded that she was not opposed to a 3 foot, open picket fence. Neighbor, Sally Ross, stated that she was hoping for a 3 foot fence as well. She also expressed that she wished for the fence to be made out of wood so it would blend in with the historic area. Exhibit A1 was a photo of the proposed fence. Ms. Lore agreed to put the fence behind the tree line. Ms. Suzanne Brown stated she did not want the fence to be white if it were vinyl and suggested a beige fence. Applicant agreed that she would not install a white vinyl fence as she was amenable to the other color choices (Beige or gray) that the fence style (Shown in Exhibit A-1) came in.

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. Joseph Frusteri, seconded by Mr. Daniel Tolve. The variance was granted by a vote of 6-0.

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No. 10 12 Webster Street APPROVED 6-0

Applicant: Mr. and Mrs. Peter Nowak, 12 Webster Street, Block-Lot: 7902-14

Application: to widen the existing driveway in front of the main dwelling, and to construct an attached walkway to the left for a total width of 21', which will reduce the required front yard 60% landscaping to 49%, as shown on the survey prepared by Michael L. Ritchie, LS, dated December 14, 2007

Appearances: Peter Nowak

Letter of Denial: was read by Ms. Lori Castro

Chapter 700, Article XIII, Section 700-94 A (1) of the Codes of Nutley 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 driveway will be enlarged to the right and will be in front of the main dwelling and a walkway will be constructed to the left side property line for a total width of 21'.***

Chapter 700, Article VIII, Section 700-48 of the Codes of Nutley states any lot containing a residence for one or two families shall have at least 60% of the required front yard in landscaping. This area shall not be covered with paving, walkways or any other impervious surface. Landscaping may consist of grass, ground cover, shrubs and other plant material. ***Proposed 49%.***

Applicant Peter Nowak testified that the driveway currently could not fit 2 cars comfortably. He expressed that he wanted to move the driveway over and expand toward the center of the property. Mr. Gary Marino asked the applicant if he would be planting in the area. He stated that he would landscape and would continue the Belgium block to the right of the home.

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

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RESOLUTIONS MEMORIALIZED: 33 Kierstead Avenue, 42 Keirstead Avenue, 111 McKinley Street, 169 Chestnut Street, 295 Walnut Street,

MINUTES: May 15, 2017 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 Mitchell 7/17/17