

**NUTLEY ZONING BOARD OF ADJUSTMENT**

**Public Session Meeting Minutes**

**August 21, 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:** Daniel Tolve, Lori Castro, Peter Sirica, Gary Marino, Tom DaCosta Lobo, Suzanne Brown, Chairman Graziano and Board attorney, Diana McGovern, Esq.

**ABSENT:** Joseph Frusteri, Lou Fusaro

**EXCUSED:** None

\* \* \* \* \*

**No. 1 71 Harrison Street DENIED 7-0**

**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:** Richard Valerio, Esq.

**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).

**ZONING CHECKLIST**

**DISTRICT - R-2**

***71 Harrison Street***

	Required/Permitted	Proposed	Variance Required
Minimum Lot AREA	6000	5323	X
700-46A			
Minimum Lot Width	60'	50'	X
700-46 A			
Minimum Lot Depth	100'	102'	
Minimum Per Dwelling	3,000	2,661 SF	X
700-46 A			
Minimum Front Yard	25'	26.5 to bay window	
Minimum Rear Yard	30	30'	
Minimum 1 Side Yard	6'	6'	
Minimum 2 Side Yard	6'	6'	
Maximum Building Height	2 1/2 or 30'	2 1/2 or 30'	
Maximum Lot Coverage	35%	36.5%	X
700-46 A			
Maximum Impervious Surface Coverage	70%	57%	
Front Yard Landscape			

Coverage 700-48	60%	46.6%	X
Parking Requirement	4 Cars	4	
Driveway Maximum 700-94 A (1)	16'	(1) 20' Driveway	X
Curb Cut 700-94 A (3) (a)	16'	(1) 22' Curb Cut	X

Please be advised that Mr. Tom DaCosta Lobo and Mr. Daniel Tolve listened to the audio from the previous meeting. Mr. Valerio made his opening remarks that the applicant had made several changes to the application. He stated that there would be no height variance required, a lowered garage level, and added a trench drain in the driveway. He explained that everything else on the application was still the same. Mr. Salvatore Ferraro asked Mr. Valerio questions regarding the retaining wall to which he responded that it would be 2.5 feet tall. Mr. Ferraro addressed the board as a member of the public expressed that he and his neighbors felt the lot was undersized for a two family dwelling and would like to see a one family home. Mr. Ferraro also pointed out that there was no hardship on the property to develop it as a one family home.

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

\* \* \* \* \*

**No. 2 10 Kingsland APPROVED 6-0**

**Applicant:** TFJ Kingsland, LLC, 10 Kingsland Street, Block-Lot: 602-5

**Application:** to construct a self-storage facility, as shown on the site plan prepared by SESI Consulting Engineers, dated April 24, 2017, and 3D views and floor plan prepared by Remus Architecture, received by Code Enforcement, May 15, 2017

**Appearances:** Meryl Gonchor, Esq., Chris Richter, Franz Lako, Joseph Staigar, Paul Remus, Keenan Hughes, Todd Hay, and member of the public: Rory Moore

**Letter of Denial:** was previously read

Chapter 700, Article V, Section 700-20 of the Codes of Nutley lists the permitted uses in the M-O zoning district. A self-storage facility is not a listed permitted use.

Chapter 700, Article VIII, Section 700-46 A of the Codes of Nutley, entitled "Schedule of Regulations as to Bulk, Height and Other Requirements," for an M zoning district requires a 10' and 20' side yard. ***The proposed is 106'36" and zero foot at the Nutley/Clifton boundary line.***

Chapter 700, Article XIII, Section 700-102 A of the Codes of Nutley entitled the "Minimum Required Loading Spaces" 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. ***4 loading spaces required none provided.***

Manufacturing, industrial and warehouse uses, for each principal building	1 for each 5,000 square feet of total floor area, or fraction thereof, plus one for each 10,000 square feet of total floor area or fraction thereof in excess of the first 10,000 square feet
---	---

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. ***The proposed Nutley side curb cut along Kingsland will be 30'.***

Chapter 600, Section 600-1 A of the Codes of Nutley requires site plan approval for all new self-storage facility.

Chapter 700, Article XII, Section 700-85 of the Codes of Nutley permits maximum signage not to exceed 200 square feet. Ground sign equals 80 square feet (both sides) plus two wall signs 75 square feet each for a total of 230 square feet.

Mr. Tom DaCosta Lobo recused himself from this application. Meryl Gonchar, Esq., made her opening remarks to the board, stating that the revised plans eliminated access on Kingsland Street. Engineer, Franz Lako testified that Exhibit A3 was the new color rendering. He explained that the main difference in the new plans was that they eliminated the Kingsland Street entrance. He also said that they added more green space and changed the type of trees to make them more screening. Mr. Lako stated that they moved the Kingsland Avenue sign further west. He explained that there were new types of light introduced, however, the overall spillage would be the same. He explained that the site was paved from the municipal boundary line, and was unpaved and unbuilt in the flood zone. He expressed that Essex County sent a letter of no interest, however, they had received approval from the City of Clifton. Mr. Joseph Staigar, traffic expert, testified that all access to the facility would be through Baltimore and Robert, and that this application would be a low trip generator (9 trips in morning and 16 trips during rush hour). Mr. Staigar explained that the project was internally the same and the elimination of the driveway was simply for safety. Chairman Graziano asked Mr. Staigar if the traffic counts would be the same on the weekends. Mr. Staigar responded that there would be lower volume during the day time on weekends, but higher volume on weekend nights. Mr. Paul Remus, architect, testified that he had worked on more than 50 self-storage facilities in his career. He introduced Exhibit A5, which were the new plans. Mr. Remus stated the project would be made of masonry blocks and insulated metal panels, with a crème and tan color scheme. He stated that there would be 3 tenant access doors and that the facility would be under video surveillance. Planner Keenan Hughes testified that the property was a suitable use of the land due to its slopes and great setback. He assured the board that the application would not negatively impact Nutley or Clifton, but encourage free flow of traffic. He expressed that the project would benefit the Township of Nutley because they would pave Baltimore Street. Mr. Hughes stated the area had

sufficient parking, required minimal municipal service demands, and was attractive and appropriate. He stated that a self-storage facility was the number one use in Nutley's Master Plan but was not specified in the code. Chairman Graziano asked if there would be construction access on Kingsland Avenue, he responded that there would not. Mr. Todd Hay testified that the major change he saw was the elimination of the entrance on Kingsland Avenue, which he said would eliminate the traffic issues. Mr. Hay explained Baltimore Street would be appropriate for an entrance. He said that the applicants must clarify where the flood lines on the property are with the water operator. Mr. Hay suggested the board made this a condition, due to the fact that if the town could not provide the water, there wouldn't be able to be an application. Mr. Remus went on to discuss the heating and airing split system, which he explained had small compressors.

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.

\* \* \* \* \*

**No. 3 108 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.

\* \* \* \* \*

**No. 4 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:** None

**Letter of Denial:** was not read.

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

\* \* \* \* \*

**No. 5 39 Rhoda Avenue APPROVED**

**Applicant:** Ms. Janet Strachan, 39 Rhoda Avenue, Block-Lot: 2601-22

**Application:** to leave as erected the existing 22' driveway with a portion in front of the main dwelling, which will decrease the required front yard required 60% landscaping to 56%, as shown on the survey prepared by Dudley R. Shepard, dated January 15, 1958

**Appearances:** Lyn Johnson

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

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 existing driveway is 22' and a portion in front of the main dwelling.***

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. ***The required front yard landscaping is 60% the proposed if 56%.***

Ms. Lyn Johnson testified that she had the power of attorney over Janet Strachan, the applicant. Ms. Johnson testified that she had added pavers to her driveway in order to be able to move her garbage cans. She explained to the board that she was unaware she had needed a permit to do so. Ms. Johnson explained that she added pavers but didn't touch the asphalt.

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 Mr. Daniel Tolve. The variance was granted by a vote of 7-0.

\* \* \* \* \*

**No. 6 162 Walnut Street CARRIED TO THE NEXT MEETING**

**Applicant:** Mr. and Mrs. Kenneth Hegel, 162 Walnut Street, Block-Lot: 3900-1.02

**Application:** to leave as erected a five (5') foot solid type fence adjacent to your deck in the side yard of the property, and to continue the five (5') foot solid type fence in the side yard as shown on the survey prepared by George J. Anderson LLC, dated March 22, 2016,

**Appearances:** None

**Letter of Denial:** was not read.

Chapter 700, Article XI, Section 700-71 B of the Codes of 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 not be less than two feet in height and

shall be of 50% open construction. ***A portion of the five (5') solid fence is installed adjacent to the deck, the deck is an attached structure which is the rear line of the dwelling.***

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

\* \* \* \* \*

**No. 7 47 Sylvan Place CARRIED TO NEXT MEETING**

**Applicant:** Mr. and Mrs. Christopher O'Shea, 47 Sylvan Place, Block-Lot: 4900-4

**Application:** Your request not to rebuild the existing detached garage, at the above referenced address, which was deemed "***Unsafe***" by the Code Enforcement department, as shown on the survey prepared by Milton J. Muss Associates, Inc., dated April 4, 1992,

**Appearances:** None

**Letter of Denial:** was not read

Chapter 700, Article V, Section 700-10 A of the Codes of Nutley must comply with the permitted uses and buildings in an R-1 district.

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**.

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

\* \* \* \* \*

**No. 8 22 Essex Street APPROVED 7-0**

**Applicant:** Mr. and Mrs. Vincent Soda, 22 Essex Street, Block-Lot: 9101-9

**Application:** To install a new brick veneer to the existing dwelling having a 13'2" non-conforming setback as shown on the picture of the dwelling and property survey by A-1 Land Survey dated January 19, 1998;

**Appearances:** Vincent Soda

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

AND the Code Official having denied said permit by letters dated June 5, 2017, citing Chapter 700, Article XVI, Section 700-113 B (2) of the *Codes Nutley* which states a nonconforming structure or a structure on a nonconforming lot may be enlarged except as to height, provided that the enlargement will not increase the nonconformity of the nonconforming features. *The existing front yard setback is 13'2". The brick veneer to be installed on the dwelling is approximately 4'5" which decreases the existing front yard setback;*

Applicant Vincent Soda testified that he wanted to change the look of his house by taking the stucco off and adding bricks. He stated that he had lived there for 20 years. Mr. Tom DaCosta

Lobo clarified that his plans should've said 4.5 inches, not feet. Ms. Suzanne Brown asked the applicant what was behind the stucco. Mr. Soda responded that it was clay.

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 Mr. Tom DaCosta Lobo. The variance was granted by a vote of 7-0.

\* \* \* \* \*

**RESOLUTIONS MEMORIALIZED:** 55 Hillside Crescent, 63 Msgr. Owens Place, 72 & 74 Dodd Street

**MINUTES:** None

**INVOICES:** \$630.00 bill from Ricci

**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.**

\* \* \* \* \*

Respectfully submitted,

Anjelica L. Mitchell

Minutes Approved

Anjelica Mitchell 10/16/17